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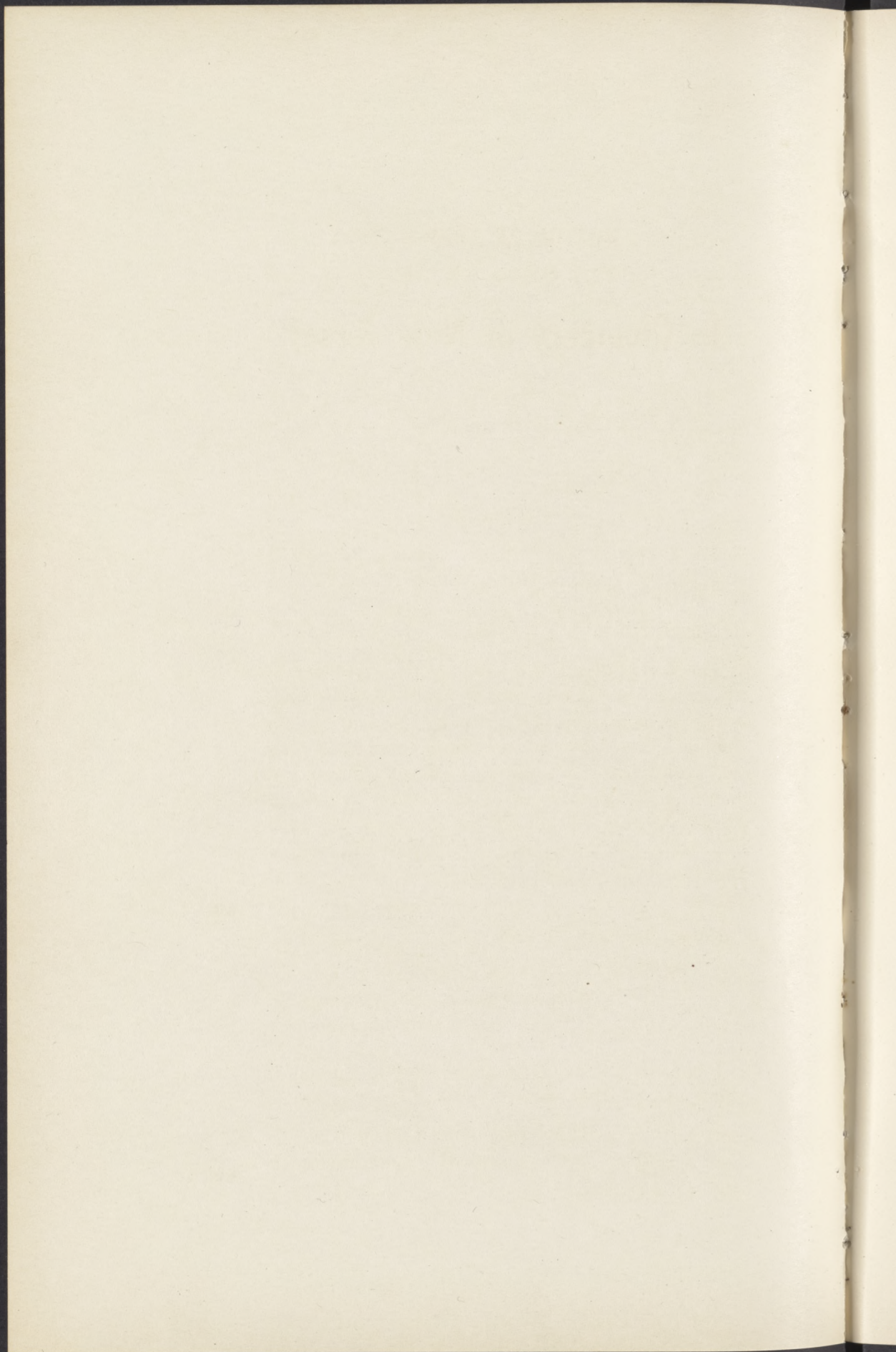
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**NOTICE OF APPEAL.**

Filed February 6, 1929.

**In Chancery of New Jersey**

65-698.

10

*Between*

RICHARD J. BRADLEY,  
*Complainant-Appellant,*

*and*

SARAH J. MANNING, *et als.*,  
*Defendants-Appellees.*

*On Bill, etc.*  
*Notice of*  
*Appeal.*

20

The complainant, Richard J. Bradley, hereby  
appeals from the final decree made in the above-  
entitled cause by his Honor, Edwin Robert  
Walker, Chancellor of the State of New Jersey,  
on the advice of his Honor, Alonzo Church, one  
of the Vice-Chancellors of said court, which de-  
cree was entered herein on January 29, 1929,  
and from the whole and every part thereof, to  
the Court of Appeals in the last resort in all  
causes.

30

Dated, January 30, 1929.

STEIN, McGLYNN & HANNOCH,  
Solicitor for and of Counsel  
with Complainant.

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

HERBERT J. HANNOCH,  
Of Counsel with Complainant.

40

PETITION OF APPEAL.

Filed February 9, 1929.

**New Jersey Court of Errors and Appeals**

10	RICHARD J. BRADLEY, <i>Complainant-Appellant,</i>  <i>vs.</i>  SARAH J. MANNING, <i>et als.,</i> <i>Defendants-Appellees.</i>	}	<i>On Appeal          from the          Court of          Chancery.</i>  <i>Petition of          Appeal.</i>
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To the Honorable the Court of Errors and Appeals in the Last Resort in All Causes:

20 The petition of Richard J. Bradley, the appellant in the above-entitled cause, respectfully shows that:

Petitioner finds himself agrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, upon the advice of Hon. Alonzo Church, one of the Vice-Chancellors of said court, bearing date January 29, 1929, in a certain cause in said Court of Chancery, wherein  
 30 the said Richard J. Bradley was complainant and the said Sarah J. Manning, *et als.*, were defendants in this respect, to wit: (a) that the said decree dissolved the restraining order heretofore made in this cause, restraining and enjoining the distribution of the assets of the estate of Sarah J. Bradley, deceased, by Sarah J. Manning, administratrix of the estate of said Sarah J. Bradley, deceased, and (b) that said decree further dismissed the bill of complaint filed by the petitioner.  
 40

*Petition of Appeal.*

And petitioner appeals from the decree of the Chancellor which decrees as aforesaid, upon the ground that (a) said restraining order above mentioned should not have been dissolved, (b) that complainant's bill should not have been dismissed, and (c) that the said Court of Chancery should have taken over from the Essex County Orphans' Court the administration of the estate of said Sarah J. Bradley, deceased, late of Newark, Essex County, New Jersey, and (d) that said Court of Chancery should have decreed that said Richard J. Bradley was entitled to all of the assets of said estate in the hands of said administratrix for the reason that he was the son and sole next of kin of the said Sarah J. Bradley, deceased. 10

Your petitioner, therefore, prays that the said decree of the said Chancellor may be wholly reversed, set aside and for nothing holden, and that petitioner may have such other and further relief in the premises as to this Court shall seem proper. 20

STEIN, McGLYNN & HANNOCH,  
Solicitors for and of Counsel  
with Appellant.

HERBERT J. HANNOCH,  
Of Counsel. 30

## ANSWER TO PETITION OF APPEAL.

Filed March 9, 1929.

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

10	RICHARD J. BRADLEY, <i>Complainant-Appellant,</i>  <i>vs.</i>  SARAH J. MANNING, <i>et als.</i> , <i>Defendant-Appellees.</i>	}	<i>On Appeal          from the          Court of          Chancery.</i>  <i>Answer to          Petition of          Appeal.</i>
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20 The answer of Sarah J. Manning, individually and as administratrix of the estate of Sarah J. Bradley, deceased; Thomas Mullery, John J. Mullery, William H. Mullery, Helen Loder, Ruth Mullery and the Commercial Casualty and Insurance Company, the above-named appellees, to the petition of appeal of Richard J. Bradley, the above-named appellant.

30 These appellees, not admitting the truth of all or any of the matters in the said petition of appeal contained, for answer thereto nevertheless admit that a decree was on January 29, 1929, made and entered in the Court of Chancery of New Jersey, in the above-entitled cause for the purposes in said petition mentioned, and as therein set forth; but as to the substance and form of said decree these appellees beg leave to refer thereto when the same shall be produced.

These appellees are advised and believe that the said decree is agreeable to equity; and they pray that the same may be affirmed, with costs, to be taxed in favor of these appellees.

40 WILLIAM J. KEARNS,  
Solicitor for and of Counsel with Appellees.

**BILL OF COMPLAINT.**

Filed October 18, 1927.

**In Chancery of New Jersey**

To his Honor, Edwin Robert Walker, Chancellor  
of the State of New Jersey: 10

The complainant, Richard J. Bradley, respectfully shows and alleges:

1. That he is the son of Sarah J. Bradley, who died intestate in the City of Newark, County of Essex and State of New Jersey, on February 23, 1927, possessed of a considerable estate consisting of both real and personal property.

2. On March 3, 1927, the defendant, Sarah J. Manning, filed with the Essex County Surrogate a petition for letters of administration upon the estate of the said Sarah J. Bradley alleging that the said decedent did not leave her surviving any husband, any child or children, nor issue thereof, or any father or mother, or brothers or sisters, but only the following-named persons, to wit: 20

Helen Loder, niece; 30  
John F. Mullery, nephew;  
Thomas Mullery, nephew;  
William H. Mullery, grandnephew;  
Ruth Mullery, niece;  
Sarah J. Manning, niece.

3. That at the time of the filing of said petition there was filed with the Surrogate, a waiver to the right of administration executed by all of the persons named herein, other than the said Sarah J. Manning, administratrix, and William 40

*Bill of Complaint.*

H. Mullery and Ruth Mullery, infants, and that thereupon and on March 4, 1927, letters of administration were issued on said estate to the said Sarah J. Manning, who thereupon filed a bond in the sum of \$36,000, conditioned for her faithful performance as such administratrix. The  
 10 defendant, Commercial Casualty & Insurance Co., is the surety on said bond.

4. That said estate is now being administered, but has not as yet been distributed.

5. That said application for administration failed to disclose the fact that complainant was the son of said decedent and upon making inquiry as to the reason for the filing of such petition, complainant was advised by the defend-  
 20 ants that they contended that he was not the son of the decedent.

6. Complainant alleges that he is entitled to the entire personal estate of his mother, the above-named decedent, and that the letters of administration granted to said Sarah J. Manning were improperly granted.

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

30 1. That the defendants, Helen Loder, John J. Mullery, Thomas Mullery, William H. Mullery, Ruth Mullery, Sarah J. Manning, individually and as administratrix of the estate of Sarah J. Bradley, and the Commercial Casualty & Insurance Co., may answer this bill of complaint and each allegation herein made, answer under oath being waived;

40 2. That this court may by its decree vacate the letters of administration granted to the said

*Bill of Complaint.*

Sarah J. Manning and appoint complainant, or some other person as such administrator;

3. That this court may take over the administration of said estate;

4. That this court may by its decree order and adjudge that complainant is entitled to the entire personal estate of the said Sarah J. Bradley, and that said personal estate be paid over and delivered to him; 10

5. That pending the final hearing the said Sarah J. Manning, administratrix aforesaid, be restrained and enjoined from distributing said estate;

6. That a writ of subpoena may issue, commanding said defendants to answer this bill of complaint and to abide by such decree as this court may make in the premises; 20

7. That the complainant may have such other and further relief in the premises as the nature of the case may require.

STEIN, McGLYNN & HANNOCH,  
Solicitors for and of Counsel  
with complainant.

We hereby certify that the within is a true copy of the original on file herein. 30

STEIN, McGLYNN & HANNOCH.

*Bill of Complaint—Affidavits.*

## IN CHANCERY OF NEW JERSEY.

	<p style="text-align: center;"><i>Between</i></p> <p style="text-align: center;">RICHARD J. BRADLEY, <i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p style="text-align: center;">SARAH J. MANNING, <i>et als.,</i> <i>Defendants.</i></p>	}	<p><i>On Bill, etc.</i></p> <p><i>Affidavit.</i></p>
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STATE OF NEW JERSEY, }  
 COUNTY OF ESSEX. } ss.:

WILLIAM S. MYERS, being duly sworn according to law, upon his oath deposes and says:

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1. I am a student at law associated with the office of Stein, McGlynn & Hannoeh, solicitors of complainant.

30

2. I have examined the records in the office of Essex County Surrogate in the matter of the estate of Sarah J. Bradley, deceased. Said records disclose that on March 3, 1927, an application for letters of administration of her estate was filed on behalf of Sarah J. Manning, in which petition it was alleged that the decedent died intestate in Newark, Essex County, New Jersey, on February 23, 1927, and that the decedent did not leave her surviving any husband, child or children, nor any issue thereof, or any father or mother or any brothers or sisters, but only the following, to wit:

Helen Loder, niece;  
 John F. Mullery, nephew;  
 Thomas Mullery, nephew,  
 William H. Mullery, grandnephew;

40

*Bill of Complaint—Affidavits.*

Ruth Mullery, niece;  
Sarah J. Manning, niece.

3. At the time of the filing of said petition  
waivers to right of administration were executed  
by all of the above defendants, other than the  
said Sarah J. Manning, administratrix, and Wil- 10  
liam H. Mullery and Ruth Mullery, infants, and  
on March 4, 1927, letters of administration were  
issued to the said Sarah J. Manning.

4. Thereafter she filed a bond in the penal  
sum of \$36,000 with the Commercial Casualty  
Insurance Co. as surety conditioned for the faith-  
ful performance of her duties as such adminis-  
tratrix.

5. No accounting has been had nor has any  
decree for distribution been entered. 20

WILLIAM S. MYERS.

Sworn to and subscribed before  
me this 14th day of October,  
1927.

ARTHUR A. HANNOCH,  
Notary Public of New Jersey.

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*Bill of Complaint—Affidavits.*

## IN CHANCERY OF NEW JERSEY.

*Between*RICHARD J. BRADLEY,  
*Complainant,*

10

*and*SARAH J. MANNING, *et als.,*  
*Defendants.**On Bill, etc.**Affidavit.*STATE OF NEW JERSEY, }  
COUNTY OF ESSEX. } ss.:

RICHARD J. BRADLEY, being duly sworn, according to law upon his oath, deposes and says:

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1. I am the son of Sarah J. Bradley, the decedent mentioned in the foregoing bill of complaint.

2. My mother died in the City of Newark, County of Essex and State of New Jersey, on February 23, 1927, intestate. She left her surviving no husband, or child or children or issue thereof, except myself.

RICHARD J. BRADLEY.

30

Sworn to and subscribed before me this 14th day of October, 1927.

N. B. GROBERT,  
An Atty. at Law of N. J.

**ORDER TO SHOW CAUSE WITH  
RESTRAINT.**

IN CHANCERY OF NEW JERSEY.

*Between*

RICHARD J. BRADLEY,

*Complainant,*

*and*

SARAH J. MANNING, *et als.*,

*Defendants.*

*On Bill, etc.*

10

*Order to  
Show Cause  
with  
Restraint.*

Upon reading and filing the bill of complaint filed herein, and the affidavits thereto attached,

It is on this 18th day of October, 1927, on motion of Stein, McGlynn & Hannoeh, solicitors of the complainant, ORDERED that the defendants, Helen Loder, John J. Mullery, Thomas Mullery, William H. Mullery, Ruth Mullery, Sarah J. Manning, individually and as administratrix of the estate of Sarah J. Bradley, deceased, and the Commercial Casualty & Insurance Co., show cause before this court on Tuesday, October 25, 1927, at the Chancery Chambers, 1060 Broad street, Newark, N. J., at 10 o'clock in the forenoon, or as soon thereafter as counsel can be heard, why an order should not be entered restraining the said Sarah J. Manning, administratrix as aforesaid, from distributing any of the assets of said estate, pending the final hearing herein, and until the further order of the court in the premises, and

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It is further ORDERED, that until the further order of the court in the premises, the said Sarah J. Manning, administratrix of the estate of Sarah

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*Answering Affidavits—Catherine McGinley.*

J. Manning, deceased, be and she is hereby restrained and enjoined from distributing any of the assets of said estate, and

10 It is further ORDERED that copies of this order, and of the bill of complaint upon which it is based, neither of which need be certified except by solicitors of the complainant, be served upon the defendants, or their solicitors within three days from the date hereof.

E. R. WALKER,

C.

Respectfully advised,

ALONZO CHURCH,  
V.-C.

20 We hereby certify that the within is a true copy of the original on file herein.

STEIN, McGLYNN & HANNOCH.

**ANSWERING AFFIDAVITS.**

Filed October 25, 1927.

STATE OF NEW JERSEY, }  
COUNTY OF ESSEX. } ss.:

30 CATHERINE MCGINLEY, being duly sworn according to law, on her oath deposes and says:

I am the widow of Cornelius McGinley, deceased, and reside at No. 275 Shepard avenue, East Orange, in the said County of Essex. My first husband was James Mullery, who died in the year 1893 and who was the brother of Sarah J. Bradley, deceased. I was married to James Mullery about the year 1870, in Saint John's Catholic Church, in Newark. My sister-in-law, Sarah  
40 J. Mullery, was married to James J. Bradley on January 1, 1873, at Saint Patrick's Church, in

*Answering Affidavits—Catherine McGinley.*

the City of Newark, and their first child, a little boy, Edward Bradley, was born on November 30, 1873. My sister-in-law, Sarah J. Bradley, and her husband, James J. Bradley, were then living at No. 150 Eighth avenue, in the City of Newark. In the Centennial year, 1876, a little girl was born to James J. Bradley and Sarah J. Bradley, who was named Elizabeth Charlotte Bradley. These were the only children ever born of this marriage of James J. Bradley and Sarah J. Mullery. I lived during those years in the neighborhood of my sister-in-law and brother-in-law, Mr. and Mrs. James J. Bradley. 10

The son, Edward Bradley, died from diphtheria in the year 1880 at 414 Broad street, in the City of Newark, where his parents were then residing, and the little girl, Elizabeth Charlotte Bradley, died in the same year and within a few days from the death of her brother, from diphtheria, at 102 Eighth avenue, in the City of Newark, the latter place being the residence of the child's grandmother, Ann Bradley, to which place the child was taken to avoid the infection, the brother, Edward Bradley, dying on November 17, 1880, and Elizabeth Charlotte dying on November 21, 1880. 20

In 1881 Sarah J. Bradley and James J. Bradley moved from 414 Broad street, Newark, to Harrison, New Jersey, where I visited them very frequently. Sarah J. Bradley was very much depressed in spirit because of the loss by death of her little boy, Edward, who was nearly eight years of age, and her little girl, Elizabeth Charlotte, who was nearly five years of age, and she and her husband decided to take into their home some orphan child. In the year 1881, sometime during the summer months, Mrs. Sarah J. Brad- 30 40

*Answering Affidavits—Catherine McGinley.*

ley and I together went to see Mrs. Mary Eliza Fitzgerald, who was then living on Mulberry street, in the City of Newark, and Mrs. Fitzgerald gave Mrs. Bradley a letter to permit her to take two children from the Home of the Friendless, a boy and a girl. On the same day  
10 on which we called to see Mrs. Fitzgerald, Sarah J. Bradley and I together went to the Home of the Friendless on South Orange avenue and Bergen street, in the City of Newark, and there we picked out a boy, on the recommendation of one of the nurses, who was called "Dickie Dennis" and who was so addressed by the nurse, and who was then between four and five years of age. On this visit we did not select any girl, but Mrs. Bradley decided that she would take the boy,  
20 whom the nurse addressed as Dickie Dennis. The next day, which was on a Saturday, Mrs. Sarah J. Bradley brought to her home in Harrison, N. J., a boy and a girl from the Home of the Friendless, as she informed me at the time; but I did not accompany her on Saturday to the Home of the Friendless. I went with her there on the preceding day in the summer time, in the year 1881, when she selected the little boy between four and five years of age, known as "Dickie  
30 Dennis," and on the Saturday night following myself and my then husband, James Mullery went over to see Mr. and Mrs. James J. Bradley to Harrison, and I saw the little boy "Dickie Dennis" there and was surprised to see that she had also brought home a little girl of about the same age. The Bradleys did not keep the little girl, however, but returned her to the Home of the Friendless after two or three days; but James J. Bradley and his wife, Sarah J. Bradley, kept the little boy known as Dickie Dennis, whom  
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*Answering Affidavits—Catherine McGinley.*

the Bradleys named Richard Jacob. He was known after that time by their name, and we called him "Dick Bradley." A week from the following Sunday, Mrs. Sarah J. Bradley brought the little boy known as Dick, and who was the little boy whom I saw at the Home of the Friendless in Newark, when I visited there with Mrs. Bradley, to our home, on James street, in the City of Newark, where I was living with my husband and family, and then informed me that she had sent the girl back to the Home of the Friendless, but decided that she would keep Dick and bring him up. On that Sunday evening when she called with the little boy "Dickie Dennis" at our home in Newark, the boy was dressed in a new suit of clothes which she had purchased for him, and he presented a very nice, pleasing appearance, much better than he had looked in the regulation garb in the Home for the Friendless, and I remarked to Mrs. Bradley what a change the clothes had made in little Dick's appearance. So far as I know, little Dick had never been legally adopted by the Bradleys, and Sarah J. Bradley told me, after the death of her husband, James J. Bradley, which occurred on May 2, 1925, that Dick had never been legally adopted by James J. Bradley or by herself. She had also told me the same thing prior to the death of her husband, but I cannot fix the definite dates. Dick tried to make some trouble for Sarah J. Bradley after the death of her husband by representing himself as the son of the said James J. Bradley. In the latter part of May, 1925, I was at Mrs. Bradley's residence, 126 South Ninth street, in the City of Newark, when Richard J. Bradley, who was then a man about fifty years of age, and who was the same person as the

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*Answering Affidavits—Sarah J. Manning.*

10 little boy whom I saw at the Home of the Friendless in 1881, and who in May, 1925, was accompanied by his wife, Mary, came from New York to see Sarah J. Bradley at her home. This Richard J. Bradley, in my presence, requested Sarah J. Bradley to go with him to New York where he was living and live with him, and she refused to do so. His wife, Mary, went out to look for a flat in the neighborhood of Mrs. Sarah J. Bradley's residence and I remained at No. 126 South Ninth street with Richard and Sarah J. Bradley. He addressed her as "mother," and she said to him in reply, "I am not your mother and I will never leave my own home."

20 Her  
CATHERINE X MCGINLEY.  
Mark

Sworn to and subscribed before  
me this 24th day of October,  
A. D. 1927.

MARY M. CAFFREY,  
Notary Public for N. J.

30 STATE OF NEW JERSEY, }  
COUNTY OF ESSEX. } ss.:

SARAH J. MANNING, being duly sworn according to law, on her oath deposes and says:

I reside at 126 South Ninth street, in the City of Newark, and am the administratrix of the estate of Sarah J. Bradley, deceased. Sarah J. Bradley was my aunt, being my father's sister. My father was James Mullery, and my maiden name was Sarah J. Mullery, the same name as the maiden name of my aunt, Sarah J. Brad-

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*Answering Affidavits—Sarah J. Manning.*

ley, deceased. Mrs. Catherine McGinley is my mother.

I know the complainant in this cause, who calls himself Richard J. Bradley. I have known him for nearly forty years, and I know him to be a boy that my Aunt Sarah and my Uncle James Bardley had raised, but he was never my cousin, nor did he have any relation to me. My brothers and sisters and all the members of our family knew that he was not related by blood to any of us, although we called him Dick Bradley. My Aunt Sarah often told me and told the members of our family that their only son, Edward Bradley, and their only daughter, Elizabeth Charlotte Bradley, had died in infancy, and that they had taken Dick from the Home of the Friendless and were bringing him up. After the death of my Uncle Jim Bradley in May, 1925, Dick filed a caveat in the name of Richard J. Bradley, against the probate of the will of James J. Bradley in the Surrogate's office of Essex County, and contested the will of James J. Bradley, claiming at that time through his lawyer, to be an adopted son of James J. Bradley. Aunt Sarah then stated that he was never an adopted son of theirs, and the will of James J. Bradley was finally admitted to probate by the Orphans' Court of Essex County on October 21, 1925.

SARAH J. MANNING.

Sworn to and subscribed before  
me this 24th day of October,  
1927.

MARY M. CAFFREY,  
Notary Public of N. J.

*Answering Affidavits—William J. Kearns.*

STATE OF NEW JERSEY, }  
 COUNTY OF ESSEX. } ss.:

WILLIAM J. KEARNS, of full age, being duly sworn according to law, on his oath deposes and says:

10 I am the solicitor of the defendants herein and acted as proctor in the Surrogate's Court in obtaining on March 4, 1927, letters of administration for Sarah J. Manning, one of the defendants, on the estate of Sarah J. Bradley, deceased. Sarah J. Bradley departed this life on February 23, 1927, intestate. I had been her legal counsel in her lifetime. She was sole devisee and legatee under the will of her husband, James J. Bradley, deceased. I was one of the subscribing witnesses to his will, which I drew and had executed on  
 20 March 24, 1903, which will is admitted to probate on October 21, 1925, after a hearing in the Orphans' Court of Essex County before the Honorable Dallas Flanagan, Judge of said court, on a caveat which had been filed against its probate by Richard Jacob Bradley, the complainant in this cause, who alleged himself to be the son of the testator. The hearing before the Orphans' Court was attended by said Richard J. Bradley, and the counsel of the caveator, Maurice Steiner,  
 30 Esq., claimed that said Richard Jacob Bradley was the adopted son of the testator, but stated that he had been unable to find any record of the legal adoption of said Richard Jacob Bradley by the testator, and therefore abandoned any attempt to prove his alleged relationship to said testator.

WILLIAM J. KEARNS.

Sworn to and subscribed before  
 me this 24th day of October,  
 40 A. D. 1927.

MARY M. CAFFREY,  
 Notary Public of N. J.

**ORDER CONTINUING RESTRAINT UNTIL  
FINAL HEARING.**

Filed October 25, 1927.

It appearing to the Court that an order to show cause was issued in the above-entitled matter, dated October eighteenth, nineteen hundred twenty-seven, and said order coming on to be heard in the presence of William J. Kearns, solicitor of the defendants, Helen Loder, John J. Mullery, Thomas Mullery, William M. Mullery, Ruth Mullery, Sarah J. Manning, individually and as administratrix of the estate of Sarah J. Bradley, deceased, and no one appearing for the defendant, Commercial Casualty & Insurance Co., and the defendants above named having filed affidavits in opposition to the, and the Court having heard counsel for both the complainant and the said defendant, and the Court being of the opinion that the restraint contained in the original order to show cause be continued until final hearing; it is, on this twenty-fifth day of October, nineteen hundred twenty-seven, on motion of Stein, McGlynn & Hannoeh, solicitors of the complainant, and in the presence of William Kearns, solicitor of the defendants as above set forth.

ORDERED that the defendant, Sarah J. Manning, administratrix of the estate of Sarah J. Bradley, deceased, be and she is hereby restrained and enjoined from distributing any of the assets from the estate of the said Sarah J. Bradley until the further order of this Court.

E. R. WALKER,

C.

Respectfully advised:

ALONZO CHURCH,  
V.-C.

**ANSWER.**

Filed November 15, 1927.

The joint and several answers of defendants, Helen Loder, Walter Loder, Thomas Mullery, William Mullery, John F. Mullery and Sarah J. Manning, individually and as administratrix of the estate of Sarah J. Bradley, deceased;

These defendants answering the bill of complaint say and each of them says that:

1. Paragraph 1 is denied, except that it is admitted that Sarah J. Bradley died intestate on February 23, 1927, possessed of both real and personal property.

2. Paragraphs 2, 3, 4 and 5, inclusive, are admitted, except that Ruth Mullery is a grand-niece of said Sarah J. Bradley, and not a niece of the intestate, as set forth in paragraph 2.

3. Paragraph 6 of the bill of complaint is denied.

WILLIAM J. KEARNS,

Solicitor for Defendants, Helen Loder, Walter Loder, Thomas Mullery, William Mullery, John F. Mullery and Sarah J. Manning, individually and as administratrix of the estate of Sarah J. Bradley, deceased.

Same answer filed on behalf of Ruth Mullery, infant, on November 15, 1927.

Same answer filed on behalf of Commercial Casualty Insurance Co., defendant, by Wm. J. Kearns, solicitor, November 15, 1927.

Formal replications filed November 29, 1927.

**NOTICE OF DEMAND FOR ADMISSION.**

Served December 14, 1927.

To William J. Kearns, Esq., solicitor of defendants.

Sir:

Please take notice that the plaintiff demands of you, within five days after the service of this notice upon you, written admissions to the following:

10

1. That Mrs. Sarah J. Bradley died on February 23, 1927.

2. That, if Richard J. Bradley is the son of Sarah J. Bradley, he is her sole living child.

STEIN, McGLYNN & HANNOCH,  
Solicitors for Complainant.

20

Due service of a true copy of the within is hereby acknowledged this 14th day of December, 1927.

WILLIAM J. KEARNS,  
Solicitor for Defendants.

30

40

**ADMISSIONS.**

Served December 16, 1927.

To Stein, McGlynn & Hannoeh, solicitors for  
plaintiff.

10 Gentlemen:

Replying to your demand for admissions served  
on me December 7, 1927, I beg to state:

1. It is admitted that Sarah J. Bradley died  
on February 23, 1927.

2. It is admitted, that if Richard J. Bradley  
be the son of Sarah J. Bradley, then he would  
be her sole surviving child.

Yours respectfully,

20

WILLIAM J. KEARNS,  
Solicitor for Defendants.

Service of the within admissions is hereby  
acknowledged this 16th day of December, 1927.

STEIN, MCGLYNN & HANNOCH,  
Solicitors for Complainant.

30

Cause was duly referred to the Honorable  
Alonzo Church, one of the Vice-Chancellors, on  
December 8, 1927.

Cause was duly set down for hearing at Chan-  
cery Chambers, Newark, N. J., on September 12,  
1928.

40

**TESTIMONY.**

## IN CHANCERY OF NEW JERSEY.

*Between*RICHARD J. BRADLEY,  
*Complainant,**and*SARAH J. MANNING, *et als.,*  
*Defendants.*

10

October 1, 1928.

Transcript of shorthand notes of testimony taken in the above-entitled cause before his Honor, Alonzo Church, Vice-Chancellor, at the Chancery Chambers, Newark, New Jersey, in the presence of Messrs. Stein, McGlynn & Hannoeh (by Mr. Hannoeh) for complainant; William J. Kearns, for defendants.

20

(Counsel open to Court.)

Mr. Hannoeh: I first want to read on the record the admissions which Mr. Kearns made to me in which he states that Sarah J. Bradley died on February the twenty-third, 1927; if Richard J. Bradley be the son of Sarah J. Bradley, then he would be her sole surviving child.

30

Mr. Kearns: Yes.

Mr. Hannoeh: Now, there is a gentleman here from the Prudential Insurance Company that I promised to call and let get back.

Will you please take the stand?

40

*James L. Schanck, direct—cross.*

JAMES L. SCHANCK, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

Q Mr. Schanck, you are connected with the Prudential Insurance Company? A I am.

10 Q Of New Jersey, at its Newark office? A Yes.

Q And under subpoena you have brought an application for life insurance on the life of Richard Bradley, application being made by Sarah Bradley? A Yes, sir.

Q Have you brought that original application? A I have.

Q May I have it for a moment?

20 Mr. Hannoeh: I desire to offer it for identification, and, in order that their records may be complete, I have made a photostat copy of it. I would like to substitute the photostat copy for the original and I have an extra photostat copy for Mr. Kearns.

(Both marked Exhibit C. 1.)

*Cross examination by Mr. Kearns.*

30 Q Did you ever see Mrs. Sarah J. Bradley write? A No, sir.

Q And you wouldn't know her signature? A No, sir.

Q The name which appears—do you know who took this application, the name of the agent?

A It is on the top there. S. H. Tolner.

Q Do you know him? A No, I do not.

Q Is he in your employ now? You don't know? A That I couldn't say.

40

*James L. Schanck, cross.*

Q Do you know—you wouldn't know the signature then of Mrs. Sarah J. Bradley? A I would not, sir.

Q You don't know whether she signed this or the agent, of course? A I do not.

The Court: Does this anywhere say that he was her son? 10

Mr. Hanoeh: Yes.

The Court: Where?

Mr. Hanoeh: At the bottom: "What is the relationship? Mother."

The Court: Well—

Mr. Kearns: Yes. What is the date of this according to the—

Mr. Hanoeh: "Relationship."

The Court: Yes, "Mother." 20

Mr. Kearns: 1877, yes. Taken in Harrison, this was in Harrison, New Jersey.

The Witness: Apparently so, yes.

Q Is this insurance still in force? A I can't say that.

Q Of course, you simply produced the file?  
A Yes, sir.

Mr. Hanoeh: I will have to prove the signature by somebody else. 30

The Witness: I produced the paper. That is all I know.

Mr. Hanoeh: I am just marking it for identification.

Mr. Kearns: No further questions.

The Court: That is all, sir.

Mr. Kearns: It is only marked for identification.

Mr. Hanoeh: Yes. 40

*Richard J. Bradley, direct.*

RICHARD J. BRADLEY, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

10 Q Mr. Bradley, you live where? A At present?

Q Yes. A 551 East 178th street, Bronx.

Q Just talk a little louder so the Vice-Chancellor can hear you.

The Witness: 551 East 178th street, New York City, the Bronx.

Q And you are married? A Yes.

Q And you live with your wife and two children in the Bronx? A (Witness nods yes.)

20 Q Don't get nervous. You know Sarah J. Bradley? A Yes, sir; that was my mother.

Q Did you know James J. Bradley? A (Witness nods yes.)

Q Who was he? A He was the father.

Q Where did you, as far as you know, first live when you were a little boy? A Bergen street, Harrison.

Q The first that you can remember?

30 Mr. Kearns: What street?

The Witness: Bergen street.

Q Now, don't get excited. Just take your time. That is as far back as you can remember, Bergen street, Harrison? A Yes, sir.

Q Who lived with you in the house at that time? What were the members of the family? A Father and mother.

40 Q No other brothers and sisters? A No, sir.

*Richard J. Bradley, direct.*

Q Go to school in Harrison? A Yes, sir.

Q Were you confirmed in Harrison? A Yes, sir.

Q Do you know by whom? A Father O'Connor, and Bishop Wigger.

Q And what church? A Church of the Holy Cross. 10

Q Go to school in Harrison? A Yes, sir.

Q How long did you live in Harrison? About how old were you when you moved from Harrison? A I was eight years old.

Q Do you remember when your birthday was, what part of the year? A My mother told me May the thirtieth.

Q Did you ever celebrate that day? A We had little occasional parties.

Q When you were a youngster? A Yes. 20

Q Receive gifts from your father and mother? A I had gifts, yes.

Q When you moved to Newark, where did you live? A 126 South 9th street.

Q In Newark? A Newark.

Q And any other members of the family with you? A Father and mother.

Q No other brothers and sisters? Never any brothers and sisters so far as you knew? A (Witness nods no.) 30

Q How long did you live in Newark at 9th street? A About—

Q Well, about how old were you when you went to work out of the city; put it that way? A Out of the city. I left home about eighteen years old.

Q During the time that you were living in Newark, did you go to work? A Yes, sir.

Q With whom? A My father.

Q Whereabouts? A General Electric. 40

*Richard J. Bradley, direct.*

Q And what did you do and what did he do there? A He was a master mechanic and I was a mechanic with him.

Q You were an assistant with him? A Yes, sir.

10 Q When you went to New York you were employed in New York? A Yes, sir.

Q Did you subsequently get married to your present wife? A Yes, sir.

Q And after you lived in New York, did you come back to Newark at any intervals? A Yes, sir.

Q How often? A After I was married, about an average of every week on Sundays and holidays.

20 Q Where did you come when you came to Newark? A At my father's house.

Q And your children come over here with you? A Not right away.

Q As they got older did they come over? A Yes, sir.

Q How old are they now? Now, just take your time? A (Witness weeps.)

Q Suppose you take a drink of water there? A My youngest son is seventeen, going on eighteen, and the oldest is going on twenty-one.

30 Q Did you bring them over to Newark at intervals to see the father and mother? A They came in their younger days.

Q I see. And what was the relationship between your father and yourself and your mother and yourself, a friendly one? A Very friendly at all times.

40 Q Now, I show you Exhibit C. 1 and ask you to look at the signature on the bottom of that. Have you got your glasses? Just look at that signature down there. Now, just one

*Richard J. Bradley, direct.*

minute. Did you ever see your mother write?

A Yes, sir.

Q Whose signature is that on the bottom? A  
(Witness weeps.)

Q Now, just control yourself and answer these questions and we will get through with them? A  
That is the mother's signature. 10

Q That is your mother's signature. Did you ever receive any letters from your mother? A  
From my father.

Q Did you ever receive any letter from your mother? A I may have. I never recollect them—once in a while.

Q You received them once in a while. I show you a letter contained in an envelope bearing the post mark "November 15" without any year—1923, I think it is, or five. I ask you whether you recognize that letter? A Yes, sir. 20

Q Who is that from? A My mother.

Q Is this the envelope it came in? A Yes, sir; that is the envelope.

Mr. Hannoeh: I will show this to Mr. Kearns.

I now offer the application in evidence.

The Court: Let it be marked. 30

(Exhibit formerly marked C. 1 for identification now marked C. 1.)

The Court: How about the confirmation certificate from the church?

Mr. Kearns: I don't object to that.

(Paper marked Exhibit C. 2.)

Mr. Hannoeh: I offer that in evidence. I did not want to subpoena the Reverend.

The Court: How about the envelope? 40

*Richard J. Bradley, direct.*

Mr. Hanocho: I am going to offer the envelope. Any objection?

Mr. Kearns: No objection.

The Court: You better read that letter into the record.

10 Mr. Hanocho: It is going to be difficult because it is badly spelled, but I will try to read it.

The Court: Very well. Then furnish me with a copy of it.

Mr. Hanocho: It is important for you to know.

I offer the letter in evidence and envelope, and you can mark it and I will read it.

(Letter and envelope marked Exhibit C. 3.)

20 Mr. Hanocho: It starts: "Dick: Why don't you come home as we are looking for a letter from you. If you can't come, write and say why you can't. Pop is dumb-founded at way you threat—" I suppose that means "treat."

The Witness: "Treat him."

30 Mr. Hanocho: "So if please to come home Sunday at twelve o'clock will be glad to see you, as you do if you would stop think that you are all I got in the world, so come over and see me and God will bless you and keep you safe. I must go to store. Kind love to May and boys and yourself." Some crosses "From Mother."

The Witness: That is correct.

40 Q Now, do you remember what it was she referred to as to why you didn't come over? A I was detained at work for two weeks and I had neglected to write to them.

*Richard J. Bradley, direct.*

The Court: Have you asked him about the handwriting?

Mr. Hannoeh: Excuse me.

Q Do you recognize that handwriting? A Yes, sir.

Q Whose handwriting is it? A My mother's. 10

Q I show you another paper and ask you what that is? A That is an invitation for the wedding.

Q Whose wedding? A (Witness indicates himself.)

Q Your wedding? A Yes, sir.

Mr. Hannoeh: I offer that in evidence.

(Invitation marked Exhibit C. 4.)

The Court: Any objection? 20

Mr. Kearns: Who issued that?

Mr. Hannoeh: I am going to ask him about that now.

Mr. Kearns: All right. Yes.

Mr. Hannoeh: Mark this.

(Exhibit already marked.)

Q This wedding invitation starts out by saying, "Mr. and Mrs. James J. Bradley request your presence at the marriage of their son, Richard, J., to Miss May Melloy." How was this invitation issued? A I was granted permission from my father to have it printed and he said, "All right. Send them out to your friends." 30

Q You had them actually printed? A Yes, sir.

Q Your father knew about it before you printed them? A Yes, sir.

Q All right. 40

*Richard J. Bradley, direct.*

The Court: Has that been marked then?

Mr. Hanoeh: Yes, sir.

Q I think we got down to the place where you went over to New York and got married and you and your sons used to come over and  
10 call on your folks on Sunday? A Yes, sir.

Q Was your father a man who owned property or had property? A Yes.

Q Did you ever have anything to do in connection with his property? A Well, any time he sold a house he called on me to act as a witness.

Q You used to come from where to do that?  
A New York.

Q Every time? A Yes, sir.

20 Q And did he ever seek your advice about anything that he used to do? A Yes, sir; he asked me if he thought I ought to sell to this person or different parties. I said, "Suit yourself; it is your house."

Q Did your father ever discuss anything with you about his will? A No, sir.

30 Q Did he ever discuss it as far as you know with your wife? Just answer it yes or no, not tell us what he said. A No.

Q You don't know? A I don't know that; I don't know that.

Q All right. Did you ever go out with your father and— A Several occasions.

Q —meet friends of his? A Several occasions.

Q How were you introduced to those friends?  
A As his son. "My son, Dick."

40 Q And what about your mother? Were you ever out with her? A No; no, sir.

*Richard J. Bradley, direct.*

Q Was she a person who went out? A Only around to the stores. She couldn't see very well.

Q I see. And who were your father's brothers and sisters? A Had an uncle named Michael.

Q Michael what? A Michael Bradley.

Q Is he alive? A Not that I know of. I couldn't swear to it. 10

Q And who else? A Eddie. He is dead.

Q Did your father have any other brothers? A Not that I know of.

Q Did you have any sisters? A No, sir.

Q Did your mother have any brothers? A Yes, sir.

Q Who were they? A Married to—a lady named—(interrupted). 20

Q I am interested—are they alive? A Yes, sir.

Q Her brother? A The brother is not alive.

Q That is what I mean. A No.

Q Has she any brothers or sisters who are alive? A No, sir.

Q After your father's death did you have any discussion with your mother about your father's will? A Yes, sir.

Q Did you have to take some proceedings to compel the probate of that will? A Yes, sir. 30

Q And as a result of your proceedings, the will was brought down to the Court House? A Yes, sir.

Q While those proceedings were pending, did you have any discussion with your mother? A No, sir.

Q Well, I mean, did you have any talks with your mother which led up to the bringing of those proceedings? A Yes, I did. 40

*Richard J. Bradley, cross.*

Q When was the first time that any suggestion was made to you, as far as you knew, that you might not be your mother's son and your father's son? A About three months after his burial.

Q After his burial? A Yes.

10 Q And that was while those proceedings were pending? A Yes, sir.

Q Up at the Court House? A Yes, sir.

Mr. Hanoch: Cross examine.

*Cross examination by Mr. Kearns.*

Q You always—(interrupted).

20 The Court: Just wait a minute. Are the proceedings of the probate of the will on record?

Mr. Hanoch: Yes, sir. I think Mr. Kearns has them here.

Mr. Kearns: Yes.

The Court: That will show whether there was any son mentioned, won't it?

Mr. Kearns: Yes, the application.

Mr. Hanoch: The application.

30 One of the questions of law that we will have to argue before your Honor is whether admissions made after litigation has started will be evidential in a pedigree case.

Mr. Kearns: The caveat was really filed to stop the will from probate. The will was offered for probate. I offered the will for probate.

Mr. Hanoch: That will be brought out to your Honor in due time.

40 The Court: Yes.

*Richard J. Bradley, cross.*

Q You always referred to Mrs. Bradley as your mother, of course? A Yes, sir.

Q When you were a little boy in Harrison? A Yes.

Q And that is the first place you ever recollect having lived? A Yes.

Q With the Bradley family. You never remember having any brothers or sisters? A No, sir.

Q Did you hear of any other children that the Bradleys had? A Why, I saw pictures in the house and I asked who they were.

Q Yes? A They said it was a brother and sister that died.

Q Yes? And do you remember how old you were when you went to Harrison to live? A No, sir; I do not.

Q Now, you produced here a certificate of confirmation of the Church of the Holy Cross in Harrison. That does not set forth—(interrupted).

The Court: No. You find out what it set forth. Don't ask him. The document speaks for itself.

Q Did you look for a baptismal certificate? A Couldn't find any.

Q Couldn't find any certificate of your baptism. Did you look anywhere else? A I went to Jersey City and also to the Essex County Court.

Q And you couldn't find any certificate? A No.

Q Did you ever look for a certificate of your birth? A No.

*Richard J. Bradley, cross.*

Mr. Hannoeh: We did that. He didn't do it.

Mr. Kearns: Oh, you did that.

Q So far as you know there was no certificate of your baptism? A Not that I know.

10 Q Now, what is the date of your marriage?

A The date of my marriage was October 13th, 1906.

Q And you were married in New York? A Yes, sir.

Q Broadway and 71st street? A Church of the Blessed—(interrupted).

Q These invitations were prepared in New York, I presume, by you, were they? A Yes, sir.

20 Q And sent out by you to your friends. And in this invitation you describe yourself as the son of Mr. and Mrs. James J. Bradley, that you always knew yourself to be the son of James until the time of your marriage. Did Mrs. Bradley tell you something then? A After my marriage?

Q Yes. Right after your marriage what did she tell you? A Well, it was quite a number of years.

30 Q Well, what did she tell you?

Mr. Hannoeh: Now, your Honor please, I suppose we might as well meet this issue at this time as to how far evidence—hearsay, of course, of pedigree is admissible, after litigation has begun. As I have understood the law, and the cases that seem to support me, and I do not think Mr. Kearns will dispute them seriously, that the ordinary rules against hearsay testimony do not apply in cases of pedigree, provided that the declara-

40

*Richard J. Bradley, cross.*

tions as to pedigree are made by somebody who is now dead, so that they themselves cannot be produced; that the person who made the declaration was a member of the family with respect to which the declaration was made and that the declaration was made before there was any litigation between the parties. 10

Those three elements have to appear, because as the cases set forth, the reason for admitting them is that they were made before there was any motive or any reason for saying anything except the truth. Once, however, the litigation starts, then the reason for the rule no longer exists, and the testimony is not permitted.

That seems to be the line of cases followed both out of the state and in our own Court of Appeals, running way back; the late one is in 73 Law, in which the Supreme Court states: "It appears to be settled that a declaration to be admissible, must not only have been made by a person since deceased and must have been made *ante litam motem*, but must also have been made by a person related by blood or affinity with some branch of the family the pedigree respecting which is in question." That is also followed in 74 Law—in 79 Law 264, and in the Court of Appeals on that action. 20 30

My objection to testimony given as to as to what Mrs. Bradley said after they had a dispute about the father's will, is that it is hearsay testimony and the reason for the rule no longer appearing, namely there was litigation pending, the testimony is inadmissible. I therefore object to any 40

*Richard J. Bradley, cross.*

testimony being given as to what Mrs. Bradley said after the litigation between the parties started a number of years ago.

10 Mr. Kearns: And of course, testimony of this litigation was begun about a year ago the present suit in Chancery, to establish this young man's relationship to the decedent, but a caveat was filed in the Orphans' Court at the time that the will of James J. Bradley was offered for probate. Now, I am referring to a conversation—I am asking this witness—that was in 1925. Mrs. Bradley died in 1927. Mr. Bradley—James J. Bradley's will was offered for probate in 1925 and admitted to probate on the twenty-first of October that year, 1925.

20 The Court: The father died in 1925.

Mr. Kearns: 1925, yes.

The Court: All right.

Mr. Kearns: Then—(interrupted).

The Court: And then it appeared that there was a controversy between the mother and son began at that time.

30 Mr. Kearns: Well, there was a caveat filed against the probate of the will. The caveat was subsequently withdrawn. Morris Steiner was the proctor for the caveator in that case and he stated in open court at that time—(interrupted).

Mr. Hannoeh: No.

The Court: No.

40 Mr. Kearns: The will was admitted to probate by Jurge Dallas Flannagan, at any rate, and there was no real contest. The witnesses went on the stand and proved the will?

*Richard J. Bradley, cross.*

The Court: Yes.

Mr. Hannoeh: That was the end of the—  
(interrupted).

Mr. Kearns: And this young man was  
in court at the time.

The Court: That may all be, but I  
should say the litigation started about the  
time that the father died, or the will was  
probated, and a caveat entered, whatever  
time that was. 10

Mr. Kearns: Yes.

The Court: And I don't think that you  
ought to attempt to introduce evidence after  
that time, but, if Mrs. Bradley told him  
anything before 1925, that is another matter.

Mr. Hannoeh: That is another matter, I  
cannot object to that. 20

The Court: You can ask him that.

Q You were married in what year? A  
1906.

Q Did she tell you then, first reveal to you  
that you were not her son? A No, sir; she  
did not.

Q Did not tell you at all? A (Witness nods  
no.) 30

Q No word about it? A (Witness nods no.)

Mr. Kearns: That is going to limit  
this case.

The Court: I am glad to hear that.

Mr. Kearns: That ruling of your Honor  
cutting out all of that testimony. However,  
we have witnesses as to events.

Q How old were you when you left home  
on South 9th street? A About eighteen. 40

*Richard J. Bradley, cross.*

Q And do you recall having—when you moved from Newark to Harrison—

The Court: No. He means when he went to work in New York.

10 Mr. Kearns: Oh, yes. He means when he went to work in New York.

Q That was when you were eighteen years old?

The Court: Yes.

A Yes.

Q How long had you previously lived in Newark on South 9th street A Oh, I should judge about twelve years.

20 Q Yes. Where were you born? A That I don't know.

Q Nor the date you don't know, do you? A I only know what my mother told me, May the thirtieth.

Q You used to keep a birthday on the thirtieth of May each year? A A little party.

Q A little party, yes. But you never knew the year of your birth nor where it occurred?

30 A May the thirtieth, 1877.

Mr. Hanoach: Eighteen what?

Q What year? A May the thirtieth.

Q What year? A 1879 I believe it was.

Q 1879 you think that was the year? A I am pretty sure.

Q Do you know where? A Do I know where?

40 Q Yes. A Where I was born?

*Richard J. Bradley, cross.*

Q Do you know where you were born? A Harrison, New Jersey, is all I know.

Q But you could find no record of your birth, could you? A No, sir.

Q And that is the first place you remember living, was Harrison, New Jersey? A Yes, sir. 10

Q You referred to pictures, you saw pictures, did you not, of the other two children? A Yes, sir.

Q Yes. Would you recognize them, do you think, if I showed them to you now? A I think so.

Q Would you say that these are the pictures that you saw, Mr. Bradley? A Yes, sir.

Q Those are the pictures which you saw? A Yes. 20

Mr. Kearns: I will have these identified.

Q Would you recognize that as your own little picture of yourself when you were small (showing witness picture)? A Yes.

Q That was your own picture; you knew that? A Yes.

(Three tin types marked Exhibits D. 1, D. 2 and D. 3.) 30

Q Did your mother ever tell you anything about these two little children in the pictures? A No, sir.

Q Never told you anything about them? A No, sir.

Q And, of course, she called you her son, did she? A Yes, sir.

Q In the letter which she writes you she does not address you as "Son," does she, however? A No. 40

*Richard J. Bradley, re-direct.*

The Court: No, she said, "Dick;" she signed it "Mother."

A She always referred to me as "Dick."

Q Did you have cousins? A On my mother's side.

10 Q Who are they, those cousins, those children of deceased brothers—of your sisters of your mother? A Johnnie Mullery, William Mullery and Sarah Mullery.

Q Is that all? A That is all I know of.

Q You didn't know the others very well, did you? A No.

Q Well, did you refer to them as cousins? A I never visited them.

Q Did they ever call you "cousin"? A  
20 No.

Q No. Were you ever known—did you ever know the aunts or uncles? A Only my father's brothers.

Q Your father's brothers? A Yes.

Q And they are deceased? A Yes, sir.

*Re-direct examination by Mr. Hanooh.*

Q Mr. Bradley, Mr. Kearns has asked you  
30 about endeavoring to get baptismal certificates. Did you have any difficulty in getting any certificates from the church? A I did, yes. My confirmation.

Q How long did it take you, for instance, to get this Exhibit C. 2, the confirmation certificate? A Pretty near two years.

Q When did you finally get it? A Last week, Saturday.

Q Did you make requests about other certificates at the Catholic church there? A Yes,  
40 sir. Couldn't be found.

*Richard J. Bradley, re-direct.*

Q Were you permitted to examine the books yourself? A No, sir.

The Court: Is there any question as to whether or not the birth certificate is in that church?

Mr. Hannoeh: I can't tell. 10

The Court: Very well. We will subpoena it otherwise.

Mr. Kearns: Subpoena the records; bring the records, by all means.

Mr. Hannoeh: It was sent from one parish to another; the books are said to have been moved and then moved back.

Mr. Kearns: A subpoena duces tecum will bring them. 20

Mr. Hannoeh: I don't know who to subpoena. You told me—

Mr. Kearns: The pastor of the church. Don't hesitate.

Mr. Hannoeh: We have done that and they say it is not under his control any more. They say the books have been moved and if Mr. Kearns can tell me—

Mr. Kearns: I don't know. 30

The Court: Mr. Kearns probably is not familiar with the records back in 1870. You can subpoena the priest in charge of the parish, who has control of everything in that parish and direct in your duces that he produce all the books from the year so and so to the year so and so.

Mr. Hannoeh: Yes, very well, we will.

Mr. Kearns: Yes. 40

*Richard J. Bradley, re-direct.*

The Court: And then he will come here with what books he has and probably tell us where the rest of them are, if he knows.

Mr. Kearns: As far as the other children, I had no difficulty in getting them.

10 Mr. Hannoeh: You don't.

Mr. Kearns: I didn't go over them personally. I have the certificates—

The Court: Very well.

Q Mr. Kearns, I think, asked you something about your father's records and books. Did your father keep books and records around the house that you know about? A Not that I know of, no.

20 Q Had no diary or anything of that kind? A No. Kept a little vest pocket diary of his own.

Q What are your sons' names? A James and Thomas Bradley—

Q Who is he named after? A My father.

Q Now, you referred to some cousins and said that you never visited them. What was the relationship, I mean, what was the feeling between your father and the other branches of the family on your mother's side? A Ill feeling.

Q I didn't get it. A Ill feelings.

30 Q Were they ever allowed in the house? A At no time.

Q Did you ever see them at the house? A No, sir.

The Court: Any further cross?

Mr. Kearns: No.

Q You have a ring from your father? A My son has it.

40 Q Whose ring was that? A My father's.

*Frances Cook, direct.*

Q Who did he give it to? A To James.

Q That is the boy that is named after him?

A Yes.

Mr. Hannoeh: All right.

Now, Mrs. Cook.

10

FRANCES COOK, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

Q Are you married, Mrs. Cook? A Yes.

Q Live where? A I live in Harrison at present.

Q And have children? A One son. 20

Q You knew Sarah Bradley? A I knowed her as my sister.

Q Did you live in the same house with her?

A Ever since I was an infant five months old.

Q Where did you live with her? A I lived on 7th avenue in Newark.

Q And her father and mother lived in the house at that time? A Only her mother was living.

Q Her father was dead? A Her father was dead. 30

Q And how much older than you was she?

A Well, she was working in Clark's, a girl working in Clark's when they took me. I couldn't say what her age was.

Q And you and she grew up together? A As sisters.

Q When she got married where did she go to live? A Well, she went on 8th avenue.

Q With her husband? A Her husband. 40

*Frances Cook, direct.*

Q And you stayed and lived with whom? A Her mother.

Q And when her mother died were you still living with the mother? A I was living with the mother.

10 Q And upon the mother's death with whom did you go to live? A I went to live with Mrs. Bradley.

Q And Mr. Bradley? A Mr. Bradley also.

Q And where were they living at that time? A On Broad street, I don't know the number.

Q And about how old were you then? A Twelve years old.

Q Did they have any children at that time? A They had two.

20 Q Two children. What happened to those two children? A They had diphtheria.

Q And what happened to them? A They died with diphtheria.

Q Where were you at the time that the children died? A Why, I was taken from her house to a lady by the name of Mrs. Mullery. Her name is Mrs. McGinley at present.

Q And why were you taken there? A They thought I would get the disease.

30 Q And you knew that the two children died? A Yes, sir.

Q And after their death did you go back to live with Mr. and Mrs. Bradley? A Yes, I did for a while.

Q And then where did you go? A They sent me to people by the name of Doutles in Paterson.

Q What were you doing in Paterson? A Well, I went to school for a while.

40 Q And then? A And then I went to work in a factory.

*Frances Cook, direct.*

Q Now do you remember after going to Paterson coming back at any time to call on Mr. and Mrs. Bradley? A Yes, I came once.

Q With whom? A With that Mrs. Doutles' daughter, Mary.

Q Do you remember whether she is alive now? A No, I couldn't say. 10

Q You don't know where she is? A I don't know where she is.

Q All right. At that time where did Mr. and Mrs. Bradley live? A They lived in Bergen street, right near Edison's.

Q And was Mr. and Mrs. Bradley both home when you were there? A No; only Mrs. Bradley.

Q Did you have a conversation with her about a little baby at that time? A Yes. She said, "Frances, I have—" (interrupted) 20

Q All right. You had a conversation? A Yes, sir.

Q Who was present at that conversation? A Nobody; only me and Mrs. Bradley.

Q And this lady from— A And Mary Doutles.

Q Now, what was the conversation? A She said, "Now, Frances, I have a— I got a little boy, and," she says, "he is asleep and I would like to let you see him only I don't want to wake him up." 30

Q Did you see him that day? A No, I didn't see him.

Q Where did you go then? A I went back to Doutles' in Paterson.

Q Was it easy or difficult to get from Newark to Paterson in those days? A We went by train; it was difficult. 40

*Frances Cook, direct.*

Q And did you come back to Newark very frequently or only occasionally? A No. I didn't come then for quite a while.

Q Do you recall how long it was after this conversation that you came back to the Bradleys to see them, to call on them? A Oh, I couldn't  
10 tell you how long it was.

Q Well, was it two years, three years? A I guess it was three or four years.

Q In the meantime had the Bradleys ever come up to Paterson to see you? A Yes; Mrs. Bradley came frequently up to see me.

Q You were working up at Paterson? A Yes; I worked in a factory.

Q Did she ever bring the baby with her? A No, never.

Q When you came back to Newark at the  
20 end of this three or four years that you say, did you see that baby? A I saw Dick then, but he was a boy, a little boy.

Q How old was he? A About three or four years old.

Q And have you seen that boy grow up? A I saw him grow up as he is today.

Q And who is that boy? A Richard J. Bradley.

Q This man sitting here? A Yes, sir.  
30

Q That was on the witness stand a few minutes ago? A Yes, that is him.

Q During all this time were you in touch with the family? A Yes, I was always her sister.

Q And how frequently would you call on them? A Well, I used to call on her quite often. I never missed a week that I didn't go to see her.

Q And you knew that Dick lived there all those years? A Yes.  
40

*Frances Cook, direct.*

Q You knew when Dick got married and went to New York? A Yes, I did.

Q Did you ever hear either Mr. or Mrs. Bradley introduce Dick to people? A Yes, I have. Always said there was and it was their son.

Q And you are familiar with Dick's wedding? A Well, I wasn't at the wedding, but I knew he was going to get married. 10

Q Did you get one of these invitations? A No; they didn't send me any.

Q And when Mr. Bradley was sick did you call on these—(interrupted). A Yes. That was several times when he was sick.

Q And you were there at his funeral? A I was at his funeral.

Q And your relationship was always friendly with the family? A Always friendly with the family. We never was any other way. 20

Q And what about Mrs. Bradley? A Well, I always claimed her as a foster sister, and her mother took me when I was five months and grew up in the family and four weeks before she died I took care of her. I always took care of her. She always looked to me.

Q You lived there in the house? A Yes, I lived there and moved away and moved back again to please her. 30

Q What was her condition of health, was she—after Mr. Bradley had died. A Oh, she seemed to be in pretty good health, only she had to have the doctor. I suppose she was nervous and run down waiting on him.

Q Was there anything peculiar that she used to do? A No; I didn't see anything peculiar.

Q All right. A She was near-sighted; she couldn't see very good.

Q Do you know what the relationship was between the Bradley family and the other branch 40

*Frances Cook, cross.*

of the family, the McGinley family, the Loders and the Mannings that are involved in this suit?

A Mrs. Manning's father was Mrs. Bradley's brother, and then Mrs. Manning's mother remarried. Her name is McGinley at the present time.

10 Q And were they frequent visitors, were the McGinleys and their family frequent visitors at the Bradley house? A No; they never was allowed in the house. Mr. Bradley didn't care for them.

Q Was there any ill feeling between Mr. Bradley and Mrs. McGinley? A Well, I don't know as they ever have—they never told me any of their business, but I know they wasn't on friendly terms.

20 *Cross examination by Mr. Kearns.*

Q You knew, of course, Mrs. Cook, that you were not the sister of Mrs. Bradley? You knew that? A I am her foster sister.

Q Yes; that is, you did not have the same father and mother. A Had the one mother, but I didn't know about the father.

30 Q The same mother? A I always called her mother, my mother, never knowed any different until I was twelve years old, then they told me my own name.

Q And what was your name then? A My name was Frances Kennedy, my adoption name and my own name was Frances Smith.

Q Yes. Well, what can you remember about what year it was that you visited Harrison to see the Bradleys? A No, I can't.

40 Q When they lived in Bergen street near Edison's? A No, I can't tell you the year, but I

*Frances Cook, cross.*

was going on twelve—going on thirteen. I was twelve going on thirteen.

Q When you came down from Paterson to visit them on Bergen street? A Yes.

Q How long was that after the death of these two children of diphtheria? A How long?

Q Yes. A Well, I couldn't tell you how long that was. 10

Q Do you know when it was that these children died? A No; I don't know the year they died, either.

Q Do you know how old they were when they died? A Yes, I do. One was five and the other seven. Lottie and Eddie.

Q Lottie and Eddie, yes. Now, did you see them? A I played with them.

Q Yes. And that was in Newark? A In Newark. 20

Q Now, Dick was never in Newark, was he? A Dick was born after that.

Q Dick was born, you say, after that? A Yes. Dick was born after that.

Q You don't know where Dick was born, do you? A No, I don't know. I didn't see him until he was a boy about three or four years old.

Q Yes. Did you ever have any talks with Mrs. Bradley about Dick? A No. I never had no occasion to. 30

Q Do you remember when Dick went away to New York? A Yes, sir; I do.

Q Do you remember when Dick stopped going to school? A No, I do not.

Q Do you remember when he went to New York? A Yes, I do.

Q Yes, and do you remember the time he was married? A No.

Q You were not invited to the wedding? A No. 40

*Frances Cook, re-direct.*

Q No. Did you hear anything about Dick from Mrs. Bradley at the time of his marriage?

A Why, no.

Q Did she tell you anything about him then?

A She told me he was going to get married and he sent her an invitation to the wedding,  
10 but she said she wasn't going.

Q She didn't go, did she? A No, neither her nor Mr. Bradley because they didn't like to travel.

Q They didn't like that? A No.

Q Did she tell you that he had sent her an invitation to the wedding? A Yes; she showed me the invitation.

Q Yes. Was it a printed invitation? A Printed invitation.

20

Mr. Kearns: Yes. That is all.

*Re-direct examination by Mr. Hannoeh.*

Q Is this one of the invitations, Exhibit C. 4 (showing witness paper)? A Yes, that is it.

Mr. Hannoeh: All right, Mrs. Cook, that is all.

The Court: That is all.

30

Mr. Kearns: May I ask Mrs. Cook another question?

Mr. Hannoeh: Yes, surely.

Q (By Mr. Kearns.) Mrs. Cook, do you remember Mrs. Bradley complaining about you representing yourself to be her sister? A Yes, you sent me a letter about that and you have the letter.

40

*Mary Gallivan, direct—cross.*

MARY GALLIVAN, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

Q Mrs. Gallivan, you were a school teacher at the Washington street school in Harrison? A Yes. 10

Q Did you have as one of your pupils Dick Bradley? A I remember Dick Bradley; he was in school but I didn't teach him, but he was in the Washington street school.

Q Do you remember him? A Yes.

Q Did you know him as anything else other than Dick Bradley? A Never.

Q Did you know his parents? A I did.

Q Did they ever introduce him to you? A No; he lived across the street from me. They always showed great affection for the boy, particularly the father—the mother, too. 20

Q You never knew him any way else than Dick Bradley? A No, never.

*Cross examination by Mr. Kearns.*

Q Were you there when Dick first made his appearance in Harrison? A Why, they did live down in the other part of the town there and I knew him as a small boy of ten. 30

Q Oh, yes, ten. A I think he was.

Q That is when you first knew him? A Yes, because I just knew him around the school and then across the street, they bought this house across the street or built it, I don't just remember which, but I know they lived across the street and I knew him when he was ten or twelve, around that age, in school.

Q What house was this, in what street? A I think, if I remember rightly, 56 South 5th street. 40

*Hannah Condon, direct.*

Q 56 South 5th street, that is where they first lived? A That is when I knew them well.

Q Oh, yes, you knew them, yes. Well, they had previously lived in Bergen street, had they, in Harrison? A Yes. I knew they had lived around there.

10 Q Yes. And did you see the boy at Bergen street? A I couldn't say whether I did or not. I only remember well when he lived on South 5th.

Q Yes, yes. And how old was he then? A I would say around ten.

Q And how long ago is that? A I should think, around forty years.

HANNAH CONDON, sworn for complainant.

20

*Direct examination by Mr. Hannotch.*

Q Mrs. Condon, where do you live now? A 153 Roseville avenue, Newark.

Q Did you ever live in Harrison? A Yes.

Q Where did you live with respect to Mr. and Mrs. James Bradley? A My mother bought property from Mr. Bradley and my mother built a house on that corner on 58 South 5th street.

30 Q How far away did you live from him? A Right next door.

Q And is this man here the Mr. Bradley that you know? A I kind of recognize him; I wouldn't say for sure, but I am not sure, it is so long ago.

Q How many years ago is that? A Well, my mother bought the property in 1889 and built our house.

40 Q And how old a boy was he at that time? A Well, really, I couldn't say. I know he was a small boy. I couldn't say.

*Hannah Condon, cross.*

Q Did you ever know him as anything else other than Dick Bradley? A Never.

Q Did his parents ever introduce him to you? A Oh, always, a child will say, "Mamma" and people would say, "This is Mr. Bradley's son and Mrs. Bradley's."

10

*Cross examination by Mr. Kearns.*

Q Was he ever introduced to you by Mr. Bradley? A Well, I never knew him. Only the child.

Q Did Mr. Bradley ever talk about the boy to you? A Mr. Bradley was a very reserved man and spoke very little, but a very nice neighbor.

Q Did he ever talk to you about the boy? A No. Never talked to the man except as a matter of business. 20

Q Did you ever have any conversation with Mrs. Bradley about the boy? A No.

Q Then you never talked with either of them about the boy? A Only as her son, her child.

Q Did she tell you that? A I understood it. That was all there was to it.

Q You had that understanding about it? A I didn't know any different. 30

Q You didn't what? A I didn't know any different.

Q No one told you whether that was so or not, as a matter of fact? A Well, I didn't—

Q (Continuing) That he was the boy? A I never thought any different so I didn't try to find out.

Q You assumed that, rather, didn't you? A No. I thought so because the father and mother lived there. 40

*Edward J. Carney, direct.*

Q And you saw no other child there? A I saw no other child there, no, not at that time.

Q Do you remember when he first came? A No; they came there before my mother bought the property.

10 Q Yes. And you, of course, had not seen him prior to that time? A Why, no, didn't know them.

Q Then when he came there you naturally inferred this was the boy of Mr. and Mrs. Bradley. A Yes, that is what I thought.

Q Yes. Not because of anything anyone told you at all, just because of an inference you drew?

A (No answer.)

*Re-direct examination by Mr. Hannoeh.*

20 Q What Mr. Kearns wants and what his Honor wants and what I want to know: Did Mr. and Mrs. Bradley ever say anything either to you or in your presence— A Never.

Q —as to whether this was their son? A Never.

Q You just knew he grew up? A Yes.

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30 EDWARD J. CARNEY, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

Q Mr. Carney, you are now in the coal business in Harrison? A Yes, sir.

Q And you are the father of Judge Leo Carney? A Yes, sir.

Q You taught school at the Washington street school in Harrison years ago? A Yes, sir.

40 Q Do you remember a boy at school by the name of Dick Bradley? A Yes, sir.

*Mary Besson, direct.*

Q Is this the— A Yes, sir; that is the boy.

Q And did you ever know him as anything else but Dick Bradley? A Nothing—never knew him as anything but Dick Bradley.

Q How long had it been before you had seen him up to the time we took him in your office a couple of weeks ago? Do you remember how many years it was? A Well, that was a long time ago. I can't recollect the exact number of years. 10

Q Did you or did you not immediately recognize him? A I did, immediately, as soon as I saw him.

Q And did you know his father or mother? A Why, no, I didn't know his father or mother.

*Cross examination by Mr. Kearns.* 20

Q You didn't know whose child he was, of course, Mr. Carney? A I knew that he was Dick Bradley, that is all.

Q That is all. You knew nothing about his parentage? A No.

Mr. Kearns: That is all.

30

MARY BESSON, sworn for complainant.

*Direct examination by Mr. Hanoach.*

Q Mrs. Besson, you now live at 124½ South 9th street, Newark? A I do.

Q And where is that house with respect to where Mr. and Mrs. Bradley lived and died? A Right next door, a joined house. 40

*Mary Besson, direct.*

Q How long did you live there? A We bought the house on August the fifth, 1921, and we moved in on September the first.

Q Had you ever known him before—the Bradleys before 1921? A No, I had not.

Q That was the first time you knew them?

10 A That is the first time.

Q Do you know this gentleman here? A I do.

Q Was he living at home at that time? A No; but he visited his father very often.

Q How did you first come to meet him? A Well, we bought the house on the fifth of August and I had been sick at the hospital, I had just come out of the hospital a few weeks before, I was sitting inside of the house waiting—I should  
20 judge about the twenty-first of August in 1921—waiting for the man to put the heater in the house and lay my linoleum and have the coal brought there. Mr. James Bradley, Mr. Dick Bradley's father, came in and offered to have the coal put in for me and attend to that. I told him I didn't care to have him lose any time and he at that time says he was not working and I went home, not feeling very good, and attended to that. We moved in this here place,  
30 in our property, and it rained and it leaked in at the back bedroom, so my husband came home and—(interrupted)

Q I don't want to interrupt you, but I want you to get down to the point when Dick Bradley was brought into the house by his father. A I will have to tell that story. So I told my husband it leaked in and he went up on the roof and said the roof was in very bad shape, so I says, "Would you mind painting the man's roof next door while you are doing ours if he buys  
40 the paint?" I says, "He done that favor for us

*Mary Besson, direct.*

and one good turn deserves another, as he is an old man." He says he would. The next morning I went over and rang his bell and told him and he thanked me very much and he told me he had a son living in New York that does all his repairs on Saturday and he brought his son in and introduced him as his son and we have never  
—(interrupted) 10

Q And who is the man he introduced? A Mr. Dick Bradley there with the gray hair (indicating).

Q Now, after that did you see Dick Bradley off and on? A Very often.

Q How frequently would he come to—(interrupted) A He would come every Sunday to visit his father and they would take walks together. 20

Q And did he ever bring his son along with him? A Yes. I spoke to his son.

Q Did you ever have any other contact with either Mr. or Mrs. Bradley? A Yes, I did. When Mr. Bradley was sick I called up quite often for Mr. Bradley in New York.

Q Who would ask you to call? A Why, I had to call a jeweler. I don't—(interrupted)

Q I mean, who would ask you to call? A Mr. Bradley. 30

Q What did he ask you to do? A He would ask me to call his son.

Q Did you ever have any talks like that with Mrs. Bradley? A Yes, sir. Mrs. Bradley would always knock for me at the wall and I would always go over when I heard that knock and she would tell me to call for him, which I did.

*Mary Besson, cross.*

*Cross examination by Mr. Kearns.*

Q Mr. Bradley, Dick Bradley in 1921 was living in New York? A Yes, sir.

Q And was he introduced to you as Dick Bradley? A Yes, sir.

10 Q That was the name that was given? A He said, "This is my son, Mr. Bradley." "This is my son, Mr. Bradley," that is just the words he said.

Q Yes? A He asked us what kind of paint we were going to get for the roof.

Q Yes. And did Dick do the work for you? A Why, yes, he did. He didn't do it for me, he did it for his dad.

20 Q When did he do that work? A Well, he did that, I should judge, some time in September. He did it two weeks, I think, after we did ours.

Q How long did he spend on it? A Well, he came there Saturday and Sunday and the following week he was there.

Q On Saturdays and Sundays he came over there and did this repair job? A Yes.

30 Q And you never heard anything about Dick except that you assumed he was the son? A Never heard anything else but that he was their son; always speaking of him as their son.

Q Yes. And you telephoned for him? A Oh, very often.

Q Yes. A When Mr. Bradley was sick, also when Mr. Bradley died.

Q Was he over to the funeral? A Why, yes, he was. He was there with his father and took care of his father while he was lying ill.

40 Q Which—yes—which—but the boy—the Dick Bradley boy, when he came over did you see him? A Yes, they came over.

*Daniel C. Gerloff, direct.*

Q Yes. A He was very fond of the one boy.

Q You don't remember the time—you were not around at the time he was married, were you? A Oh, no.

Q Oh, no. A I didn't know them. I only know them since 1921, as I said.

10

Mr. Kearns: Yes. That is all.

DANIEL C. GERLOFF, sworn for complainant.

*Direct examination by Mr. Hanoach.*

Q Mr. Gerloff, you lived in the Besson house?

A Yes.

Q South 9th street? A Yes.

20

Q And you knew James Bradley and Sarah Bradley? A Yes, sir.

Q And do you know this man here, Richard Bradley? A Yes, sir.

Q Were you ever introduced to Richard Bradley by either James or Sarah Bradley? A I was introduced to him by his father, supposed to be his father, so far as I know.

Q And what was the introduction, what did he say? A "My son—meet my son Dick Bradley."

30

Q And what was the occasion of that introduction, if you can remember? A Well, he was standing—he always had a habit of standing at the front entrance at the cellar and looking down 9th street towards Central avenue, and the conversation come up about the day and I said he had easy work, not very much work to do. Well, he said he was standing there waiting for his son to come from New York.

40

*Daniel C. Gerloff, cross.*

Q Didn't his son then come in? A Came in later.

Q You were introduced to him? A I was introduced to him.

Q And did you ever see that son around there after that— A Yes, he used to come there.

10 Q You have seen him there? A Yes.

Q Did you ever have a talk with Mrs. Bradley about the son? A Well, no, Mrs. Bradley, I very seldom had anything to say because she very seldom came out and I never went into people's houses to do any talking.

Q I see. Do you recall how the old man looked during the end of his days? A I would know him if I had seen him.

20 Q Was there any resemblance between him and Dick? A Well, his jaws resembled him, yes, his lower jaw.

*Cross examination by Mr. Kearns.*

Q Did you say there was a resemblance? A I think so.

Q You thought there was a resemblance, did you? A Yes.

Q In what did the resemblance consist? A Why, features.

30 Q Well, anything peculiar about the features?

A I shouldn't say so.

Q No? A No.

Q Nothing peculiar? A No.

Q Nothing distinctive? A Yes.

Q What was distinctive? A I think his lower jaw resembled Mr. Bradley's, as far as I would say.

40 Q Well, what year did you come to the Besson house to live? A I came the same year when Mrs. Besson bought the house.

*Daniel C. Gerloff, cross.*

Q 1921? A I should judge about that time.

Q Yes. You don't remember Dick's marriage or anything of that kind? A No, sir, I do not.

Q And you only knew him upon his occasional visits to see the father? A Yes.

Q You assumed, of course, that Mr. Bradley must be his father? A Well, he told me he was his father. 10

Q Well, he called him his son? A Yes, certainly.

Q Referred to him as his son? A Yes.

Q And did not tell you any more about him, did he? A Didn't say anything more about him only that he worked in Edison's.

Q Who worked in Edison's? A Dickie—Richard.

Q Dick worked in Edison's in 1921? A Not in 1921. I didn't say in 1921. 20

Q When did Dick work in Edison's? A I don't know, he didn't tell me.

Q Where was Dick in 1921, so far as you knew? A In New York, I suppose.

Q What? A In New York, I suppose.

Q You don't know where he came from, of course? A No, I do not.

Q But you know the father waited about to meet the boy, to meet the young man, Dick Bradley, didn't you? A Yes. 30

Q And that he referred to him as his son? A Exactly.

Mr. Kearns: Yes. That is all.

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*John Dorney, direct.*

JOHN DORNEY, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

Q Mr. Dorney, you live at 154 South 9th street? A I do.

10 Q A few doors away from where the Bradleys lived? A Yes.

Q How many years have you lived there? A Who, me?

Q Yes. A I guess it would be about thirty-seven or thirty-eight years there, and I lived down on the next block still longer.

Q Did you know Dick Bradley? A I do.

Q Grow up with him? A I do—I did.

Q You and your brother Will played around with him? A Yes.

20 Q Where did he live? A Who, my brother?

Q No, Dick? A He lived in the Ray house, I think it was 124.

Q And whom did he live with? A His father and mother.

Q Did you ever know him as anything other than Dick Bradley? A Nothing otherwise, only Dick Bradley.

Q And when did you first know him? How old were you? A Well, I should judge that I was about twenty-three years old or twenty-four. He was younger than I am, see?

30 Q Were you ever in the Bradley house? A At the time the father was dead.

Q Before then? A Oh, once or twice, yes. Of course, I never made a habit of visiting.

Q Did either Mr. and Mrs. Bradley ever, in your presence, refer to Dick as being their son? A Yes. Mr. Bradley himself.

40 Q What did they call each other? A He introduced me. I was passing the house one night

*John Dorney, cross.*

and Bradley himself was sitting on the stoop, the father, and we were talking casually there, and and along came Dick. Of course, I didn't know him at that time and he stopped and in the conversation, as it went along, why, he introduced him to me as his son.

Q And you knew him as his son ever after? 10

A And from that day on I always recognized him as his son, Richard Bradley.

Q What did Dick call his father? A Well, spoke of him as his father, you know, on different occasions.

Q I mean, when he would speak to him? A Well, I never was in contact as close as that, you know, in conversation, I was just a neighbor. 20

Mr. Hannoeh: All right. Cross examine.

*Cross examination by Mr. Kearns.*

Q How old was Dick when you first knew him? A Well, I should judge—of course, it is a long ways to go back. I am a man fifty-eight years old, and I should judge he was around—a boy around sixteen years, probably, and I was a fellow about, maybe, twenty-three or twenty-four. 30

Q Yes. You don't know where he came from, do you? A I do not.

Q You never—Mrs. Bradley never talked to you about Dick, did she? A No.

Q Or Mr. Bradley, they never told you anything about where Dick had been? A Oh, no.

Q Or any of Dick's antecedents? A No, never went into no personal affairs whatever. 40

*George Mitchell, direct.*

Q So that you, of course, assumed that he was the son of Mr. and Mrs. Bradley? A Most decidedly.

Q Because Mr. Bradley referred to him as his son? A Yes, sir.

Q In talking to him? A Correct.

10 Q His son, Dick. That is all, Mr. Dorney.

A (No answer.)

The Court: That is all.

GEORGE MITCHELL, sworn for complainant.

*Direct examination by Mr. Hannoeh.*

20 Q You live at 124 South 9th street? A Yes.

Q And lived there for a great many years?

A For about five years.

Q Do you know Dick Bradley, this gentleman sitting here in the room? A Yes, sir.

Q And did you know Mr. and Mrs. James Bradley who lived in the house? A Why, I did know them.

Q Before they died? A Yes.

30 Q Did either Mr. or Mrs. Bradley ever introduce Dick Bradley to you? A Well, I was introduced to this gentleman here as Mr. Bradley's son.

Q By whom? A By Mr. Bradley.

40 Q What was the occasion for that? A Well, I had a street dug out—I am a master plumber—and I had a street dug out and Mr. Bradley used to be a party that walked around, and this gentleman was with him that day and he said, "Mr. Mitchell, I have often told you about my son, but this is my son, Dick."

*George Mitchell, direct.*

Q That is the time you met him? A That is the time I met him, but Mr. Bradley has spoke to me before. I know Mr. Bradley for perhaps fourteen years. I have seen the two of them together. I have lived in the street fourteen years.

Q Did you have any conversation with Mr. Bradley about a tree? A Yes. 10

Q What was that? A Well, the sewer. The tree was in the sewer. Mr. Bradley wanted me to cut the tree down and I didn't—well, I wanted to cut it down and the city wouldn't allow it.

Q Was there anything about who planted that tree? A Yes. He told me his son planted that tree.

Q Who told you that? A Mr. Bradley.

Q How old was this young man when you first met him, Dick Bradley? A Well, that is only about four or five years old—four years ago, so I don't know how old he is. 20

Q Do you remember when Mr. Bradley died? A Yes, sir.

Q Well, how long is he dead? A Well, perhaps three or four years.

Q And this was shortly before his death? A Well, yes; it was not long before his death, perhaps a year, two year. 30

Q And he had spoken to you previously about the boy, you say? A Oh, well, I used to speak to him often, nearly every morning.

Q Yes. Well, the boy was not living there, Dick was not living there? A No. I saw the boy there, coming there for years, for years, used to see Mr. Bradley and him for years.

Q Yes, to visit him. A But I didn't know Mr. Bradley personally until about five years ago. 40

*Francis J. Bradley, direct.*

Q And then you say he referred to him as his son? A Well, he introduced me as his son. I shook hands with him.

Q Yes, yes, yes. And that was all there was about it? A That was all there was about it.

10 Q That was the only time he mentioned him, referred to him as his son? A Oh, no; he spoke to me often about his son being in New York and about what he did.

Mr. Kearns: That is all.

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MARGARET DORNEY, sworn for complainant.

20 The Court: Is this cumulative?

Mr. Hannoeh: Yes.

The Court: I don't think that is necessary.

Mr. Hannoeh: I have a number of witnesses along the same lines.

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FRANCIS J. BRADLEY, sworn for complainant.

30 *Direct examination* by Mr. Hannoeh.

Q Do you know Richard Bradley here? A Yes, my father.

Q Who is he? A My father.

Q And your mother sitting alongside of him?

A Yes, sir.

Q Do you know Sarah and James Bradley?

A Yes, those are my grandparents.

Q And did you ever come over to see them?

40 A Yes.

*Francis J. Bradley, direct.*

Q From about when, do you remember? A About the first time I remember seeing them—of course, I was a boy about four years old, I was shown their pictures. They were always referred to as my grandparents.

Q Now, wait a minute. Did you come over to see them at Newark? A Yes, sir; when I was about six years old. 10

Q How frequently would you come over to see them? A Well, my father used to go over there about every Sunday and on holidays to do little repair work around the house and pay a social call, so I accompanied him on quite a few occasions.

Q Did your grandfather and your father and you, when you came here, go out calling on people? A Well, say, the first five or six times I went over and stayed in the house with my grandmother and helped her around the house. 20

Q And did your grandfather ever take you out? A Yes, sir; he took me.

Q Where was he accustomed to take you? A Well, we used to take walks and we used to take bus rides.

Q Did he ever introduce you to any people? A Yes. He took me down to the Elks lodge and he took me all through the building and he introduced me to several men downstairs in the bowling alleys. Now, who these men were, I cannot recall. 30

Q How were you introduced? A As the grandson.

Q Did he tell them whose son you were? A Yes. "This is Dick's boy; this is Dick's boy."

Q That is the way you were introduced? A Yes, sir. "My grandson."

Q And did your grandmother ever take you out? A No, sir. 40

*Francis J. Bradley, cross.*

Q What was her condition of health? A Well, she was very feeble and as has been previously testified, she was near sighted and therefore I used to run different errands for her when I went over on Sunday.

10 Q And did you get presents from them? A Yes, sir.

Q Used to get letters from them? A No, sir, no letters; no correspondence.

*Cross examination by Mr. Kearns.*

Q When did you first discover, Francis, that she was not your grandmother?

20 The Court: No. That has not been discovered.

Mr. Hannoeh: I object to that.

Q When did you first learn there was any doubt about it? A Why, right after my grandfather's death.

Mr. Hannoeh: I object to going any further.

30 The Court: Yes. We have already ruled on that.

Mr. Kearns: After the grandfather's death?

Mr. Hannoeh: Yes. That is—

The Court: That is when the trial arose.

Q When did you learn it? A From my father.

40 Mr. Hannoeh: I object to any further testimony.

*Mary Bradley, direct.*

The Court: I will sustain the objection.

Mr. Hannoeh: And move to strike it out.

Mr. Kearns: Then your Honor's ruling is that no hearsay is admissible under the rule permitting an exception to the general rule, after the litigation was begun? That would be after the filing of the caveat, wouldn't it? 10

The Court: No. As I understand it, this row began immediately after the death of the father and I am going to confine it to the date of the death of the father.

Mr. Kearns: Yes, yes.

The Court: Is that all?

Mr. Kearns: Then nothing subsequent to the death of the father. 20

MARY BRADLEY, sworn for complainant.

*Direct examination* by Mr. Hannoeh.

Q You are Mary Bradley, the wife of Richard Bradley? A Yes, sir.

Q And your maiden name was May Malloy? 30  
A Yes, sir.

Q And married on October 14, 1906? A Yes.

Q This young man is one of your sons? A Yes, yes, sir; the youngest.

Q And you have got an older son. Did you know Sarah and James Bradley? A Yes, sir; my mother-in-law and father-in-law.

Q And who introduced them to you first? A My husband. 40

*Mary Bradley, direct.*

Q Whereabouts? A In their home, 126 South 9th street.

Q And you have known them as your mother-in-law and father-in-law up until the time they died? A Yes; known them about twenty-nine years.

10 Q How frequently did you come to call on them? A Well, I called quite frequently, not very often, because I could not very well leave the home.

Q How often would your husband come over? A Every Sunday and every holiday since we were married.

Q Do you know of his receiving letters and postal cards from his father and mother? A Yes, sir; and telegrams from his father to come over, when he would want him on occasions.

20 Q Do you remember some time ago, when you moved, destroying all of these papers? A Yes, sir; I destroyed all the letters.

Q When was that? A Well, it is about six years ago.

Q Before there was any— A Before there was trouble.

Q This letter you found here you happened to find in another drawer or something? A I happened to find it in my own drawer.

30 Q And during Mr. Bradley's last illness, were you in attendance on him? A I come over one night and my husband came back to work the next morning and I went.

Q Do you mean you would go one day and he would go the next day? A Yes.

Q During the time you knew Mr. and Mrs. Bradley, you knew what their relationship was to the McGinley family, the Loders and the Mannings? A Mrs. McGinley was married to my mother-in-law's brother.

40

*Mary Bradley, direct.*

Q You knew her as what name? A Kate Sweeney better than anything else, but I never seen the woman until the funeral of my father-in-law.

Q Were they visitors at the house at any time that you—(interrupted)? A I never met them. 10

Q And was there any feeling between the father and mother in the family? A He never wanted them to come near the home.

Q Were you present at the death? A No. He was dead and Mrs. Besson called me that morning.

Q Do you know of any papers or things the father-in-law used to have around the house that you have ever seen? A Well, I went upstairs to my mother-in-law's to get the deed for the grave and we found—she gave me a bank book and I said, "That is not it." 20

Q You found some papers around there? A Yes; there was lots of bank books and things.

Q You never personally examined them? You don't know what happened to them? A No. Mother was with me. I don't know what happened to them. There was lots of papers there.

Q After the funeral, who appeared to be in charge of the house? A My husband stayed for a week with her. 30

Q And after that? A Before I come over; then on Sunday night when the week was up they had everything cleaned up and I went down with Mrs. Bradley and her daughter Carrie.

Q Well, did any of the McGinley family then start to come to the house, live in it or anything? A No. Mrs. McGinley came and stayed with her another week then, after Mrs. Bradley went home. 40

*Mary Bradley, cross.*

Q That was the first time you ever met any of that branch of the family? A I met them after the funeral, when my husband went for them, my father-in-law's funeral.

*Cross examination by Mr. Kearns.*

10

Q When did you first meet Mr. and Mrs. Bradley on South 9th street? A Well, that is about—(interrupted).

Q Before your marriage? A Yes, several days before my marriage.

Q Did you have a hand in the sending out the invitations for your wedding? A No. My father-in-law gave the permission to his son to have them printed.

20

Q Yes. A At his request.

Q You knew that, didn't you? A Certainly I knew that, because I was present when his father told him to have it.

Q He asked him if he could do it? A We came over and told him we were getting married.

Q Speak a little louder? A We came over and told him we were getting married and he told—

30

Q Yes. A —him to have some printed invitations.

Q Yes. A For his friends.

Q Yes. A At his request.

Q Was anything said then about who Dick's father and mother were? A I never knew anything but it was his father and mother up to the day of his death, neither father or mother ever told me any different, nor I know any different, nor I don't believe any different, because, if there was anything, I think they would have told me.

40

*Mary Bradley, cross.*

The Court: No, no.

Q Well, well, Mrs. Bradley, you knew Mrs. McGinley, did you? A Yes; I met her.

Q Katherine McGinley? A No; Kate Sweeney.

Q You knew her as Kate Sweeney? A Better 10  
than anything else.

Q Was that her maiden name? A Yes, that was her maiden name. That is what my—(interrupted).

Q She had been Kate Mullery, Katherine Mullery? A Yes, when she got married.

Q And she married Mr. Mullery? A Yes.

Q And Mr. Mullery was the brother of Sarah J. Bradley? A Of my mother-in-law.

Q Whose maiden name was Sarah J. Mullery? 20  
A Sarah Mullery.

Q You knew that, did you? A Yes, I knew that.

Q Now, did you know anything about these other relatives? A Why, Miss Carrie Bradley.

Q Carrie B. Bradley? A Carrie Bradley is a niece to my father-in-law.

Q Yes. I see. Your father-in-law's niece?  
A Yes.

Q James J. Bradley's brother's child? A 30  
Yes, Michael Bradley.

Q Yes, Michael Bradley's child, yes. Now, when did you first become acquainted with your husband? A Well, I was keeping company for seven years before I was married and I was married in 1906.

Q Well, he was living in New York then during that period, wasn't he? A Yes.

Mr. Kearns: Yes. That is all.

*Defendant's Documentary Records.*

The Court: That is all.

10 Now, I think that it is very important to find out whether there is any baptismal record, because in the Catholic Church they are very particular about those things and there should be a record of this man. Now, I want counsel to see if you cannot procure it. If you cannot procure it without the inconvenience of the rector coming over here, we will subpoena him, but if he will let you gentlemen go and look over the records and satisfy yourselves as to whether or not it is there, then we won't ask the Father to come over here. Otherwise you may subpoena him.

20 Mr. Hannoeh: Mr. Kearns and I will—  
(interrupted).

The Court: Do you want to go on with your case? Do you want to continue before you find out about these records? You don't have to put in your defense until you have all the complainant's case in.

30 Mr. Kearns: I would rather go on; I would like to get through with it. I have here under subpoena the sexton of the St. Patrick's Church.

The Court: Yes.

Mr. Kearns: Have you the records?

A Voice: Yes, sir.

40 Mr. Kearns: Mr. Francis Walsh, the sexton of St. Patrick's Cathedral has brought here the record of baptism of St. Patrick's Cathedral and I have these certified copies of baptismal certificate of the two children that have been referred to who died of diphtheria.

*Defendant's Documentary Records.*

The Court: Yes.

Mr. Kearns: One born in 1873, November 30th, 1873, Edward Bradley; and Charlotte or Elizabeth Bradley, as she is in here in the baptismal certificate, born on the 20th of January, 1876; these two children baptized in St. Patrick's Cathedral being the children of James J. Bradley and Sarah Mullery. 10

The Court: All right.

Mr. Kearns: - Giving the maiden name.

The Court: Any objection to that introduction?

Mr. Kearns: I would like to relieve the sexton so that he can go back with his books.

Now, in this book we have searched and nowhere can we find a certificate of baptism of the complainant in this cause. Furthermore, we will have evidence or statements made by decedant which, of course, I will prove within the time limit. 20

The Court: Yes, all right.

Mr. Kearns: In which she said that he never was baptized, that she never had him baptized. 30

The Court: All right.

Mr. Hannoeh: Now, so that I understand some of the procedure of the church, with which I am not entirely familiar, if people were born in Newark, it would be in this book?

Mr. Kearns: If they were born in—(interrupted).

The Court: They have to be born in the parish. 40

*Defendant's Documentary Records.*

Mr. Hannoeh: Suppose they were born in Harrison?

Mr. Kearns: Then it would be where you started, where you brought the certificate from, where the boy was—(interrupted).

10 Mr. Hannoeh: So, looking in this record would not necessarily help me?

The Court: What Mr. Kearns wants to bring out is that the two children were admitted to be the children and baptized in St. Patrick's Church, but there is no record in that book of any other child being baptized in that parish.

Mr. Hannoeh: Now, is Harrison in a different parish?

20 Mr. Kearns: Oh, yes.

Mr. Hannoeh: Can you have available for me the same kind of a book in the Harrison parish?

Mr. Kearns: You can have it available for yourself.

Mr. Hannoeh: I cannot. I have tried it and I can't bring it.

Mr. Kearns: Invoke the power of the Court.

30 Mr. Hannoeh: What we are trying to do is to bring them over here.

Mr. Kearns: Bring the sexton as I have brought this one.

The Court: Let us not discuss that. Go on. Are you satisfied to—(interrupted).

Mr. Hannoeh: I don't know. I would like to have an opportunity to check this through. Mr. Kearns has not checked it through. I imagine the sexton has. If you

40

*Defendant's Documentary Records.*

will leave this here I will have my young man go through it.

The Court: Are you satisfied?

Mr. Kearns: Yes, sir. With counsel's consent I will put in the baptismal certificate, which reads as follows—(interrupted).

The Court: Don't read it. Just say "The baptismal certificate of—" whatever it is.

Mr. Kearns: Edward Bradley, born November 30, 1873, of James J. Bradley and Sarah J. Mullery. The record is signed by the Rev. H. P. Fleming.

The Court: Don't read all that. When was it dated?

Mr. Kearns: Dated September 7, 1873.

The Court: All right.

Mr. Kearns: The certificate, however, is dated October 21, 1927, signed by Monseigneur Quirk.

The Court: I understand that.

Mr. Hanooh: May I call the Court's attention to the fact that the mother's name is stated as Mulvey? I don't know whether it means anything.

Mr. Kearns: That is a misprint. Her name was Mullery. It might be a misspelling of the name.

I also have here a certified baptism in the St. Patrick's Cathedral, Newark, New Jersey, certifying that Elizabeth Charlotte Bradley, child of W. J. Bradley— They have it here—

Mr. Hanooh: W. J.?

Mr. Kearns: W. J., they have it here. James J. was the father and Sarah J. Brad-

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30

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*Defendant's Documentary Records.*

ley born on the 12th of January, 1876, and was baptized on the 20th of January, 1876, according to the rites of the Roman Catholic Church by the Rev. James J. O'Grady, the sponsors being—(interrupted).

10 The Court: Don't read all that.

Mr. Kearns: This is also certified by the assistant rector.

The Court: All right.

(Records marked Exhibits D. 4 and 5.)

Mr. Kearns: I also have here the City Clerk of Newark, with the records of the City Clerk's office.

The Court: Are they certified copies?

20 Mr. Kearns: I have certified copies. Is the city clerk here?

The Court: Then you don't have to have the city clerk.

30 Mr. Kearns: And you have the records? I have here the record of the birth of Elizabeth C. Bradley, dated November 30, 1873. No, no—that is the boy, Edward Bradley. Edward Bradley, dated—born November 30, 1873, at Newark, New Jersey, child male, the name of father, James Bradley; name of mother, not on record; occupation of father, tool maker; name of attending physician at the birth, Dr. W. S. Ward.

The Court: All right.

Mr. Kearns: And I would like to offer that in evidence.

The Court: All right.

40 Mr. Kearns: I also have here certificate from the records of the City of Newark, certified by Egan, W. J. Egan, city clerk

*Defendant's Documentary Records.*

of Newark, of a female child named Bradley, not named, it says, January 12, 1876, born at Newark, N. J.; name of father, James J. Bradley. Occupation of father, tool maker. W. S. Ward attending.

The Court: No mother?

Mr. Kearns: No mother's name given.

10

The Court: All right. Put them in the record.

(Records marked Exhibits D. 6 and 7.)

Mr. Kearns: I have also here a certificate of death of Edward Bradley, dated of death, November 17, 1880; name of deceased, Edward Bradley; sex of deceased, male; occupation, none; age, 7 years, 11 months and 16 days, I take it. "7-11-16"; place of death, 414 Broad street—place of birth which was—

20

The Court: Don't read that.

Mr. Kearns: Name of parents, James—

The Court: Don't read it all.

Mr. Kearns: James J. and—

The Court: Well, James J.

Mr. Kearns: Cause of death, diphtheria, also of Elizabeth C. Bradley, date of death, November 21, 1880, that is four days later; female, place of death, 102 Eighth avenue; age, four years, 11 months and eight days; cause of death, diphtheria; parents, James and Sarah Bradley. Edgar Holden, Medical Attendant.

30

(Records marked Exhibits D. 8 and 9.)

Mr. Kearns: I have searched in the records for the birth of any other child here in Newark of Bradley and his wife and we

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*John Hancock, direct—cross.*

have failed to find any. And, also, I have the clerk here, however, with the records. I suppose I can relieve him now, with counsel's consent, since we produced these.

10 The Court: Will you accept the statement of Mr. Kearns that he has searched the records?

Mr. Hanocho: Well, I wanted to ask the clerk some questions if I could and get through with it quickly.

The Court: Yes.

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JOHN HANCOCK, sworn for defendant.

20 *Direct examination by Mr. Kearns.*

Q You have produced the records showing the record of these certificates which I have produced? A Yes.

Q Of the birth and death of the Bradley children? A Yes, sir.

Q Did you look for any other Bradley? A No, sir.

30 Q You personally have not? A No, sir.

*Cross examination by Mr. Hanocho.*

Q The records that were kept back in the seventies and early eighties were not nearly as accurately kept as they are at the present time—were they? A No, sir

Q There were no legal obligations requiring the filing of these reports, were there, in those old days? A There was a law, I believe.

40 Q There what? A There was a law.

*John Hancock, cross.*

Q But was it generally complied with? A Not generally, no.

Q And it could very frequently happen that people were born and you have no record of it down there? A Yes, sir.

Q That occurs very frequently down at your office? A At the present time not so much. 10

Q Not at present. I am referring to the old records. A Very frequently.

Mr. Kearns: Now, we may relieve the clerk from further attendance?

The Court: Yes.

Mr. Kearns: I have here the petition for probate of the will of James J. Bradley, but it is not certified by the Surrogate. The Surrogate won't certify it until three o'clock. I was going to subpoena the Surrogate, but I didn't think it was necessary. I can swear to this myself as being a true copy. 20

Mr. Hanoeh: Let me see it? I think it is.

Mr. Kearns: You know what it is. You have seen it.

Mr. Hanoeh: I don't dispute that it is a true copy. I do question, however, the legal sufficiency of it or its right to be admitted in evidence on the ground that it is a petition made by Mrs. Bradley after the death of her husband, during which this dispute arose. As a correct copy I have no objection to it, but I do object on the ground that it is not evidential in these proceedings. 30

The Court: I have already ruled that I would not receive any evidence after this man died in 1925. 40

*John Hancock, cross.*

Mr. Kearns: Well, this petition for probate was made on the eighth day of June, 1925.

The Court: When did he die?

10 Mr. Kearns: He must have died before that. This could not have been made up until after his death.

The Court: Well, it is not evidential, according to my ruling.

Mr. Kearns: I have here, also, a copy of the order granting probate of the will of James J. Bradley.

The Court: The same—(interrupted).

Mr. Kearns: This is under oath, of course, this petition.

20 The Court: I won't admit it, either one.

Mr. Kearns: Then may I except to your Honor's ruling?

The Court: Yes.

Mr. Kearns: For the purpose of appeal on this statement—your Honor's ruling as excluding from evidence the petition. Of course, there is no other reason advanced.

The Court: No, just—legal reasons.

30 Mr. Kearns: Yes.

The Court: No objection to the form.

Mr. Kearns: No objection to the form and the order admitting the will of James J. Bradley to probate.

The Court: Yes.

40 Mr. Kearns: Now, then, I offer to show by this petition—perhaps I better say this: I offer to show by this petition that Sarah J. Bradley on the twenty-sixth day of June, 1925, in setting out the next of kin and

*Catherine McGinley, direct.*

heirs-at-law, of the testator with their respective residences and post office addresses, and as to the manner and degree they were related it says, "This applicant is widow, no sons or daughters or issue thereof surviving. Father and mother dead. Michael Bradley, East Orange, N. J., brother of decedent. No other brothers or sisters or issue thereof surviving." 10

Mr. Hannoeh: I object to that for the statement was not made ante lite motem. You can go one step further and say all of the dates will be part of the case, also.

Mr. Kearns: And the order of the will to probate.

The Court: Yes.

Mr. Kearns: Mrs. McGinley. 20

CATHERINE MCGINLEY, sworn for defendant.

*Direct examination* by Mr. Kearns.

Mr. Kearns: There is an affidavit of this lady annexed to our pleadings.

Q Your maiden name was Catherine Sweeney, Mrs. McGinley? A Yes, sir. 30

Q And you have been married twice? A Yes.

Q And both husbands are deceased now? A Yes, sir.

Q Your first husband's name was? A James Mullery.

Q And he was a brother of Sarah J. Mullery? A Sarah J. Bradley. 40

*Catherine McGinley, direct.*

Q Yes. Sarah J. Mullery married— A James Bradley.

Q —James Bradley? A Yes.

Q Do you remember when they were married?

A Well, it was a long time ago, Mr. Kearns.

Q Yes, but you do remember the fact of their having been married, do you? A Yes. I was married about three or four years before they were.

Q You were married about three or four years before they were, so that you do remember the fact of their marriage? A Oh, certainly. Oh, certainly.

Q Your remember when it occurred? A Well, I think I do. I think I remember the date. Well, I couldn't be positive just now.

Q Yes? A But I remember that she was living with her mother at the time and she got married on the quiet.

Q On the quiet, yes. Where was she married, do you know? A In St. Patrick's Cathedral.

Q Yes. Now, do you know the year, the date and month? A Well, I—(interrupted).

Mr. Kearns: I have here, if your Honor please, a certificate of marriage and from the records—also I have subpoenaed—of Mr. and Mrs. Bradley—

Mr. Hannoeh: No objection.

Mr. Kearns: I offer this in evidence.

The Court: All right.

Mr. Kearns: It sets forth that they were married on January the first, 1873.

The Witness: Yes.

Mr. Kearns: James Bradley, son of Michael Bradley and Sarah Mullery.

(Paper marked D. 10.)

*Catherine McGinley, direct.*

Q Where do you live? A I make my home at 275 Shepard avenue, East Orange, my daughter's.

Q Then you were married about three years before, you say? A Yes, sir.

Q Then that would make your marriage about 1870 to James Mullery? A Yes, sir. 10

Q Where were you married to him? A St. John's Church.

Q Were you on intimate terms with your sister-in-law—was she your sister-in-law? A Mrs. Bradley?

Q Yes. A Yes.

Q You referred to her as your sister-in-law. A Well—

Q Your husband and her husband were brothers? A No. Her and my husband were brothers. 20

Q How is that? A Mrs. Bradley and my— (interrupted).

Q Yes. Then she was your sister-in-law. A Yes, sir.

Q Her maiden name was Mullery. A Yes.

Q And do you remember her children, when they were born? A Yes.

Q Where? A Well, the little girl, I think she was—where was she born? In Broad street, I think. 30

Q Yes? A Opposite State street.

Q Yes? A The address, I don't remember the number.

Q Speak a little louder, if you can. A Well, I am so hoarse.

Q Well, take a sip of water there. A Oh, yes. The little girl, I think was born on Broad street.

*Catherine McGinley, direct.*

Q Yes? A And I think the boy was born on Eighth avenue.

Q Yes? A On Eighth avenue just above Summer avenue.

Q Who was the elder of the two? A Richard—Dick—oh, dear! Eddie.

10 Q Eddie? A Yes, sir.

Q That was the boy? A Yes, sir.

Q Would you know their pictures if you saw them? A Oh, I think so, sure.

Q Would you recognize these photographs, Exhibit 1—(showing witness pictures)? A Oh, that is Eddie.

Q Who is that? A That is Eddie.

Q Exhibit 2, who would you say that was? A Well, that is Lottie.

20 Q That is Lottie? A Yes.

Q The little girl? A Yes.

Q And this picture, Exhibit C. 3, who is that? A That is that boy, Dick, that she raised.

Q Now, when did you first see Dick, that Exhibit number 3, this little fellow? A I saw him at the Home of the Friendless.

Q Do you remember about what time that was? A Well, he was between four and five years old at the time.

30 Q Yes? A And Mrs. Bradley and I—she was so pleased to see a lady by the name of Mrs. Fitzgerald, who lived on Mulberry street, just after the railroad bridge over there had been built—

Q Yes? A —and we—Mrs. Bradley told her how lonesome she was after the death of her children, and it took her husband some time before he would condescend to let her take the child, so at last he consented and she came back to me and her and I went together at the Home

40

*Catherine McGinley, direct.*

of the Friendless and we couldn't see the children without a permit from this lady.

Q Who told you that? A They didn't tell me. They told Mrs. Bradley.

Q Were you there? A Some woman from Harrison—no.

Q Yes? A No; I wasn't there, Mr. Kearns, but some woman in Harrison told her. 10

The Court: No.

Mr. Kearns: It is very important, your Honor.

Q While you were there, what happened? A I don't understand. I went with Mrs. Bradley.

Q With Mrs. Bradley, yes. A We went to see Mrs. Fitzgerald and Mrs. Fitzgerald gave her permission to go to the institution to see—and she gave her the card and we presented the card at the institution and a woman let us in there and we seen the children. My sister-in-law looked around and she didn't know any of the children, of course, so she said—I said, "There is a cute little fellow coming down the stoop." 20

Q The Court cannot hear you. A So, anyway, we saw this little fellow coming down the stoop and I said, "Sarah—" 30

The Court: Wait a minute. Now, go on.

The Witness: So I said, "There is a little fellow coming down the stoop; he looks good and healthy." So she comes over and said to the nurse, "He is a nice little fellow; what do you call him?" She said, "His name is Dick Dennis; that is the name we got here when he was put in." She says, "His mother is a Jewess, and we don't 40

*Catherine McGinley, direct.*

know what his father was," so we couldn't get the boy out that day so my sister—the next day was Saturday and I couldn't go out that day so she went up to the home—

The Court: No, no. Wait a minute. You didn't get him that day?

10 The Witness: No; we couldn't get him out that day. We had to come back and tell Mrs. Fitzgerald that we had selected a child.

Q Did you go back? A I didn't go back the next day with Mrs. Bradley, but she went back—(interrupted).

The Court: No. Now, don't say if you were not there.

20 Q Where was she living at this time when she went to the Home of the Friendless with you? A In Harrison.

Q Where was the Home of the Friendless? A At the corner of South Orange and Bergen street.

Q Then when you got permission to see the child, to take a child at the institution, you went in and you made a selection, you say? A Well, I seen the little fellow and she took him, but  
30 not until what I said that he was a nice healthy little fellow and he was going on five years old, between four and five years old.

Q Yes. A The next day being Saturday she went out with the permit that she had from Mrs. Fitzgerald.

The Court: No, no.

Q Is that the picture of the boy? A Yes, that  
40 is his picture.

*Catherine McGinley, direct.*

Q Exhibit number 3? A Yes.

Q Is that his picture? A Yes, sir.

The Court: She identified it.

Q Is that the boy that is in court here? A  
I didn't see— 10

Q Who was on the witness stand? A I  
didn't see him.

Q Will you stand up? Is this—(inter-  
rupted)? A Oh, yes, that is him The last  
time I saw him was at Bradley's wake.

Q At Bradley's wake you saw him? A Yes,  
sir.

Q Well, did you see him grow up? A No.

Q Did you see him grow up from childhood?  
A No; we very seldom saw him. 20

Q No, did you see, I asked you? A I see  
him on different occasions, very rarely, though.

Q Do you remember when you next saw him  
after you had seen him at the Home of the  
Friendless? A Oh, I see him several times.

Q When did you next see this little boy? A  
I couldn't give you the exact time.

Q Well, shortly after? A Oh, no—I have,  
yes.

Q Yes. A On that Saturday—on Saturday 30  
night after she had taken him home my husband  
and I went over to Harrison to see the baby that  
she had brought home.

Q Yes, yes. A So my husband seemed to be  
very pleased that Bradley gave permission for  
her getting the child and a nice little fellow, ap-  
parently.

Q Yes. A So then on Saturday night after  
she had him dressed up and fixed nice, she  
brought him to my home to see me. 40

*Catherine McGinley, direct.*

Q Where was your home? A On Essex street, Newark.

Q In Newark? A Yes. And she brought him over there. He was nicely fixed up, you know, he made quite a nice little appearance and we were pleased to death to think she had such  
10 a nice little fellow; so then she went home, and, of course, she started around and she didn't get out much, she wasn't much of a goer, anyway.

Q Yes? A So I hadn't seen him then for a couple of months, so it got so we didn't see much of each other at all.

Q Do you remember the death of these children whose pictures are here? A Yes, very well.

Q Exhibits 1 and 2? A Yes.

20 Q Little Eddie and Lottie, as you call her? A Yes, sir.

Q And how soon after the death of these children was it that you accompanied Mrs. Bradley to the Home for the Friendless on South Orange avenue and Bergen street? A Well, it might have been six months or around there, I think.

Q Yes? A I couldn't just say, but it was— (interrupted).

30 Q How shortly after the death of these children in Newark, did the Bradleys move to Harrison, if you know? A Oh, well, it wasn't very long; it was about six or seven or eight months, maybe, and after that she got this boy.

Q Did she take any one else besides the little boy; did you see anyone else? A She brought home a little girl, but I didn't see the little girl, because Mr. Bradley didn't like her and he sent her right back to take her back to the  
40 home.

*Catherine McGinley, direct.*

Mr. Hannoch: I suppose that is objectionable.

The Court: Strike that all out.

Mr. Kearns: Yes.

Q And did she tell you about—did she tell you anything about taking—how she got the boy? A Yes. That is how she got him. She went to Mrs. Fitzgerald and she got him through her and she brought him home and took him to the house and dressed him up and kept him. 10

Q Yes? A And, of course, when he got old enough he had to go to school and then when he got so he was able to work, why, his father—or, Bradley, got him positions in the Edison plant, but he didn't take care of 'em, but he didn't do as he was told, so he got tired of him and only for her, I guess—(interrupted). 20

Mr. Hannoch: Now, I move to strike out all that.

The Court: Yes, strike it out.

Q Did you have any talk with Mrs. Bradley about this boy after he was brought out of the home? A Oh, yes.

Q Yes. Well—(interrupted)? A She said he was a good little fellow and she would keep him. I said, "Did you ever tell anybody that you never adopted him?" She said, "No, what is the use? I don't want to tell people that I don't want—I can't—" Oh, dear!—that she didn't adopt him and she raised him and that is all we ever knew about it. 30

Q Did she ever tell you that she had him baptized? A No. She said she never did. She never did. 40

*Catherine McGinley, direct.*

Q Did you ask her about that? A Oh, I told her she had done a foolish thing not to have him baptized; he should have his confirmation; and she never said she had him baptized, never.

Q And she told you she had not? A She had not. She said she had not.

10 Q She had not had him baptized. Well, did you see Dick while the father was ill at any time? A Well, while Mr. Bradley was ill we didn't go there, because the man didn't want company, nor nothing like that.

Q Yes. A So, of course, I didn't see Mr. Bradley previous to his death for a good while.

Q Yes? A And after his death I went over, of course, to the wake.

20 Q Yes? A I lived on Eleventh street, she lived on Ninth. I went over to the wake.

Q Yes? A And I met this Dick and his wife.

Q Yes? A And some of the brothers and all.

Q Yes? A That was all. So the next morning I didn't go to the funeral, but my family went.

Q Yes. Do you remember when Dick was married? A Oh, I—(interrupted).

Q Do you remember the fact of his marriage?

30 A I heard he was going to get married.

Q Who told you he was going to get married?

A Mrs. Bradley.

Q Now, did you have any talk with Sarah J. Bradley about Dick's marriage? A Why, yes. She said, "Dick is going to get married."

Q Yes? A And I think she told me he came over there—

Q Yes? A —to try to get some money—

Q Yes? A —from Bradley to help him out with his marriage.

40

*Catherine McGinley, direct.*

Q Yes? A I don't know, I think there was—but, of course, she was very truthful.

Q And she told you that? A Yes. And she said—(interrupted).

Mr. Hannoeh: Is this testimony about pedigree? 10

Mr. Kearns: Yes. It leads up to it.

The Court: I don't think it is admissible. This is what Mrs. Bradley told this woman that Mr. Bradley said about giving him money.

Q Did she tell you Mr. Bradley said that?  
A Mr. Bradley said that Dick—(interrupted).

Q Well, never mind that, Mrs. McGinley. Don't tell that. But what did she tell you about Dick's marriage and about Dick at that time? 20

A Well—(interrupted).

Q Of what she had told Dick, if she had told Dick anything. A Well, she said Mr. Bradley told her that she—that Dick sent for money and he—(interrupted).

Mr. Hannoeh: I object to that.

The Court: Strike it out.

Mr. Kearns: Yes. Strike it out. That is 30  
not evidence.

Q What did she say that she had told Dick at the time that he was to be married? A Well, she said she didn't give him any money.

Q No. What did she say she had told Dick, if anything? Did she have any talk with Dick at the time he was to be married? Did she give him any information? A I can't remember about that. 40

*Catherine McGinley, direct.*

Q Did she tell him anything about—(interrupted).

The Court: No, no. This is too important to lead the witness.

Mr. Kearns: I don't want to lead her.

10 The Court: Did she tell Dick anything at the time of his marriage?

The Witness: Oh, yes.

Q What? A She told him the truth—that he should remember that his name was not Bradley and that he was not her child and never was and she says, "Don't you call me—" And so one of the days she was there, one of her sons came over and asked the privilege of using the name "Bradley" and he addressed her as "Grandma" and she said, "Don't  
20 call me 'Grandma,' I am not your Grandma."

The Court: How do you know that?

The Witness: I was sitting there.

The Court: All right.

The Witness: I was sitting—(interrupted)

The Court: That was after the husband died?  
30

The Witness: Yes.

The Court: Well, strike it out.

Mr. Hannotch: I move to strike it out.

Mr. Kearns: That was after. I did not bring that out.

The Court: No.

Q What did she tell him, if she told him anything at the time he was to be married?  
40 A Oh, well, I couldn't say—(interrupted).

*Catherine McGinley, direct.*

Q What did she tell you she told him? A She told him he should never come near her house, she was through with him, he never was any good to her, he never gave her any money when he was employed in the Edison factory, Mr. Bradley had so much trouble—

10

The Court: No, no.

Q What did she say about him conveying information relative to—(interrupted) A She always said he was not her boy, but I knew that because I went with her when she got him.

Q Did she tell you anything about any conversation that she had with him? A I can't remember.

Q Of what she told him? A I can't remember. 20

Q Did she at the time he was married—(interrupted).

The Court: She says she can't remember.

Q At the time he was married can you remember anything? A I can't remember it now, Mr. Kearns.

Q Yes? A And so—(interrupted). 30

Mr. Hanoach: No.

Q Not anything after the death of James J. Bradley; anything she told you before the death of James J. Bradley, you may state? A Well, I can't—

Q (Continuing.) About Dick. A Of course, we hadn't seen Mr. Bradley—(interrupted). 40

*Catherine McGinley, direct.*

Q Never mind about Mr. Bradley—about Sarah J. What Sarah had told you? A I went to see her one day in the house.

Q Yes? A And she—

The Court: Wait a minute. When was it.

Q When was that? A Oh, that was while Bradley was living.

Q While Bradley was living? A Yes. He was out.

Q Yes? A And so she said, “Did you hear how Dickie is getting along in New York?” I said to her. She said, “Oh, I suppose the same old way he did in Newark,” she said, “But he doesn’t come here,” she said; but some woman that claims relation to her bought something on the installment plan for her son and Mr. Bradley called up this woman in New York, took her with her and was going to have this woman arrested, Mrs. Cook. So Mrs. Bradley was awfully nervous and awfully upset about it for fear that he would have the boy arrested, her son, and she said, “Never mind. I told them, Kate,” she said, “that I would collect so much a week off—” (interrupted).

Q Well, I am not anxious about that. A Oh.

Q What did she say about Dick’s relationship, if anything? A Well, he is not—he is not a drop’s blood of relation. She told that to the boy when he come over to ask the privilege of using the name.

The Court: You have told us that before. Strike it out. Strike it out.

*Catherine McGinley, cross.*

*Cross examination by Mr. Hannoeh.*

Q Now, Mrs. McGinley, who is Helen Loder?

A My daughter.

Q Who is John Mullery? A Who?

Q John Mullery? A My son.

Q Who is Thomas Mullery? A My son. 10

Q Who is William H. Mullery? A He is deceased; he is my son; he is dead.

Q Who is Ruth Mullery? A His child, his daughter.

Q Who is Sarah Manning? A My daughter.

Q So all these people which get this estate—  
(interrupted).

The Court: No; that is a conclusion. 20

Q All right. They are all related to you.

Mr. Kearns: There is one mistake set out in the bill. Ruth Mullery is a grand niece instead of a niece.

Q You mentioned something here a moment ago about Mrs. Bradley saying she didn't want to have anybody arrested? A Yes. Mrs. Cook had some clothes for her son.

Q The son she was going to have arrested was whose son? A Mrs. Cook's son. Mrs. Cook contracted a bill—(interrupted). 30

Q All right. You have answered that. Now, don't you know in the Catholic Church you cannot be confirmed unless you are baptized? A Well, I never thought you could. All my children was baptized before.

Q As far as you know, they won't permit a confirmation unless there was a baptism? A No, not at all. 40

*Catherine McGinley, cross.*

The Court: That is undoubtedly so.

Mr. Kearns: That is undoubtedly so.  
It shouldn't be done.

Q So if they did permit this boy to be confirmed—(interrupted).

10

The Court: No, no.

Mr. Hannoeh: I beg your pardon. I guess I am arguing.

Q Now, you would call on the Bradley house frequently, would you? A Well, I would, but they were very peculiar; you couldn't get inside the door.

20

Q You what? A You wouldn't be let inside the door, nobody, and everybody in the neighborhood that knows them knows that.

Q So that you couldn't get in either? A I couldn't get in either. My—(interrupted).

Q Wait a minute. They wouldn't allow you to call on them? A Oh, if I could get in. If he was out, she received me cordially always, but if he was in—(interrupted).

30

Q I see. So the only time you could ever call on the Bradley family was when the master was out? A Well, nobody else could call either, nobody else.

Q Nobody could call while he was there? A Mrs. Cook always shoved herself in through the cellar or any other way she could get in, but I wouldn't do that.

Q I see. And you and Mrs. Cook must love each other very much? A Well, there isn't any hard feelings on my side. It is her.

40

Q And you mean to say that he allowed you ever to come into the house? A Oh, yes, "ever" that is a long time.

*Catherine McGinley, cross.*

Q I know. Was it very frequent that you used to—(interrupted) A No, not very. I got married.

The Court: What did you say, you got married?

The Witness: I got married and after I married Mr. McGinley she severed all acquaintance and relationship; she told me afterwards and I said, "I have that privilege of getting married." She said. "You sure do." I said, "What was I to do. I had five children, so— 10

Q All right. So certainly from the time that you were remarried to McGinley you never got into the house until after Mr. Bradley died? A I never tried, but Mr. Bradley came to see me, came to our home, 316 Ogden street. 20

Q Now, before you married Mr. McGinley, were you permitted into the Bradley house? A Oh, yes; she came to visit us and we went to visit her, and my husband died on Merchant street and she came there and Bradley too, and I was short of money and I asked him about it and he gave me—(interrupted).

Q I mean, you did call on the Bradley family down on 8th avenue in Newark? A Oh, yes, years ago; that is a real long time ago she lived—oh, yes. 30

Q Did anybody else go with you up to the Home of the Friendless? A Mrs. Bradley, that is all.

Q Just you and Mrs. Bradley? A Mrs. Bradley and I.

Q Did Mrs. Bradley say anything to you about adopting this child? A No. She said 40

*Catherine McGinley, cross.*

he was a nice little fellow and he looked healthy and strong, and she lived in Harrison and I lived in Newark; I had three or four little children around my feet and I couldn't visit her very often and she didn't have the privilege of visiting anybody to his knowledge.

10 Q So she couldn't go out to call on anybody and you couldn't go in there to see her when he was home? A I didn't try.

Q Now, how frequently would you say you used to see her, either in her house or out of her house, when the children were alive? A Well, she moved to the corner from where she lived in Market street, I think she moved to the corner of Fifth and Warren street in Harrison and I went quite often there to see her in Harrison at the corner of Fifth and Warren, but  
20 in the other street, across from Edison's I went very seldom.

Q Did you see her very frequently at the time you say she took the boy out of this home? A Oh, yes; I seen her; he was a little fellow playing around and she used to come and see us.

Q How long after that did she move away  
A Move away from—

30 Q To some place else in Harrison where you didn't see her so frequently? A That is where she lived when she took the boy from the institution and then after, a couple of years, they had the house on the corner of Fifth and Warren and I went there frequently and she came to see me, when she came to Newark with the boy.

Q How long a period was that, how many years ago? A Oh, it is a good many years. I hadn't seen that fellow until he grew up,  
40 until Bradley died.

*Catherine McGinley, cross.*

Q How long has it been since you had seen Dick Bradley up to the time when you saw him at the funeral? A Oh, I guess—it was years.

Q Had you seen him since he had gotten married? A I think so. I think I saw him once or twice. That is the most.

Q Did you see him after he left his house in Newark and went to live in New York? A No—yes, just twice I saw him and then I met his wife. 10

Q Did you see him when he was confirmed? A No.

Q How long hadn't you seen him around the time he was confirmed? A Oh, I really didn't know when he was confirmed. They lived in Harrison. There wasn't the convenience for getting there then like there is now, and I couldn't go. 20

Q After they moved to Harrison and took this boy—after they got this boy from the home and moved to Harrison, how long after that was it that you saw him? A One week. She took him on Saturday and I went there on the following Saturday.

Q That was one week. Now, from that time on to the end of that week how long was it before you saw them again? A Oh, every couple of weeks or so she would come or I would go there, see? We seen each other very frequently then. 30

Q Did you know anything about her taking a girl out of the home? A I certainly did.

Q Did they make arrangements to take a girl the day you were there? A Yes.

Q They were going to take two of them? A They were going to take a boy and a girl. 40

*Catherine McGinley, cross.*

Q You don't know yourself whether she ever took the girl? You didn't see the girl? A No, I didn't see the girl because she hadn't time to keep her there. Mr. Bradley took a dislike to her.

10 Q Did you pick a girl out at the home? A Oh, no, I didn't.

Q Did she pick a girl out at the home? A No, not that day, but the day after she saw the boy she took the girl.

Q Took it home on approval? A Yes, took it on approval.

Q Like Bamberger's? A No, not Bamberger's. Took it on approval.

20 The Court: Now, you carefully interfered with Mr. Kearns bringing this out and now you have brought it all out yourself.

Mr. Hannoeh: No. I wanted to find out why they sent the girl back. Apparently there is a custom about it. I don't know how they did this.

The Witness: They sent the girl back. Mr. Bradley wouldn't have her in the house.

30 Q That is all you know, what somebody told you? A Mrs. Bradley herself, and Mr. Bradley.

Q Did Mrs. Bradley tell you that she had sent the girl back? A Yes, sir. She said that the girl was—you know, I told you, she said she told Bradley and Bradley said, "Take her right back. You can't keep her here, take her right back."

*Catherine McGinley, re-direct.*

*Re-direct examination by Mr. Kearns.*

Q Did I understand you to say the boy was taken out on approval? A No.

Q Or for trial—on trial? A No. This gentleman here says so.

Q Oh, he said that. A Not me. 10

The Court: Is that all?

Mr. Kearns: That is all.

The Witness: That is all? Thank you.

Mr. Kearns: Of course, your Honor has limited this very closely.

The Court: How many more witnesses have you?

Mr. Kearns: Mrs. McGinley (to witness) how old, may I ask, are you? 20

The Witness: Me?

Mr. Kearns: Yes.

The Witness: I am seventy-six past since the twenty-fourth of May.

NOON RECESS.

AFTER RECESS. 30

The Court: All right, Mr. Kearns.

Mr. Kearns: If you Honor please, I have excused some of my witnesses, because under your Honor's ruling their testimony won't get in here, but I think I perhaps better make an offer to prove by the testimony of Miss Emma Lehlbach, who is chairman of the committee on admission to the Home of the Friendless, her conversation with 40

*Discussion.*

Mrs. Sarah J. Bradley in June or July, 1925, after—

The Court: All right. You make that offer and objection is made.

10 Mr. Kearns: And your Honor overrules it?

The Court: And the objection is overruled.

Mr. Kearns: And I except.

The Court: And an exception, you don't have to have.

20 Mr. Kearns: I offer to prove by Miss Emma Lehlbach that she is chairman of the admission committee of the Home of the Friendless in New Jersey and a trustee of that institution, that in the latter part of June or the first of July, 1925, she was visited by Sarah J. Bradley, 126 South 9th street, widow of James J. Bradley, who informed her—(interrupted).

The Court: You want to put that in, "Who had a conversation with her."

Mr. Kearns: Who had a conversation with her, yes.

30 The Court: Very well. The objection is made.

Mr. Kearns: Yes.

The Court: And objection sustained.

40 Mr. Kearns: Also that when Mrs. Bradley applied at the Home of the Friendless to take out the boy Mrs. Smith, who was the then matron, sent her down to Mrs. Fitzgerald and that there are no records of that institution prior to the year 1888.

*Discussion.*

The Court: No, you can't say—you have got to have Mrs. Smith here. That won't do.

Mr. Kearns: Mrs. Smith—Miss Lehlbach will testify to that. I think there is a lady here with a book.

Is there some lady here with the record book? Yes. 10

The Court: Was Miss Lehlbach there at the time Mrs. Smith sent her down there?

Mr. Kearns: Yes.

The Court: That is hearsay, pure and simple. No, no, that won't do.

Mr. Kearns: I will withdraw that portion of the offer.

The Court: All right. Well, perhaps Mr. Hanooh will agree with you that the records show nothing. 20

Mr. Hanooh: I will agree with you that the records of the Home disclose nothing about any boy by the name of Richard Dennis or any boy having been taken out by the name of Richard Dennis.

Mr. Kearns: And that there are no records prior to the year 1888 available.

Mr. Hanooh: Well, available—yes, there were records, but nobody knows where they are. 30

The Court: All right.

Mr. Kearns: And Miss Lehlbach will also testify that records prior to 1888, if any existed, have been lost or destroyed.

The Court: All that is admitted.

Mr. Kearns: I offer to prove that.

The Court: Well, it is admitted. 40

*Hazel Ayres, direct.*

Mr. Kearns: Admitted.

Now, have you the records here? I am calling—

The Court: What is the use of calling anyone? They are admitted.

10 Mr. Kearns: This lady will testify as to the earliest date of the records and the annual report showing when the institution had been established.

The Court: Mr. Hannoeh has admitted everything you offered.

Mr. Kearns: That the institution was in existence in the early eighties, 1881, '82 and '83.

Mr. Hannoeh: That I don't know.

20 Mr. Kearns: I have seen your fifty-fifth annual report. Have you got that?

Miss Ayres: I haven't got that with me. I don't think the Home is fifty-five years old.

The Court: You cannot prove it that way.

Mr. Kearns: So it must have been in existence.

30 Mr. Hannoeh: I don't know anything about it.

Mr. Kearns: Take the witness-stand.

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HAZEL AYRES, sworn for defendant.

*Direct examination* by Mr. Kearns.

40 Mr. Kearns: I am calling her, although she is subpoenaed by the other side.

*John H. Dunn, direct.*

Q Miss Ayres, what is the first record you have in your book of an admission to the Home for the Friendless on South Orange avenue? A May the tenth, 1888.

Q Yes. And do you know what has become of any record prior to that date? A I certainly do not. 10

Q No. You never saw any earlier record of the institution, did you? A I did not.

Q What is your official position there? A Assistant superintendent.

Q Do you know how long the Home of the Friendless has been in existence, according to any records you may have? A No; I do not. I don't just remember how long—about—

Q No. I don't ask you to. 20

The Court: She says she doesn't know.

Mr. Kearns: That is all.

Mr. Hannoeh: All right.

Mr. Kearns: Mr. John H. Dunn.

JOHN H. DUNN, sworn for defendant.

*Direct examination by Mr. Kearns.* 30

Q Mr. Dunn, where are you living? A 7 South Ninth street.

Q Did you know James J. Bradley in his lifetime? A Yes, sir.

Q For how long a period, Mr. Dunn, did you know him? A Oh, fifty-five, fifty-six years.

Q How long? A Ffty-five to fifty-six years.

Q Yes? A Around that. 40

*John H. Dunn, direct.*

Q You remember his children? A Yes, sir.

Q How many children did he have? A Two children.

Q And do you know what became of them?

A Yes. They died of some malignant disease I think, in a week.

10 Q Within a week? A Within a week's time, the two of them.

Q You remember that fact quite vividly, do you? A Yes, sir; I know that for a fact.

Q Of your personal knowledge? A Yes.

Q Now, may I ask, did you ever hear of any other child or children that he had? A Well, I understood that he had two children from some institution to take the place of the two that died.

20 Mr. Hanooh: I object and move to strike it out.

The Court: Strike it out.

The Witness: That is all I can say.

Q From whom did you get that information and when, if you can recall it? A I can't tell you that. I don't remember.

30 Q Yes? A I understood that and I can't tell you who gave me that. My mother and they were very great friends. She might have told me. I don't know.

Mr. Hanooh: Well, I move to strike it out.

The Court: Strike that all out.

Q What do you know of these two children particularly whom he had? A Of the ones that died?

40

*Sarah J. Manning, direct.*

Q Yes. A Well, I was at their funeral.

Q Yes?

The Court: Their death has already been proven.

Mr. Kearns: Yes.

10

Q And you were on quite intimate terms with the Bradleys, were you? A Yes.

Q After the death of the children? A Yes, sir.

Q And do you know where he moved to after the death of the children? A After that I didn't keep track of them until after they moved up in Ninth street, the street I lived on.

Q Yes? A And then I visited them some-time there, but during the time in Harrison I never visited them.

20

Mr. Kearns: That is all, Mr. Dunn.  
Cross examine.

Mr. Hannoeh: No questions.

Mr. Kearns: Mrs. Manning.

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SARAH J. MANNING, sworn for defendants. 30

*Direct examination by Mr. Kearns.*

Q Mrs. Manning, you are a widow? A Yes.

Q And what relation did you bear to Sarah J. Bradley? A Her niece.

Q Yes? A Her brother's child.

Q Her brother's child. Your father's name—

A Was Mullery.

Q And his first name? A James Mullery.

40

*Sarah J. Manning, direct.*

Q And he left children? A Yes, sir.

Q Of whom you are one? A Yes, sir.

Q How many children? A He left five at the time of his death.

Q Yes. How many are living today? A Four.

10 Q Name them? A John, Thomas, Helen and myself—Helen Loder.

Q Helen Loder? A John Mullery, Thomas Mullery, Helen Loder and myself.

Q Yes. And the representatives of a deceased brother? A Yes, William, the two children.

Q Who is that brother? A William.

Q Yes. And who are his children? A Helen—or Ruth Mullery and William Mullery.

20 Q Ruth is an infant, under the age of twenty-one years? A Yes. She is nineteen.

Q Yes.

Mr. Kearns: I represent her, your Honor. An order was made admitting her mother, Laura—

The Witness: Laura Mullery.

Mr. Kearns: —as guardian *ad litem*.

30 Q Mrs. Manning, you remember the death of your uncle— A Yes.

Q —James Bradley? A Yes, sir.

Q And he died what time—when? A On May the second, 1925.

Q Yes. And your aunt— A February 23rd—

Q —Sarah? A When she died?

Q Yes. A She died on February twenty-third, 1927.

40 Q Her name and yours were the same? Her maiden name was Sarah J. Mullery? A Yes; I was named after her.

*Sarah J. Manning, direct.*

Q Did you find among her effects, these photographs, likenesses, tintypes, or whatever they are? A Yes.

Q Exhibits 1, 2 and 3? A Yes.

Q Did you also find anything else with them?

A That little memorial card right between them where they were tied together. 10

Q Among the effects or your aunt? A Yes.

Q Will you identify that? A Yes. That is it, the memorial card. In fact, she had shown it to me before she died.

Mr. Kearns: I offer this card in evidence.

(Card marked Exhibit D. 10A.)

The Court: I don't see why you are spending so much time and trouble on these two children. That has nothing to do with it. The question is whether this man was their child or not. 20

(Discussion.)

Q This was in memory of the only son and Charlotte, the only daughter of Sarah J.? A Yes.

Q The only daughter and only son, yes. Did you visit your aunt, Mrs. Manning, prior to the death of your uncle, James J. Bradley? A Well, not very frequently, no. 30

Q But you did visit her sometimes? A Once in a while, yes.

Q Yes, yes. A I saw her on the street, perhaps while he was in the hospital.

Q Yes. A And that would be about three months before he died.

Q Yes. A And she cried then and said how bad she felt.

Q Yes? A And I promised to go to see her. 40

*Sarah J. Manning, direct.*

Q Yes? A Because I was moving at the time—(interrupted).

Q Was there any reference to Dick at that time? A I asked her then, I said, "Who is with you, Aunt Sarah?" "Well," she said, "we are alone." She said, "Jim is in the hospital."

10 Q Yes? A And that was all she said.

Q And did she ever—earlier in the— Do you remember Dick Bradley? A Well, I remember him as being a boy.

Q Yes. A That Aunt Sarah had.

Q Did you and your brother recognize him as a relative? A No.

Mr. Hannoeh: I object to that.

The Court: I will sustain the objection.

20 Mr. Kearns: I take an exception.

Q Did you talk of him as a cousin?

Mr. Hannoeh: I object to that.

A Never.

The Court: Don't follow that up.

30 Mr. Kearns: His reputation in the neighborhood, intimate members of his family.

The Court: No, I won't allow that.

Q Did you talk to your Uncle James or your aunt about Dick at any time? A Not that I could say, no.

Q Ever tell you anything about Dick? A No.

40 Q I mean, before your uncle's death? A No; I wouldn't say that, only that we always knew him as the child—(interrupted).

*Sarah J. Manning, direct.*

Mr. Hannoeh: I object to that.

The Court: No, no, no.

Q Yes, yes, yes. Did you—of course, subsequent to the death of your Uncle James, you did talk to your aunt? A We went to visit her.

10

Q After the will was offered for probate? A Why, I went with her in all her trouble.

Q When the will was offered for probate? A Yes.

Q Then she did talk about Dick, did she? A Absolutely.

Mr. Hannoeh: I object.

Mr. Kearns: I just want to offer the question. I offer to prove by this witness—

20

The Court: Well, you—

Mr. Kearns: That before the institution of this present litigation in the Court of Chancery, but after the death of James J. Bradley, that there was a talk between this witness and Sarah J. Bradley, the decedent, in which references were made to Dick and she told the story of Dick's origin.

Mr. Hannoeh: I object to that.

The Court: I will sustain the objection.

30

Mr. Kearns: Well, I respectfully ask an exception.

The Court: You don't have to take exceptions in the Court of Chancery.

Mr. Kearns: No, no. Well, this is as to—before the litigation was begun here.

The Court: All right.

Mr. Kearns: Cross examine—oh, one other question.

40

*Sarah J. Manning, cross.*

Q Did you find among the papers—did you find this document or this paper, enclosing other documents among the papers of your deceased aunt? A Yes, sir.

Q With this writing on the outside? A Yes.

10 Mr. Kearns: May I have this marked for identification? There is a superscription on this envelope in a handwriting that I can establish.

The Court: I don't see that it is relevant.

Mr. Kearns: Well, I will have to take the witness-stand myself in this connection.

The Court: I think that is a great mistake.

20 (Envelope marked D. 11 for identification.)

Mr. Kearns: That is all; cross examine.

*Cross examination by Mr. Hannoeh.*

Q These were all the effects that you found? A Yes, sir.

Q No other books, family albums or anything else? A No, no family album.

30 Q Any books? A Well, those photographs were in the family photograph book, in one page, turned over and this little inscription right in it.

Q No other books, family history— A No.

Q —or anything of that kind? A No.

Q You took possession of all the records? A Yes.

Q That were in the house. You were the administratrix of the estate—are you not? A I was with her when she died, and, of course, naturally—

40

*William J. Kearns, direct.*

Q You are one of the defendants in this case?

A Yes.

Mr. Hannoeh: No other questions.

The Court: That is all, madam.

The Witness: Thank you.

10

Mr. Kearns: I am going to have to take the witness-stand.

The Court: As I say, it is, in my opinion, a great mistake for counsel to take the witness-stand in a case which he is conducting. If you will read the case of *Garrett v. Garrett*, you will find that is the announcement of the Chancellor.

Mr. Kearns: I should, then, perhaps have had somebody else conduct this case, but I was counsel for this man for twenty-eight years.

20

The Court: You can do as you please.

Mr. Kearns: I don't want to prejudice his case, but I think I ought to tell the Court what I know. I drew two wills for this man, one in 1900 and the other three years later, and wrote him a letter.

---

 30

WILLIAM J. KEARNS, sworn.

*Examined by Mr. Bruder.*

Q You are a practicing attorney in the City of Newark? A Yes. I have been for forty-odd years.

Q Did you ever have any conversations with Mr. Bradley with reference to pedigree?

40

*Discussion.*

Mr. Hannoeh: Just answer that yes or no.

A Yes.

10 Mr. Hannoeh: Now, I object to any testimony on the ground that it is privileged. This gentleman is counsel for Mr. Bradley; I doubt whether he can testify to any transaction as one of the relations of confidence which I think the law does not permit, and I object to the testimony—

The Court: I don't see how you can get the consent of Mr. Bradley now to waive the privilege. I suppose I shall have to sustain the objection. I will sustain the objection. I won't allow him to testify.

20 Mr. Bruder: If your Honor won't permit him to testify, then, of course, Mr. Kearns, you cannot testify, if that is the ruling.

Mr. Kearns: I knew Mr. Bradley's handwriting. I have been his counsel from the year 1900.

The Court: Yes. But as I understand the rule, it is that whatever he said to you as counsel was a privileged communication which you cannot divulge without his consent and he is dead and how can he consent?

30 I shall have to sustain the objection. You cannot testify to it.

Mr. Kearns: I drew two wills for him. One will which is not offered for probate and the other offered for probate. Of course, I had conversations also with Mrs. Bradley, prior to the death of her husband; she came to me on one occasion and I gave her the letter, which letter is here.

40

*Discussion.*

Mr. Hannoeh: I object to that on the same ground.

The Court: Yes. I will sustain the objection.

Mr. Bruder: Your Honor, I think there is quite a distinction in the two cases. In one case Mr. Kearns did not represent Mr. Bradley; he represented Mrs. Bradley; hence, the relationship of counsel and client, I do not think existed between those two, therefore any conversation between Mrs. Bradley and Mr. Kearns made prior to this litigation or even at the death of Mr. Bradley, are admissible I think, if it concerns pedigree and I think that is the testimony. 10

The Court: I won't allow the testimony. She was just an agent of her husband whom you represented, that is all. 20

Mr. Kearns: Well, that is our case, if the Court please.

The Court: All right.

Mr. Kearns: Because everything else your Honor excludes.

The Court: Well, now, I suppose the case is closed then, with the exception of endeavoring to discover this birth certificate. 30

Mr. Hannoeh: Yes. Now, I am not very familiar with the Catholic rites, but I during the noon hour made some inquiry and I understand that no confirmation certificates in the past have been issued unless there was a baptismal certificate ahead of that. There must be a baptismal certificate some place in connection with the home and that confirmation certificates usually issued are far more illuminating than the one sent to 40

*Discussion.*

us after a year and a half of trying to get it. I would like to see the original.

10 The Court: I am not as familiar as Mr. Kearns with the rules of the Catholic Church, but I understand the rule to be this, that there cannot be confirmation without baptism, and that is true also in the Protestant church, but I don't know that there is anything to prevent a mother or father saying to the priest, "Oh, yes, he was baptized in New York or California."

Mr. Kearns: That is a very difficult thing to assume he was baptized.

20 Mr. Hannoeh: And I don't know whether under your rule we would have to prove it or not, but if that becomes important we can introduced some expert on ecclesiastical law in the Catholic church and find out about it.

Mr. Kearns: Yes.

The Court: The first thing to do is to see if we can find a birth certificate and subpoena the priest in charge of this parish where the confirmation came from, and, if we cannot find it that way, perhaps he can help us or suggest in what other parish we can go.

30 Mr. Hannoeh: Someone told me this morning, as your Honor tells me, there ought to be a record in the other parish.

The Court: In whatever parish these people lived, in that parish he must be confirmed and baptized and all that, but as I see it before going to any other parish, we ought to begin at the parish where the confirmation was.

*Discussion.*

Mr. Kearns: They were living at the time in Harrison, at the time of the boy's confirmation, and it was assumed, the boy going to school, that he had, like other children, been already baptized in infancy that was the assumption and he was presented for confirmation. The parents went into the confirmation class and the boy was presented. It is the fact, however, that he could never have been baptized and yet confirmed. The bishop would not have known that or anyone else. At that time he did not produce any certificate of his baptism or birth. 10

Mr. Hannoeh: We will have to look these things up.

The Court: Yes.

Mr. Hannoeh: All right. That can be put in at your office without having any special day. 20

Mr. Kearns: At the present time we are quite strict about that. We require before the children are confirmed now that they produce a baptismal certificate and whatever parish they were baptized in, but in those days—only recently has that regulation been enforced, only the last few years. Prior to that time we discovered just such instances of those who had never been baptized and presented for confirmation and that was the occasion of the law being introduced. 30

The Court: I think you had better set a special day, because you have got to issue this subpoena duces for a particular day and time, so Mr. Salmon better give you a day.

Mr. Hannoeh: Suppose we put it two weeks off on one of the motion days. 40

*Discussion.*

The Court: Oh, no; I can't take any testimony on a motion day.

Mr. Hanoeh: Or any time you want, Mr. Salmon. Just give me a week or ten days that I can get over and look at the records.

10 The Court: Then you better look up the rules of the Catholic church as to baptism.

Mr. Kearns: We can produce an ecclesiastical expert on that matter. I will furnish one for Mr. Hanoeh.

Mr. Hanoeh: You are sufficient ecclesiastical expert for me.

(Adjourned to October 15, 1928.)

20

October 15, 1928.

Continuation of hearing pursuant to adjournment at the time and place and in the presence of the parties as before.

30 Mr. Hanoeh: As further testimony in the Bradley matter, there has been brought into court the Holy Cross Church of Harrison, New Jersey, confirmation register, on page 26 of which appears the name of Richard J. Bradley, the name of Richard Jacob Bradley as having been confirmed. There is nothing on the record indicating the names of the parents, but that applies to all confirmations, no names of the parents appear in the book whatsoever.

40 There has also been produced the baptismal book from 1871 to date and there appears to be, looking through it now that the book with respect to it, I am quite sure is accurate, I know is accurate, that there is no record of any baptism,

*Discussion.*

anybody by the name of Bradley, in this parish, but, as Mr. Kearns said to you last week, the priest who confirms—the bishop who confirms at the present time, requires a baptismal certificate to be produced by the confirmants, and in the days when this confirmation took place he had to be satisfied in some manner or other, generally by the parents, and it was not actually necessary that a baptismal certificate be made by them if he was satisfied from his own investigation that the child had been baptized, so that there is nothing additional that can be offered by way of these actual records. And I want to call—  
(interrupted). 10

Mr. Kearns: I might just say in this connection, it will be generally assumed that a child offered for confirmation was baptized. Of course, a child could be presented for confirmation who had never been baptized, it is possible, the bishop would not interrogate the individual to determine whether the child was baptized or not; he would assume if the child was in a confirmation class going to the Catholic school that that child had been baptized, that the parents had looked after that. So Father Fitzpatrick informs me that it is only within the last fifteen years that the requirement has been enforced to produce a baptismal certificate, before the sacrament of confirmation. 20 30

Your Honor suggested that we might require an ecclesiastical expert—of course, Mr. Hannoeh thought—I thought Father Fitzpatrick might state that to your Honor, if your Honor had any difficulty on that score, he might tell the Court what the situation is.

Mr. Hannoeh: I think counsel's statement can be accepted in lieu of the witness. 40

*Mary Bradley, recalled, direct.*

The Court: I am perfectly willing to take the statement of counsel that Mr. Salmon has taken down.

Mr. Kearns: It is possible that a child could be confirmed without having been previously baptized.

10 The Court: It seems to me a very reasonable statement.

Mr. Hanooh: Now—

Mr. Kearns: And that the search of the record discloses no evidence of a baptism in the Church of the Holy Cross and, of course, we have had an examination of the records of St. Patrick's Church on the last day, on the first of October, and counsel went over that record carefully with the sexton, and there was none  
20 found there.

Mr. Hanooh: I want to recall Mrs. Bradley for just a moment. I told Mr. Kearns what she would testify, but I just want to put her on record.

Mr. Kearns: Yes. There is no objection.

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MARY BRADLEY, recalled.

30

*Examined by Mr. Hanooh.*

Q Mrs. Bradley, I am calling your attention once again to Exhibit C. 4, the wedding invitation issued in the name of Mr. and Mrs. James J. Bradley. A Yes, sir.

Q Where were your parents at the time of your marriage? A Dead.

Q Both dead. And how long had they been  
40 dead? A Well, I have been an orphan from five years old.

*Discussion.*

Mr. Kearns: No questions.

Mr. Hannoeh: It is admitted between counsel that Richard J. Bradley is not circumcized.

Mr. Kearns: Will your Honor permit me to have this application marked for identification? You know, I made the offer. 10

The Court: You better put it in evidence.

Mr. Hannoeh: Your Honor excluded it.

Mr. Kearns: You excluded it. It is a petition for probate; the Surrogate has certified this, your Honor. We did not have a certified copy.

The Court: Oh, yes. Did I exclude it?

Mr. Kearns: Yes.

The Court: Why don't you put in the record you offer it in evidence? 20

Mr. Kearns: I did, but I did not have a certified copy.

He has certified also for me the caveat on behalf of Richard Bradley, son of James Bradley, deceased, signed by Morris Steiner, and dated June 30, 1925.

The Court: Let it be marked for identification.

Mr. Kearns: And the petition is dated June 26, 1925, showing the petition was made which I offered prior to the filing of the caveat. 30

The Court: All right.

Mr. Kearns: Before the litigation was begun, really, but the filing of the caveat, I offer that in evidence. I do not offer it merely as hearsay, but as a deposition made by this decedent, Sarah J. Bradley, in her 40

*Discussion.*

lifetime in the Orphans' Court, in the Surrogate's Court.

The Court: You have already offered it?

Mr. Kearns: I have already offered it, and your Honor excluded it and I did not state my ground, of course.

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(Paper marked D. 11.)

Mr. Kearns: To clear the record, your Honor, a search was made in St. Patrick's Church, October first.

The Court: Yes. That appears on record, and we had the sexton here with the books.

20

Mr. Kearns: Father Fitzpatrick tells me this morning, I never was told until this morning and he tells me only two week ago he was here to appear with the books; he would have come gladly if he knew counsel desired or the Court desired, he would have produced the book.

The Court: That is perfectly all right.

Mr. Kearns: That was two weeks ago.

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**OPINION.**

Filed February 2, 1929.

IN CHANCERY OF NEW JERSEY.

*Between*

RICHARD J. BRADLEY,  
*Complainant,*

*and*

SARAH J. BRADLEY, *et als.,*  
*Defendants.*

10

*Opinion.*

For complainant: Stein, McGlynn & Hannoeh.

For defendants: William J. Kearns, Esq.

20

CHURCH, Vice-Chancellor:

This is an application to distribute the personal property of Sarah J. Bradley, who died intestate on February 23, 1927, leaving an estate of about \$24,000. Complainant insists that he is the only child of Mrs. Bradley and as such, is sole heir and next of kin. The defendants are nieces, nephews, grand nieces and grand nephews. Their relationship to the decedent is not disputed.

30

Complainant's relationship is challenged, it being asserted that he was not of the blood of decedent, nor legally adopted by her. Complainant has the burden of establishing his claim. Has he sustained it?

Mrs. Bradley was married to James Bradley at St. Patrick's Cathedral in Newark on January 1, 1873. Two children were born of the marriage, Edward on November 30, 1873 and Charlotte on January 12, 1876. The record of

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*Opinion of Vice-Chancellor.*

their baptisms at the Cathedral was produced, and the record of their births from the City Clerk's office. The boy died November 17, 1880 and the girl November 21, 1880 as the records disclose. A memorial card giving dates of their death was found among Mrs. Bradley's effects  
 10 which reads "In memory of Edward, the only son and Charlotte the only daughter of James J. and Sarah J. Bradley."

Both these children died while their parents were living in Newark. The Bradleys moved to Harrison in 1881. Complainant says he was born in Harrison. At first he fixed the year as 1877 and then as 1879. If he were the Bradley's true son, it is highly improbable that he was born in Harrison because the Bradleys did not go there until 1881. There is no record of his birth either in Newark or Harrison although records of the births and deaths of the other two children are available. There is, it is true, an insurance policy in which Mrs. Bradley states she is his mother; also a confirmation record from the Holy Cross Church, Harrison, but in this record there is nothing indicating the names of the parents. There are no family records showing that complainant is the son of  
 20 decedent.

30 His claim rests on his own assertion in the first instance. The corroboration consists of the insurance policy above mentioned; and a letter to him from Mrs. Bradley signed "Mother." The Prudential policy gives the complainant's year of birth as 1877. At that time the Bradleys were living in Newark. They did not move to Harrison until 1881. At the time of the death of the two admitted children in 1880, Mrs. Frances Cook, a witness for com-  
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*Opinion of Vice-Chancellor.*

plainant, was living with the Bradleys. If complainant was born in 1877 as appears most probable or in 1879 as he says, he would undoubtedly have been living with his parents. Mrs. Cook does not say a word about any other child at that time. She was sent away from the Bradleys' home because the two admitted children had diphtheria; came back later and then went to live in Paterson. She was about twelve years old at that time. If there had been another child with the Bradleys then it seems to me Mrs. Cook would have mentioned the fact in her testimony. She however, specifically states that the first time she learned about "Dick" the complainant, was when she went to visit Mrs. Bradley in Harrison. This was probably in 1882, although it may have been in 1881, the year the Bradleys moved there. Mrs. Bradley on that occasion said, "Now, Frances, I have a—I got a little boy, and," she says, "he is asleep and I would like to let you see him only I don't want to wake him up." Witness did not see the boy until three or four years afterwards. There is no admission here that the child was of her own blood. Nor does it necessarily follow that because Mrs. Bradley signed the insurance paper and the letter "Mother" that she meant to declare he was her own child by birth. They can be construed as readily to mean a reference to a child legally adopted or taken into the home without that formality. The same can be said of the testimony of the other witnesses for complainant who say they have known Dick from childhood; that he lived with the Bradleys until he was seventeen; frequently visited them thereafter and was introduced by them as their son. This testimony in itself were there nothing else

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*Opinion of Vice-Chancellor.*

would lead me to hesitate before depriving undisputed blood relations of their legal rights.

But in addition to this we have the testimony of Mrs. Catherine McGinley. Her first husband was a brother of Mrs. Bradley. She testifies that in 1881, she went with Mrs. Bradley to a  
10 Mrs. Fitzgerald on Mulberry street, Newark, and obtained a letter which enabled Mrs. Bradley to go to the Home for the Friendless and select a child. She went to the home with Mrs. Bradley and selected a boy about four or five years old, who was called Dickey Dennis. She and her husband saw this same child on the following Saturday night at Mrs. Bradley's home in Harrison. A week later the same child was brought by the Bradleys to her home in Newark.

20 This witness is an old woman, but her testimony was clear and distinct and not materially shaken on cross examination. It was in the possession of counsel for complainant in affidavit form for almost a year before the case was heard. No attempt was made to rebut it. It is elaborate and circumstantial in its detail, but the summary I have made of it is sufficient for the purpose of this opinion. I realized at the hearing that Mrs. McGinley's children would come into a large  
30 part of the inheritance if complainant's case failed and therefore to give him every opportunity to combat it, I adjourned the case. This he has been unable to do. The records of the Home for the Friendless were investigated at my suggestion but they go no further back than 1888.

I cannot therefore overlook this undisputed evidence, and I think its acceptance clears up the situation and explains the other testimony. I believe that Mrs. Bradley was grief stricken at  
40

*Opinion of Vice-Chancellor.*

the deaths of her two own children which occurred within a week of one another. She desired the companionship of a child and procured one from the Home for the Friendless. The evidence shows that her mother had done the same thing in the case of the witness Frances Cook. She never legally adopted the child or so I must assume for counsel admits that the records fail to disclose any adoption papers. 10

This theory explains the contrast between the accurate record of the births and deaths of the first two children, and the uncertainty as to complainant's birth. It explains the memorial card cherished by Mrs. Bradley until her death with the pictures of her dead babies which states they were the only son and only daughter. It is not inconsistent with the fact that she appears on the insurance policy and letter as "mother" of complainant, nor with the fact that she brought him up until he was seventeen years old and held him out to friends and neighbors as her son. 20

I will advise a decree dismissing complainant's bill.

30

40

## DECREE.

## IN CHANCERY OF NEW JERSEY.

10	<i>Between</i> RICHARD J. BRADLEY, <i>Complainant,</i> <i>and</i> SARAH J. MANNING, <i>et als.,</i> <i>Defendants.</i>	}	<i>On Bill, &amp;c.</i>  <i>Decree.</i>
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20 This cause coming on to be heard in the presence of Stein, McGlynn & Hannoeh, Esqs., of counsel with the complainant and of William J. Kearns, Esq., of counsel with the defendants, and the pleadings having been read and proofs taken in open court, and the arguments of the respective counsel having been heard and considered, and the Court having duly considered the pleadings, proofs and arguments, and it appearing to the Court that the complainant is not entitled to the relief sought and prayed for by him in his bill of complaint:

30 It is on this 29th day of January, nineteen hundred and twenty-nine, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED that the restraining order heretofore made, to wit, on the 18th day of October, 1927, in this cause restraining and enjoining the distribution of the assets of the estate of Sarah J. Bradley, deceased, by Sarah J. Manning, administratrix of the estate of said Sarah J. Bradley, deceased, be and the same is hereby dissolved, and that the complainant's bill be and the same is hereby dismissed,

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*Decree.*

and that a counsel fee of one thousand dollars be included by the clerk in the defendant's taxed costs, and a counsel fee of five hundred dollars be allowed complainant's counsel, both to be paid out of the estate.

E. R. WALKER,  
C. 10

Respectfully advised,

ALONZO CHURCH,  
V.-C.

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30

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Complainant's Exhibits.

EXHIBIT C. 1.

PLEASE PRINT ALL QUESTIONS ARE CORRECTLY ANSWERED BEFORE SENDING APPLICATION TO THE HOME OFFICE, AND THUS AVOID DELAY IN ISSUANCE OF POLICY.

Form 1.

INDUSTRIAL BRANCH.

1802558

AGENT

S. H. Calman

POLICY No.

Ass't Supt.

W. H. Bagley

District

Newark

FOR OFFICE USE.

Examined by

APPLICATION

FOR OFFICE USE

Approved by

93

FOR INSURANCE IN

The Prudential Insurance Company

HOME OFFICE, NEWARK, N. J.

Questions to be answered by the person whose life is proposed for insurance if age is 13 years NEXT birthday or over, but if younger by the Parent or Guardian.

1. FULL NAME OF PERSON TO BE INSURED! 93. Richard Bradley			2. RESIDENCE! No. 56 Street, 5th Town, Harrison, N. J.		
3. DATE OF BIRTH! Month: May Day: 30 Year: 1877			4. AGE NEXT BIRTHDAY! 10		5. AMOUNT OF PREMIUMS TO BE PAID FOR YEAR! \$ 120
7. PLACE OF BIRTH! (State or Country.) Newark	8. RACE! (White or Colored.) White	9. SEX! Male	10. MARRIED OR SINGLE! (If Adult.) ✓	11. SOCIAL HISTORY! (Omit for New York State.) No	
12. Is life proposed now insured in this Company? No		13. If so, state numbers and amounts of Policies		14. Is life proposed now insured in any other Company? If so, state what amount. No	
15. Has life proposed ever been rejected or postponed by this or any other Company? No If so, by what Company?					
14. a. What is the present condition of health? good		b. When last sick! Month: no Year: Sick		c. Of what Disease? No	
15. Height and Weight! 3 ft. 4 in. 65 lbs.		16. Has either Parent or any Brother or Sister died of Consumption? No		17. Does Rupture exist? No If so, is a proper truss worn?	
19. Has life proposed ever suffered from Consumption, Asthma, Spitting of Blood, Habitual Cough, Apoplexy, Paralysis, Heart Disease, Insanity, Fits or Convulsions, Rheumatism, Disease of the Liver or Kidneys, Cancer, Ulcers or Accident of any kind? No State what disease.					

I HEREBY APPLY for insurance for the amount herein named, and I declare and warrant that the answers to the above questions are true and were written opposite the respective questions, by me, or strictly in accordance with my directions. I agree that said answers will be binding upon me on the basis of a contract of insurance between me and The Prudential Insurance Company of America, and that the policy which may be issued on the basis of the answers to the questions herein, shall be accepted subject to the conditions and agreements contained in such policy. I further agree to pay the amount of the premium for the first year of the policy, and to pay the same in full for the first year of the policy, and to pay the same in full for the first year of the policy.

Signature of Applicant, to be made by the person whose life is to be insured if 13 years old NEXT birthday or over, but if younger by the Parent or Guardian.  
Mrs Sarah Bradley

APPLICANT'S MARK NOT ACCEPTED IF ABLE TO WRITE.

Witness S. H. Calman Dated this 4 day of June 1897

AGENT'S CERTIFICATE.

This certificate must in all cases be signed by the Agent himself after the above questions are all answered, and he has been satisfied that the answers are true, and also by the Special Convener if application was secured by one.

A. Is the Applicant a relative of yours? No State relationship. B. What amount of Premiums have you collected in advance? 120

I CERTIFY that I have this 4 day of June 1897, personally examined and interviewed the Applicant herein named, and I recommend the Company to accept the risk.

*Complainant's Exhibits.***EXHIBIT C. 2.****HOLY CROSS RECTORY**  
Harrison, N. J.

This is to certify that Richard Jacob Bradley was confirmed in the year 1894 in Holy Cross Church, by Rt. Rev. W. M. Wigger, as appears on the Register of Confirmation of this Church, page 26. 10

Geo. L. Fitzpatrick.  
(Seal Church Holy Cross, Harrison, N. J.)

**EXHIBIT C. 3.**

Dick why don't you come home as we are looking for a letter from you if you can come write and say why you cant Pop is domfound at the way you threat him so if please to come home Sunday at aubot 12, o'c we will be glad to see you now as you do if you wod stop to think that you are all that I got in world so come over and see me and God will bless and keepe you safe. I must go the store 20

Kind love to Mary and the Boys and also to yourself 30

xx From Mother. xx

The foregoing letter was contained in an envelope addressed to Richard Bradley at #970 Park Ave., New York City, which envelope was marked Newark, N. J., November 15th, 5 p. m. Envelope stamped and postmarked 1923.

*Defendants' Exhibits.***EXHIBIT C. 4.**

Mr. & Mrs. James J. Bradley  
request your presence at the marriage of their son  
Richard J.

to

10

Miss May Malloy  
Sunday Evening, October 14th, 1906  
at 7:30 o'clock

Church of Sacred Heart  
Broadway and Seventy-first Street, New York

**EXHIBITS D. 1—D. 2—D. 3**

20 Exhibits D. 1, D. 2 and D. 3 are photographs  
of the Bradley children and are omitted here-  
from by agreement of counsel.

**EXHIBIT D. 4.****CERTIFICATE OF BAPTISM**

30 St. Patrick's Cathedral, Newark, New Jersey:  
THIS IS TO CERTIFY that Elizabeth Char-  
lotte Bradley child of W. J. Bradley and Sarah  
J. Mullery, born on the 12th day of January, 1876  
and Baptized on the 20th day of January, 1876  
according to the rite of the Roman Catholic  
Church by the Rev. J. A. O'Grady, the sponsors  
being D. M. McLaughlin and Bridget Mooney as  
appears from the Baptismal Register of this  
Church.

Dated September 26, 1928.

JOHN A. WEISBROD, Ass't Rector.

(Seal)

40

St. Patrick's Church, Newark, N. J.

*Defendants' Exhibits.***EXHIBIT D. 5.****BAPTISMAL CERTIFICATE**

The Records of this Church Certify, under date of December 7, 1873 to the Baptism of Edward Bradley, born Nov. 30, 1873 of James J. Bradley and Sarah J. Mulrey. 10

Said record is signed by Rev. H. P. Fleming with sponsors John Fennelly and Cath. Langan.

Rev. E. F. Quirk.

Dated Oct. 21, 1927.

(Seal)

St. Patrick's Cathedral, Oct. 21, 1927  
Newark, N. J.

20

**EXHIBIT D. 6.**

**CITY OF NEWARK  
ESSEX COUNTY, STATE OF NEW JERSEY**

I, W. J. Egan, City Clerk of the City of Newark, Essex County, State of New Jersey, do hereby certify that the following is a true and correct transcript from the Record of Births in my office: 30

Name of child (not named) Bradley

Place of Birth Newark, N. J.

Name of Father James Bradley

Maiden Name of Mother Not on Record

Occupation of Father Toolmaker

Date of Birth. Nov. 30, 1873

Sex of Child Male

Birthplace of Father \_\_\_\_\_

Birthplace of Mother \_\_\_\_\_

Name of attendant at birth W. S. Ward. 40

*Defendants' Exhibits.*

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said city this 25th day of Oct. A. D. 1927.

(Seal)

W. J. EGAN  
City Clerk.

10

**EXHIBIT D. 7.**

CITY OF NEWARK  
ESSEX COUNTY, STATE OF NEW JERSEY

I, W. J. Egan, City Clerk of the city of Newark, Essex County, State of New Jersey, do hereby certify that the following is a true and correct transcript from the record of Births in my office:

20    Name of Child (not named)                      Bradley  
       Place of birth Newark N. J.  
       Name of Father James Bradley  
       Maiden name of Mother Not on record  
       Occupation of Father Tookmaker,  
       Date of Birth Jan. 12th, 1876  
       Sex of child Female  
       Birthplace of Father \_\_\_\_\_  
       Birthplace of mother \_\_\_\_\_  
       Name of Attendant at Birth W. S. Ward.

30

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said city this 25th day of Oct. A. D. 1927.

(Seal)

W. J. EGAN,  
City Clerk.

40

*Defendants' Exhibits.*

**EXHIBIT D. 8.**

CITY OF NEWARK.  
ESSEX COUNTY, STATE OF NEW JERSEY  
UNITED STATES OF AMERICA

I, W. J. EGAN, City Clerk, of the City of Newark, Essex County, State of New Jersey, do hereby certify that the following is a true and correct transcript from the record of deaths in my office: 10

Date of death Nov. 17, 1880

Name of deceased Edward Bradley

Sex of deceased male

M. or Single single

Age 7-11-16

Occupation none

Place of Death 414 Broad St. 20

Place of Birth U. S.

Names of Parents James J-Sarah

Cause of death Diphtheria

Medical attendant. Edgar Holden.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said city this 25th day of Oct. A. D. 1927.

(Seal)

W. J. EGAN,  
City Clerk. 30

*Defendants' Exhibits.***EXHIBIT D. 9.**

CITY OF NEWARK.  
 ESSEX COUNTY, STATE OF NEW JERSEY.  
 UNITED STATES OF AMERICA.

10 I, W. J. Egan, City Clerk, of the City of Newark, Essex County, State of New Jersey, do hereby certify that the following is a true and correct transcript from the record of deaths in my office:

Date of death Nov. 21, 1880

Name of deceased Elizabeth C. Bradley

Sex of Dec'd Female

M. or Single Single.

Age 4-11-8

Occupation none

20 Place of Death 102 Eighth Ave.

Place of Birth U. S.

Names of Parents, James-Sarah

Cause of Death. Diphtheria.

Medical Attendant. Edgar Holden.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said city this 22nd day of Oct. A. D. 1927.

30 (Seal)

W. J. EGAN,  
 City Clerk.

*Defendants' Exhibits.***EXHIBIT D. 10.****MARRIAGE CERTIFICATE**

The records of this Church, under date of Jan. 1, 1873 certify to the canonical and legal marriage of James Bradley aged 27 years, son of Michael and Anne Bradley, and Sarah Mulrey, aged 24 years, daughter of Bryan and Mary Mulrey. 10

Said record is signed by Rev. H. P. Fleming with witnesses: Matthew O'Brien and ———

Rev. E. F. Quirk.

Dated Oct. 21, 1927.

(Seal)

**EXHIBIT D. 10A.**

20

**OUR LITTLE DARLINGS**

In Memory of Edward, the only son, and Charlotte, the only daughter of James J. and Sarah J. Bradley. Edward died Nov. 17, 1880; aged 6 years, 11 months, 13 days. Charlotte died Nov. 21, 1880; aged 4 years, 9 months, 8 days.

Dearest children you have left us,

And your loss we deeply feel;

But it is God that has bereft us,

And He can all our sorrows heal.

30

For the words of the Lord are right, and all His works are done with faithfulness.

40

*Defendants' Exhibits.***EXHIBIT D. 11.**

## ESSEX COUNTY SURROGATE'S COURT.

Oct. 15/28.

10

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In the matter of the probate of  
the alleged will of James J.  
Bradley, deceased.

---

*On Petition  
for Probate.  
Petition.*

To the Surrogate of the County of Essex:

The petition of Sarah Jane Bradley who resides at No. 127 South Ninth Street, Newark, New Jersey, respectfully shows that:

20

1. James J. Bradley, late of the City of Newark, in the County of Essex and State of New Jersey, departed this life more than ten days ago, to wit, on the second day of May, 1925, having first duly made and executed a paper writing purporting to be his last Will and Testament, bearing date the 24th day of March, 1903 wherein your petitioner was named as executrix thereof.

30

2. The next of kin and heirs at law of the said testator, with their respective residences or post office addresses and the manner and degree in which they severally stand related to the said testator, so far as the same are known to your petitioner are as follows:

Names	Residences	Relationship.
This applicant is widow.		
No sons or daughters nor issue thereof surviving.		
Father and mother dead.		

40

*Defendants' Exhibits.*

Michael Bradley East Orange, N. J. Brother  
 No other brothers or sisters nor issue thereof  
 surviving.

All of the foregoing are of full age.

Your petitioner therefore prays that the said  
 paper writing be admitted to probate as the last  
 Will and Testament of the said testator and that  
 letters testamentary thereon be granted to your  
 petitioner.

10

MRS. SARAH J. BRADLEY.

Dated, Newark, N. J., June 26, 1925.

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

Sarah Jane Bradley, of full age, being duly  
 sworn according to law, upon her oath, deposes  
 and says that she is the petitioner in the fore-  
 going petition named and that the matters and  
 things therein contained are true to the best of  
 her knowledge and belief.

20

MRS. SARAH J. BRADLEY.

Subscribed and sworn to this 26th day  
 of June, A. D. 1925, at Newark,  
 N. J., before me.

30

JOHN C. FINERAN,  
 Notary Public of New Jersey.

40

*Defendants' Exhibits.*

## SURROGATE'S COURT ESSEX COUNTY.

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In the Matter of Proving the  
Last Will of James J Brad-  
ley, Deceased.

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10

On behalf of Richard Bradley a son of James J. Bradley deceased I am filing herewith a caveat against the probate of an alleged last will and testament of James J. Bradley dated March 24, 1903.

MAURICE STEINER,  
Proctor for Richard Bradley,  
380 Main Street, East Orange, N. J.

20 Dated June 30, 1925.

## ENDORSEMENT.

Surrogate's Court Essex Co.  
2328T

In the Matter of the Probate of the last  
will of James J. Bradley  
2328T

30

## CAVEAT.

Maurice Steiner,  
Proctor of Richard Bradley,  
380 Main Street, East Orange, N. J.

Essex County Surrogate's Office  
Filed June 30, 1925

E. Garfield Gifford, Surrogate.

Will Book P-7 page 455.

40

*Defendants' Exhibits.*

## STATE OF NEW JERSEY.

## ESSEX COUNTY SURROGATE'S COURT.

I, Garfield Gifford, Surrogate of the County of Essex, and Clerk of the Surrogate's Court of said County, do hereby certify the foregoing to be a true copy of the Petition for Probate and a Caveat against the probate of a will in the matter of the estate of James J. Bradley, deceased, as the same appears on file and of record in this office. 10

WITNESS MY HAND AND SEAL OF OFFICE, this 5th day of October, in the year of our Lord, one thousand nine hundred and twenty-eight.

(SEAL) E. GARFIELD GIFFORD, Surrogate and Clerk. 20

30

40



59 MAY. 1. 1929

Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

## New Jersey Court of Errors and Appeals

*Between*

RICHARD J. BRADLEY,  
*Complainant-Appellant,*

*and*

SARAH J. MANNING, *et als.*,  
*Defendants-Appellees.*

(Italics are our own, unless otherwise indicated.)

### MEMORANDUM FOR APPELLANT.

#### Preliminary Statement.

This is an appeal from a decree advised by Vice-Chancellor Church dismissing complainant's bill. The bill prayed for the distribution of the personal estate of Sarah J. Bradley who died intestate on February 23, 1927, leaving a personal estate of approximately \$24,000.

Complainant claimed to be entitled to the entire estate on the ground that he was the sole child of the decedent. It was conceded that if he were such child, the entire estate should be paid over to him (S. C. p. 23). Defendants who are nieces, nephews, grand-nieces and grand-nephews of the decedent allege that complainant was not the son of the decedent, but on the contrary was a waif, taken from the Home for the Friendless of Newark to the home of the decedent and her husband, brought up by them as their son, but never legally adopted.

The Court below found in favor of the defendants, dismissed the bill and by reason thereof, the defendants have become entitled to the entire estate.

### Burden of Proof.

It must be conceded that one who claims to be the next of kin of a decedent has the burden of establishing his kinship. This proof, however, need be established only by a fair preponderance of the evidence, and need *not* be established beyond a reasonable doubt, as in criminal cases. We submit that the testimony submitted, and which will hereafter be discussed, establishes by a fair preponderance of the evidence that complainant was the son of the decedent.

### The Facts.

The facts concerning complainant's birth are testified to by Mrs. Frances Cook. Mrs. Cook was very close to the Bradley family. As an infant, she had been taken into the home of Mrs. Bradley's mother, and had grown up with Mrs. Bradley as a sister (S. C. p. 46). When Mrs. Bradley married, Mrs. Cook continued to live with Mrs. Bradley's mother until the latter's death, and then went to live with Mrs. Bradley and her husband (S. C. p. 46). At that time, the Bradleys had two children (S. C. p. 46). These children were taken ill with diphtheria, and Mrs. Cook left the house to live with other relatives so as to avoid the infection. The two children died as a result of their illness. Mrs. Cook returned to live with the Bradleys for a short time and then went to Paterson to live, first attending school there and then going to work in a factory. She says that thereafter, she came from Paterson to Newark to visit the Bradleys. Mrs. Bradley then said to her, "Now, Frances, I have a—I got a little boy, and he is asleep and I would like to let you see him only I don't want to wake him up." Mrs. Cook did not come to Newark

again for three or four years, but lived in Paterson in the meantime. She says that Mr. and Mrs. Bradley visited her at Paterson, and that Mrs. Bradley corresponded with her and that there were constant references to their baby. Mrs. Cook, however, did not herself see the baby until it was three or four years old.

From the time she first saw the baby, up until the very day of the trial, she was thoroughly familiar with the baby's life, how it grew from infancy to boyhood, and into manhood, and testifies that the baby whom she so knew and the complainant are one and the same person (S. C. p. 48).

Mrs. Cook's testimony must be given great weight. She grew up with Mrs. Bradley, lived with Mrs. Bradley, was at all times thoroughly acquainted and familiar with her. With the exception of Mrs. McGinley, whose testimony is hereinafter commented upon, Mrs. Cook is the only person close to the family, who is now alive, and who was living when complainant was born. All of the brothers and sisters of both Mr. and Mrs. Bradley have died. *Mrs. Cook is not interested in the proceedings.* She does not inherit any portion of the estate and we, therefore, submit that her testimony must be very carefully considered.

That the complainant was held out as the decedent's son, and was so regarded by every person who came in contact with the Bradley family is supported by the testimony of innumerable neighbors and school teachers. Mary Gallivan and Edward J. Carney, school teachers of complainant, testified that he was also known as Dick Bradley. Mrs. Gallivan not only was his school teacher but lived in the neighborhood

where the Bradley family lived and knew that the Bradleys constantly treated complainant as their son. Numerous other neighbors testified to the same effect. Mary Gallivan (S. C. p. 53); Hanna Condon, (S. C. p. 55); Mary Besson, (S. C. pp. 59, 60); Daniel C. Gerloff, (S. C. p. 61); John Dorney (S. C. p. 65); and George Mitchell (S. C. p. 66).

When complainant was eight years of age his father, mother and himself moved to South Ninth street, Newark, N. J. A number of the persons above referred to were neighbors living in the vicinity of the Bradley home.

Mr. Gerloff testified as to the facial resemblance between Dick and his father, (S. C. p. 62).

Four witnesses Mrs. Besson, Mr. Gerloff, Mr. Dorney, and Mr. Mitchell testified that complainant had been introduced to them by either Mr. or Mrs. Bradley as their son (S. C. pp. 60-61-64-66). Numerous incidents are recited by witnesses in which either the father or mother, or both referred to Dick as their son.

When complainant was old enough to work, he and his father worked at the Edison factory, complainant being an apprentice to his father (S. C. p. 28). Later on when complainant became older, he went to New York to work. He came to see his parents every week-end (S. C. p. 28). While in New York he became acquainted with May Malloy, his present wife, and they became engaged to be married. May Malloy's parents were both dead (S. C. p. 124) and the wedding invitations which were sent out, at the request of, and with the approval of Mr. and Mrs. Bradley, invited their friends "to attend the marriage of *their* son, Richard J. to May Malloy," (S. C. pp. 31-32-74).

After his marriage, children were born to complainant. His oldest son was named after complainant's father, and was called James.

Complainant and his sons came to Newark every Sunday and holiday to call upon the old folks. Apparently these visits were looked forward to with great interest by his parents. On one occasion, Dick did not come over, and he received a letter from his mother, couched in the most endearing terms (Exhibit C. 3), which is as follows:

"Dick, why don't you come home as we are looking for a letter from you if you can come write and say why you cant. Pop is domfount at the way you treat him, so if please to come home Sunday at about 12 o'clock. We will be glad to see you now as you do if you wod stop to think that you are all that I got in the world. So come home and see me and God will bless you and keep you safe. I must go to the store. Kind love to May and the boys and also to yourself.

From  
XX Mother." XX

Complainant explained the reference to the word "treat" in this letter, by saying that he had failed to come to Newark for some two weeks and had neglected to write them. Unfortunately Bradley's family moved several years ago and all other correspondence was destroyed, and for that reason complainant has been able to offer only one letter (S. C. p. 72).

As the grandsons became older and were able to themselves call upon their grandparents, they came over to visit (pp. 32, 68, 69). One of the grandsons testifies that he always called the old folks "grandma" and "grandpa." He said his grandfather used to take him out on Sundays

and introduce him to his friends as "this is my grandson, Dick's boy" and similar phrases (p. 69).

When Mr. Bradley, senior, had business which required attention, he would call upon Dick to assist him and Dick was always available (p. 32).

In the days of Mr. Bradley's last illness, calls were constantly sent to the neighbors to 'phone for his *son*, Dick. Dick and his wife were with him to the end, although not present at his death.

Strong documentary proof is submitted in support of the complainant's claim. Church records disclose that Dick was confirmed as Richard J. Bradley (Exhibit C. 2). It is conceded that in order to have been confirmed in the Catholic faith, proof was required to be submitted to the priest that Dick had been baptised. While, at the present time, a baptismal certificate is required, nevertheless, in the days when Dick was confirmed, all that was necessary was that the priest be satisfied that he had been baptised. Is it likely that the elder Bradleys would have deceived their priest and offered him for confirmation as their son if that was not a fact?

When Dick was about ten years of age, his mother applied to the Prudential Insurance Co. for insurance on his life. The application was submitted to the Court (Exhibit C. 1) and the essential portions of it are in the handwriting of his mother. In the application appears this question, "State relationship of person who signs, if life proposed is less than thirteen years old next birthday." *Answer, "mother."* The application is signed by Mrs. Bradley her-

self. Here is a formal document in which the mother states that Dick is her son.

Could any letter from a mother to her son be couched in more endearing terms than the letter which has been referred to above? Could there have been any better recognition of the relationship of parent and child?

The defendants argue that the proof of the complainant is not enough. What else could have been submitted?

It is argued that a birth certificate could have been produced. Of course, if a birth certificate had been produced, there would have been no litigation. That would have ended the matter entirely, but in the early 80's it was not uncommon to forget or neglect to register the birth of an infant. Mr. John Hancock of the office of the Clerk of Newark, testified that it is a common occurrence to be unable to locate in the City records the date of the birth of persons whom it is known were actually born in Newark at the time specified in the request for the birth certificate. The inability to procure birth certificates is common, and one has only to apply for a passport to learn the difficulty with which one is confronted to establish his own birth. The fact that a birth certificate, therefore, is not procured, cannot militate against complainant.

It is suggested that the family records might have been produced, such as family albums, etc. Whatever records existed in the custody of the decedent have been taken by the administratrix, who is one of the defendants and who will participate in the distribution, if the complainant's claim is not sustained. We do not charge that there were any records. We simply say we do

not know, but that if there were, they are in the possession of the defendant.

### DEFENDANTS' ARGUMENT.

As against this convincing proof on the part of the complainant, the defendants offer the testimony of *one* and only *one* witness, Catherine McGinley. Mrs. McGinley testified that complainant was taken by Mrs. Bradley from the Home of the Friendless at Newark, N. J., and raised by her as her son, but never adopted. She claims to have gone to the Home of the Friendless with Mrs. Bradley at the time the boy was taken away.

**Mrs. McGinley's testimony is tainted with interest in the outcome of the litigation.**

When we consider that the testimony of Mrs. McGinley is the only testimony which contradicts the testimony of the complainant, extraordinary care should be exercised in considering the weight thereof. *She is vitally interested in the outcome of these proceedings. If her story is believed, her children and her grand-children receive the entire estate.* In this respect, her testimony differs entirely from that of Mrs. Cook, who, as we pointed out above, does not participate in any distribution.

Before pointing out the inconsistencies of Mrs. McGinley's story, we respectfully refer the Court to the case of *Wallace v. Wallace*, 73 N. J. E. 403. That was a suit for divorce on the ground of the wife's adultery. It was established that a child had been born to the wife, and the husband argued that inasmuch as he did not have access to his wife, the child must be that of another

person, and therefore, contended that adultery had been conclusively established. There was much testimony pro and con that access to the wife did and did not exist. In considering the testimony, Vice-Chancellor Bergen (and his opinion was adopted by the Court of Appeals (73 N. J. E. 405)) said:

“I am disposed, in view of the serious consequences which might result from a decree in favor of the petitioner, here to hold that the husband did have access to her within the time mentioned. I think we cannot be too cautious in making a decree which would result in separating this woman from her husband, thus convicting her of being an adulteress, and making a child born in wedlock illegitimate. It is a serious thing to do, and the court, before doing it, ought to be very well satisfied that there is no *possible escape* from the conclusion that the charge made by the petitioner is true.”

So also in *Vreeland v. Vreeland*, 78 N. J. E. 256, this Court speaking through Chief Justice Gummere, discusses a case in which the validity of a marriage was attacked on the ground that one of the parties to it had a husband living at the time the marriage was contracted. After discussing the facts and the principle of law to be applied, following numerous English cases, the Court held:

“To this extent we consider the decision logically sound; that *it establishes a wise public policy tending to safeguard the rights of children after the death of their parents, and when their ability to prove their legitimacy may be difficult, and makes more secure and stable property rights which descend to the heirs and next of kin, devisees and legatees of decedents.*”

With these rules in mind let us consider Mrs. McGinley's story. She states that the Bradleys

wanted a child and decided to procure it from the Home of the Friendless. This is most unusual. Had the Bradley marital relationship been sterile, so that there was no possibility of issue, there might be some probability to the story, but the Bradleys had had two children, who unfortunately had died. There was no proof nor any suggestion of proof that more children could not have been born to them. The present day custom of adopting children in order to avoid the inconvenience of childbirth, did not exist in the early days, and a very strong motive must be established to show the reason for taking a child from a parental home, without knowing its history, its parents, or anything concerning its back-ground.

Mrs. McGinley says that when she went to the Home with Mrs. Bradley, the boy whom she now says is complainant was then four or five years old (S. C. p. 88). She says that he was a husky boy who came down the stairs to see them. Mrs. Cook, on the other hand says that Mrs. Bradley told her of the baby three or four years *before* she actually saw the baby, and that when she first saw it, it was *already three or four years old*. Certainly if Mrs. Bradley had a baby at the time Mrs. Cook said she did, and there is no evidence to deny it, Mrs. McGinley's story cannot be believed.

Mrs. McGinley says that the nurse at the home told her that the boy had a Jewish mother (S. C. p. 89). Complainant is not circumcised (S. C. p. 125). Had he had a Jewish mother, that religious rite would certainly have been performed.

No corroboration is furnished by any records of the Home. Testimony is submitted that the

records were destroyed and in that way the absence of the records is accounted for (p. 107), but shall the complainant be denied the birth-right on the theory that the records of the Home *might* support Mrs. McGinley? Is it not as reasonable to suppose that the records might not support her and might contradict her? One supposition is as strong as the other.

There is testimony to the effect that the McGinley family were not on friendly terms with the Bradleys, and that Mrs. McGinley was never allowed to come to the Bradley home when Mr. Bradley was present (p. 100). In this condition, is it probable that if Mrs. Bradley wished to procure a child and did not want to let anyone know about it, she would have selected the one person whom her husband refused entry to their home? Decidedly not!

In view of these inconsistencies, and the fact that Mrs. McGinley has considerable interest in these proceedings, can it be said by this Court that complainant should not only be deprived of his inheritance, but that his parentage should be cast in doubt, and that for the rest of his days, he should never know just who he is and whence he came?

When the Court in the *Wallace case* had to consider whether or not it should declare a child illegitimate, it said

“It is a serious thing to do, and the Court, before doing it, ought to be very well satisfied that there is no *possible escape* from the conclusion that the charge made by the petitioner is true.”

In the *Vreeland case*, the Court adopts the rule of the trial court, stating

“that it establishes a wise public policy tending to safeguard the rights of children

after the death of their parents, and when their ability to prove their legitimacy may be difficult, and makes more secure and stable property rights which descend to the heirs and next of kin, devisees and legatees of decedents."

We respectfully submit that Mrs. McGinley's testimony above referred to, bearing in mind her interest in the outcome and the inconsistencies above pointed out, is not the class of testimony upon which complainant should be deprived of his name and his heritage.

The Vice-Chancellor in reaching his conclusion points out that he gave the complainant opportunity to discredit Mrs. McGinley. We think that she is discredited. We were unable to discredit her by the production of the books of the Home of the Friendless for the reason that there were no such books.

The Vice-Chancellor points out that a memorial card was issued by the Bradleys, stating

"In memory of Edward the *only* son, and Charlotte, the *only* daughter of James J. and Sarah J. Bradley."

There is no testimony in the case as to when this card was issued, whether before or after the birth of the complainant. It is entirely possible that it was issued prior to the birth of complainant and in the absence of positive proof to the contrary, the evidence is entitled to no weight.

The Vice-Chancellor later stresses upon the fact that a birth record of the first two children of the Bradleys was produced, whereas none was produced for complainant. In view of the conditions of the records, this is entirely possible. Of course, had there been a birth certificate,

there would never have been any litigation whatsoever.

The Vice-Chancellor passes lightly over the insurance application hereinbefore referred to. He points out that the word "mother" refers to a child taken into a home without the formality of an adoption. We fail to see the logic in the Court's comments. Certainly it is far better to suppose the word "mother" meant exactly what it said, to wit: "mother," and certainly as between two inferences, the one sustaining complainant should be adopted. Furthermore, the letter sent by Mrs. Bradley to the complainant (Exhibit C. 3) is another indication that Mrs. Bradley was his mother.

The Vice-Chancellor disregarded the testimony of Mrs. Cook because he says that she did not refer to any children living with the Bradleys at the time Dick was born and this time, as appears from the testimony was in 1877 or 1879. Mrs. Cook states that the first time she learned about Dick was when she visited the Bradleys coming to Newark from Paterson. The Court says that this was in April 1882, although it may have been in 1881. In this connection it will be seen that if these doubts are removed, the Court has no justification for disregarding Mrs. Cook's testimony. If complainant had been born in 1881 or 1882, Mrs. Cook's testimony would have been substantiated and corroborated in every respect. There appears to be doubt as to the exact date of complainant's birth. His information comes from knowledge imparted to him by his mother, and over a period of fifty years, it may have been confused. He is certainly clear with respect to the day of the month because he states that birthday parties were given to him (S. C. p. 40). Under these circum-

stances, we do not think that the mere possible inconsistency in the dates is sufficient to eliminate entirely Mrs. Cook's testimony. We submit that Mrs. Cook's testimony should be accepted.

In view of all of the foregoing, and in particular of the admonitions in the *Wallace v. Wallace* case, above referred to, we submit that a great injustice will be done to the complainant by an affirmance of the decree below. A decision in favor of the defendants places a premium on fraud. Can anyone tell whether at some time in the future someone may come forth, uncorroborated in any detail, interested exceedingly in the outcome, and cast doubt about the parentage of a person, who because of death and lack of official records is unable to establish his relationship?

The Court must bear in mind the admonitions in the *Wallace* case, to wit:

"It is a serious thing to do, and the court, before doing it, ought to be very well satisfied that there is no *possible escape* from the conclusion that the charge made by the petitioner is true."

We respectfully submit that for the reasons herein set forth, the decree should be reversed and a decree entered in favor of the complainant.

Respectfully submitted,

STEIN, McGLYNN & HANNOCH,  
Solicitors for and of Counsel  
with Complainant.

HERBERT J. HANNOCH,  
Of Counsel.

WILLIAM S. MYERS,  
On the Brief.

## New Jersey Court of Errors and Appeals

*Between*

RICHARD J. BRADLEY,  
*Complainant-Appellant,*

*and*

SARAH J. MANNING, *et als.*,  
*Defendants-Appellees.*

### BRIEF FOR DEFENDANTS-APPELLEES.

#### Preliminary Statement.

The bill, which was dismissed by the decree of the Chancellor, was filed October 18, 1927, on which date a rule to show cause was advised by the Vice-Chancellor, returnable October 25, 1927, restraining the distribution of the assets of the estate of Sarah J. Bradley, pending final hearing (S. C. p. 11).

On return of the rule to show cause October 25, 1927, answering affidavits were filed (S. C. pp. 12-18). Final hearing was had October 1, 1928 and continued to October 15, 1928.

Sarah J. Bradley's husband had predeceased her, having died on May 2, 1925, leaving a last will and testament in which she was named as executrix. Sarah J. Bradley offered this will for probate and signed her petition on June 26, 1925, which was sworn to by her on that date (S. C. pp. 142-143).

A caveat was filed on behalf of Richard J. Bradley, the complainant-appellant, on June 30, 1925 (S. C. p. 144). Sarah J. Bradley died intestate on February 25, 1927.

At the outset of the final hearing before the Vice-Chancellor, the Court rather rigidly excluded all testimony of conversations had with Mrs. Bradley after the death of her husband James J. Bradley (S. C. p. 39), and only permitted conversations or oral statements made by Mrs. Bradley prior to 1925, the date of her husband's death. This ruling had the effect of limiting the evidence of the defendants to a considerable extent, but the testimony of Catherine McGinley did not come within the Court's ruling as it related to conversations and facts which took place long prior to 1925.

The Vice-Chancellor in his opinion (S. C. p. 129), after considering the testimony adduced by the complainant in the attempt to establish his claim as the son of Mrs. Bradley, says with reference to the testimony on the part of the complainant, in which was included the testimony of the chief witness on behalf of the complainant, one Frances Cook, "This testimony in itself were there nothing else, would lead me to hesitate before depriving undisputed blood relations of their legal rights." Then the Court proceeds to say: "But in addition to this we have the testimony of Mrs. Catherine McGinley. Her first husband was a brother of Mrs. Bradley. She testifies that in 1881, she went with Mrs. Bradley to a Mrs. Fitzgerald on Mulberry street, Newark, and obtained a letter which enabled Mrs. Bradley to go to the Home of the Friendless and select a child. She went to the home with Mrs. Bradley and selected a boy about four or five years old, who was called Dickey Dennis. She and her husband saw this same child on the following Saturday night at Mrs. Bradley's home in Harrison. A week later the same child was brought by the Bradleys to her home in Newark."

It is, of course, conceded by the complainant that the defendants are the nieces, nephews, a grand-niece and a grand-nephew of the decedent.

The Commercial Casualty Insurance Company, which became surety on the bond of Sarah J. Manning as administratrix, was also made a party defendant.

The testimony of Mrs. Catherine McGinley (S. C. pp. 85-105) on behalf of the defendants before the Vice-Chancellor on October 1, 1928, could not have been a surprise to the complainant, because counsel had the affidavit of this witness handed to him in open court on the return of the rule to show cause nearly a year before on October 25, 1927 (S. C. pp. 12-16).

Nevertheless, on October 1, 1928, the further hearing was adjourned by the Vice-Chancellor to October 15th, at the suggestion of the Court itself, to enable complainant's counsel to discredit if possible the testimony of the defendant's witness, Mrs. Catherine McGinley, if it could be discovered that she had at any time told a story at variance with the evidence which she gave, and also to enable a further search to be made by counsel in the baptismal records.

Counsel for defendants offered himself as a witness (S. C. p. 117) as to conversations with Mr. James J. Bradley with reference to pedigree. The Court excluded this offer of testimony (S. C. p. 118) although counsel saw no impropriety in the offer, but conscientiously considered that the ends of justice would be more surely met, if certain facts which were peculiarly within his knowledge be given to the Court, and as Counsel had known the Bradleys for twenty-eight years this evidence would certainly be *ante litem motam*. Counsel did not

consider that he would have been divulging any confidential or privileged communication. The Court had already narrowed the scope within which testimony could be offered, and admitted no evidence of any conversations concerning the relationship, or want of relationship of complainant, after the death of James J. Bradley on May 2, 1925, under the exception to the rule excluding hearsay, which only permits testimony *ante litem motam*. The petition for probate of the will of James J. Bradley was filed and sworn to however by her on June 26, 1925, prior to *caveat* and before any litigation had arisen. The *caveat* was filed by complainant against probate of the will of Mrs. Bradley's husband on June 30, 1925 (S. C. pp. 142-144). See also S. C. p. 34.

This petition (S. C. p. 145) shows "no sons or daughters nor issue thereof surviving" testator. The will of James J. Bradley was admitted to probate on October 21, 1925 by Judge Dallas Flannagan of the Essex Orphans' Court (S. C. p. 38; also pp. 17-18). Notwithstanding the Vice-Chancellor's strict ruling which narrowed and limited the defendants' case, the proofs convinced the Court beyond any doubt whatever that the complainant was not the son of the decedent as he had claimed, either by birth or adoption.

#### **Facts.**

It is undisputed and clearly established in this case that two children were born of the marriage of James J. Bradley and Sarah J. Mullery, namely, Edward Bradley born November 30, 1873, and Charlotte Elizabeth Bradley born January 12, 1876 and the record of their

baptism in St. Patrick's Cathedral, Newark, was produced in court and certified copies of the baptismal record admitted in evidence marked Exhibits D. 4 and D. 5; (S. C. pp. 136-137). Certified copies from the record of births in the City Clerk's office Exhibits D. 6 and D. 7; (S. C. 137-138) also showing male child born November 30, 1873 and a female child born to the Bradleys January 12, 1876.

The boy, Edward Bradley, died November 17, 1880 at 414 Broad street, Newark, aged 7 years, 11 months and 16 days, and the girl, Charlotte Elizabeth Bradley died November 21, 1880, aged 4 years, 11 months and 8 days, both from diphtheria. Exhibits D. 8 and D. 9; (S. C. pp. 139-140).

The marriage of the Bradleys took place at St. Patrick's Cathedral, Newark, on January 1, 1873. Exhibit D. 10; (S. C. p. 141). These two children were baptized in the same church; the boy on December 7, 1873, 8 days after his birth, and the girl on January 20, 1876, likewise 8 days after her birth.

A search in the record of baptisms does not show any other child of the Bradleys baptized in St. Patrick's Cathedral. The baptismal register was produced in court by the sexton and complainant's counsel made an examination of it; the records of the City Clerk's office were also produced in court and examined by counsel and no record of any other child of the Bradleys was found.

A memorial card giving dates of death was found among the effects of Mrs. Sarah J. Bradley, which was also marked Exhibit D 10A, (S. C. p. 141). "In memory of Edward, *the only*

son and Charlotte *the only daughter* of James J. and Sarah J. Bradley." (Italics mine.) Both died while the Bradleys were residents of Newark, in November, 1880. Where was the complainant living at that time? The little fellow certainly was then in existence somewhere, but not with the Bradleys in Newark, as must be concluded from all the testimony in this case. Complainant's witness, Frances Cook first finds the little boy, the present complainant, in the Town of Harrison, living with the Bradleys in Bergen street, (S. C. p. 47).

Mrs. Cook testifies (S. C. p. 47), that she was living with Mr. and Mrs. Bradley in Newark when the two children died from diphtheria and that she went back to live with Mr. and Mrs. Bradley in Newark after their death, and then was sent to Paterson. Mrs. Cook first learned about the little boy when she came from Paterson to visit the Bradleys in Bergen street, right near Edison's in Harrison, at which time Mrs. Bradley said to her "Now, Frances, I have a— I got a little boy, and," she says, "he is asleep and I would like to let you see him only I don't want to wake him up." (S. C. p. 47).

On page 2 of counsel's memorandum for appellant the testimony of Mrs. Cook, witness for complainant, is so construed as to make it appear that Mrs. Cook visited the Bradleys in Newark where she first learned that Mrs. Bradley had the little boy in her home. This visit was not made by Mrs. Cook from Paterson to Newark, but from Paterson to Harrison, as she expressly states where the Bradleys lived on Bergen street near Edison's in the Town of Harrison (S. C. 47). On cross examination (S. C. pp. 50-51), it is made clear by the testimony of this witness, that the complainant ("Dick") was never

living when a little boy with the Bradleys in Newark. The Bradleys had already moved to Harrison after the death of their children Lottie and Eddie before "Dick" was brought into their household.

Mrs. Cook's testimony is that she visited Harrison to see the Bradleys only once when she was 12 years old going on 13, and that she had never seen Dick until he was a boy about 3 or 4 years old and that was in Bergen street, near Edisons', in Harrison (S. C. p. 47), and that she never saw Dick in Newark (S. C. pp. 50-51).

John H. Dunn, who knew James J. Bradley for a period of 55 or 56 years, testified that Bradley had two children who died of some malignant disease in Newark, and witness had attended their funeral, but that he had never visited the Bradleys during the time that they lived in Harrison (S. C. pp. 109-111). All the evidence tends to show that Dick was not with them before they moved to Harrison.

Mrs. Cook testified that she had played with Lottie and Eddie in Newark, but she doesn't know where Dick was born and never saw him until he was a boy 3 or 4 years old when she visited Harrison (S. C. p. 51).

Mrs. Cook claimed to be a sister of Mrs. Bradley, and then on cross examination admitted that she was her "foster-sister;" that the witness and Mrs. Bradley had one mother, but she did not know about the father (S. C. p. 50). A "I always called *her* mother *my* mother, never knowed any different until I was 12 years old and then they told me my own name." She also admitted that Mrs. Bradley had made complaint about the witness representing herself to be her sister (S. C. p. 52).

Mrs. Frances Cook makes it clear on cross examination that the only children of the Bradleys she knew at Newark were Lottie and Eddie and that Dick never lived in Newark as a child; that after the death of Lottie and Eddie, she went to Paterson from Newark and later came to Harrison (not to Newark as wrongly stated by Counsel) but no doubt by way of Newark—the Bradleys had moved to Harrison—to visit the Bradleys; that she did not know where Dick was born nor had she seen him until he was a boy about 3 or 4 years old (S. C. p. 51).

#### ARGUMENT.

The complainant testified (S. C. p. 27) that he kept a birthday on the 30th day of May each year and on cross examination fixed his birth as May 30, 1877. His own counsel suggested: Q “Eighteen—what?”, whereupon he replied: A “1879, I believe it was.” Q “1879; you think that was the year? A I am pretty sure.” (S. C. p. 40.)

The Bradleys were living in Newark in 1877 and 1879 and the complainant was certainly born prior to 1880. The Bradleys moved to Harrison in 1881. It was in November, 1880, that Lottie and Eddie died of diphtheria in Newark, and yet when asked where he was born he replied: “Harrison, New Jersey, is all I know.” He identified the three tin-type photographs marked Exhibits D. 1, D. 2 and D. 3, but stated that his “mother” never told him anything about the two little children shown in Exhibits D. 1 and D. 2 (S. C. p. 41). He identified D. 3 as his own likeness (S. C. p. 41). When asked: (S. C. p. 35) “Did you hear of any other children? A Why I saw pictures in the

house and I asked who they were." Q "Yes?"

A "They said it was a brother and sister that died." Later he denied (S. C. p. 41) that his "mother" ever told him anything about the two little children represented in the pictures.

Exhibits C. 1, which is the application for insurance in the Prudential Insurance Company dated June 4, 1887, sets forth that the complainant was born May 30, 1877, and was, at the time of the application 10 years of age. Catherine McGinley, (S. C. p. 92) testified that the Bradleys moved to Harrison about six or eight months after the death of the children Lottie and Eddie in Newark. This would make the date of moving to Harrison somewhere about the middle of the year 1881. She accompanied Mrs. Bradley to the Home of the Friendless at South Orange avenue and Bergen street, Newark, about six months after the death of the two children; the little fellow Dick was then between four and five years old (S. C. p. 90. This would make the complainant about 10 years of age at the time of the application for the insurance, since the Bradleys had then been living in Harrison about six years, and that was his age then as stated by Mrs. Bradley in the application. If complainant were a child of the Bradleys, he would have to have been born in Newark, but no record can be found of his baptism in St. Patrick's Church, nor any record of his birth in the City Clerk's Office; nor did any one ever see him with the Bradleys or at their home in Newark, before their removal to Harrison either prior to or after the death of the two little children, Lottie and Eddie.

It is true that on the confirmation register of the Church of the Holy Cross of Harrison,

New Jersey, the name of "Richard Jacob Bradley" appears, but there is nothing in the record indicating the names of the parents or the date of his birth or baptism (S. C. p. 122). There was also produced in court under *subpoena duces tecum* the baptismal register of the Church of the Holy Cross of Harrison, New Jersey, from 1871 to date and there is no record there of his baptism (S. C. pp. 122-123). It was admitted by counsel that it is possible the child could have been confirmed without having been previously baptized; that a search discloses no evidence of the baptism of the complainant either in the Church of the Holy Cross, in Harrison, New Jersey or in St. Patrick's Cathedral, Newark (S. C. p. 124).

Mrs. McGinley testified that Mrs. Bradley had told her that she never had the complainant baptized (S. C. p. 93). It is clear from the testimony of many of the witnesses that the Bradleys were a reticent, reserved family, who did not make their private affairs known to outsiders.

Complainant's witness, Hanah Condon, who lived right next door to the Bradleys in Harrison (S. C. p. 55) testified, that Mr. Bradley was a very reserved man and spoke very little, but a very nice neighbor and she naturally inferred that this was the boy of Mr. and Mrs. Bradley. On re-direct examination by complainant's counsel, she testified that Mr. and Mrs. Bradley never said anything to her or in her presence as to whether this was their son, but she knew he just grew up. Complainant's witness Edward J. Carney remembered a boy at school by the name of Dick Bradley, but knew nothing of his parentage (S. C. pp. 56-59).

Complainant's witness, Mary Gallivan, had a pupil in the Washington street school in Harrison, whom she remembered as "Dick Bradley," and although he lived across the street from her, the Bradleys never introduced the boy to her. The boy was then around 10 years of age and this was about 40 years ago (S. C. pp. 53-54).

Complainant's witness, Mary Besson, who lived on South Ninth street in Newark, adjoining the house in which Mr. and Mrs. Bradley lived and died, testified that in 1921, James J. Bradley referred to the complainant as his son, and so introduced him to her. Daniel C. Gerloff, also of South Ninth street, Newark, testified that James J. Bradley in 1921, introduced Dick Bradley as his son. John Dorney, of 154 South Ninth street, testified to the same effect; as also did George Mitchell. None of these witnesses, residents of South Ninth street in Newark, testified to any conversation with Mrs. Sarah J. Bradley about the complainant's relationship to her, but only to the casual introduction by James J. Bradley during the latter years of his life on South Ninth street, Newark. There is no doubt that some persons in that neighborhood regarded the complainant as the son of James J. Bradley, since he was known by the name of Richard or Dick Bradley, and had lived with the Bradleys until he was 16 or 17 years old.

James J. Bradley was of a reserved nature and not given to exposing his business to neighbors or strangers. He never deemed it necessary to make explanations concerning the boy. No doubt, it was assumed by the neighbors on South Ninth street in Newark where Dick lived with the Bradleys after he had grown up and before his marriage in 1906, that he was the son of James J. Bradley. But there were other

neighbors, like Mr. John H. Dunn, who had known the Bradleys before their coming to South Ninth street, Newark, who had understood from hearsay that the young man had been taken out of some institution and brought up by the Bradleys. It is quite natural that he should be called Richard Bradley, or Dick Bradley. This would not be at all unusual, since he had been reared by them and lived in the family.

But, as against this testimony of the complainant's witnesses as to reputation in the neighborhood on South Ninth street in Newark, after Dick had grown up and after his marriage, which is largely conjectural and based on impressions received, we have the positive and convincing evidence of Mrs. Catherine McGinley, which has the clear ring of sincerity, and which was no surprise to the complainant. This evidence was given in open court on October 1, 1928. Complainant's counsel had had in his possession the affidavit which Mrs. Catherine McGinley made on the return of the rule to show cause on October 25, 1927, one year before, setting forth the substantial details of her visit in 1881 with Mrs. Sarah J. Bradley to Mrs. Fitzgerald on Mulberry street in the City of Newark for the purpose of obtaining a letter which enabled Mrs. Bradley to select a child at the Home of the Friendless; that she accompanied Mrs. Sarah J. Bradley on that day to the Home of the Friendless and there picked out a boy between four and five years of age who was called Dickey Dennis on the recommendation of one of the nurses, and that the child was seen by her and her husband on the following Saturday night at the home of Mr. and Mrs. Bradley in Harrison (S. C. p. 91), and that on Saturday night a week later at her own home on

Essex street in Newark she subsequently saw the little boy Dickey Dennis who was nicely dressed up and brought there by Mrs. Bradley (S. C. pp. 91-92).

It was only natural that Mrs. Bradley should suffer keen grief from the loss of Eddie and Lottie who were snatched from her by death within one week's time in 1880, and that disconsolate and lonesome she sought to satisfy her maternal craving for the companionship of a child. Her husband consented that she might take a child out of the Home of the Friendless and raise him as if he were their own. Her own mother had done the same thing with a child who was not her own—the witness Frances Cook—and it seemed quite the proper thing for Mrs. Bradley to do likewise in the case of little Dick, whom she saw for the first time at the Home of the Friendless in Newark, some time in the Summer of 1881, when he was about four or five years of age.

Complainant's counsel having been aware from October 25, 1927, the return day of the rule to show cause herein, as to the evidence which Mrs. McGinley could furnish, had ample opportunity to refute, contradict or discredit it, if it were not true, and he was even given further time by the Court after the second day of this hearing to find any witnesses if Mrs. McGinley had told any contradictory story in the last forty-seven years, but there are no such witnesses. The testimony of Mrs. McGinley stands uncontradicted and unimpeached in any way, while the testimony of Frances Cook is, to say the least, vague and uncertain; and of course, the testimony of the complainant is only what should have been expected under the circumstances. Neither these defendants nor the wit-

ness, Mrs. Catherine McGinley, ever showed any feeling of hostility or unfriendliness toward the complainant and have no intention to hurt or belittle him. He never claimed to be related to them and they never offered him any slight or insult.

Counsel cites, in his brief, cases relating to legitimacy of offspring. There is no question here of legitimacy or illegitimacy. The presumption is always in favor of legitimacy, and everyone is presumed to be the legitimate child of his own parents. *Praesumitur pro legitimatione* is the well-known maxim. The cases cited by appellant's (complainant's) counsel are obviously not at all in point.

Nor would circumcision, or the lack of it, have any evidential value, as the Court well knows. (S. C. pp. 89-90—It seems that his mother was a Jewess, but the nurse did not know what his father was.)

The wedding invitations were issued merely as a polite formula. Mrs. Bradley told Frances Cook that Dick had sent her an invitation to the wedding but she wasn't going (S. C. p. 52).

No amount of merely cumulative testimony as to reputation in a neighborhood can weigh down the balance in complainant's favor which requires a preponderance of proof. *Testes ponderantur, non numerantur.*

Mrs. Bradley had grown attached to little Dick whom she had brought up from babyhood as if he were her own; and James J. Bradley had affection for the boy. He was the only one upon whom they could rely in their childless old age when they felt the necessity of leaning on someone. It would not, therefore, be unusual

or strange for Mrs. Bradley to address Dick in the letter Exhibit C. 3, as she did, and sign herself "Mother." He had always called her such and knew no different for years. Mr. Bradley doubtless rather felt that Dick should do many things for him out of a sense of gratitude; but the boy packed up and left them when he was 16 or 17 years old and went to New York to seek his own fortune.

The application for life insurance in the Prudential Insurance Company and the relationship expressed therein is also readily explicable. What other relationship would Mrs. Bradley express at that time? Dick certainly then knew nothing different. He does not make it quite clear even now as to when he was disillusioned on this subject; but perhaps to do that would be expecting too much from him. His wife is loath in the face of the evidence of eye-witnesses to admit the actual fact. They made diligent search for a birth record or an entry of his baptism in the baptismal registers. There was no trouble to find the record of Eddie's and Lottie's baptisms and births in the Church register and at the City Hall and this was in '70's—Dick was also born in the '70's. If he were Bradley's son, would these Christian parents have neglected what they considered to be so absolutely essential? Lottie and Eddie were brought to the baptismal font one week after their birth.

Mrs. McGinley states expressly that she had told Mrs. Bradley that she had done a foolish thing not to have him baptized (S. C. p. 94). The complainant has not consistently, since the death of James J. Bradley, declared himself to be the son of the Bradleys, but at times, has

represented himself as the adopted son, and yet there is no record of any adoption.

Mrs. McGinley's testimony would indicate that Mrs. Bradley was reluctant about disclosing Dick's origin, and therefore never took measures publicly to adopt him or even to have him baptized (S. C. pp. 93-94).

It was not conceded anywhere in the record that in order to have been confirmed in the Catholic faith proof was required to be submitted to the priest that Dick had been baptized, as erroneously stated by counsel on page 6 of Memorandum for appellant. On the contrary it was admitted on the record that a child could be presented for Confirmation who had never been baptized (S. C. pp. 123-124). Counsel's statement was accepted by Mr. Hannoeh in lieu of the witness (S. C. bottom p. 123); see also S. C. p. 121.

There is no evidence in this case of any feeling or animus on the part of the defendants or any of them or on the part of Mrs. McGinley, whose children and grandchildren these defendants are, toward the complainant, nor does complainant allege the existence of any feeling. Certainly the testimony of Mrs. McGilney does not indicate that she is so vitally interested in the outcome of these proceedings, as counsel for appellant would like to impress upon the Court. (P. 8 of appellant's memorandum.) Mrs. McGinley does admit very candidly (S. C. p. 101) that after the death of her first husband, James Mullery, who died in 1893 and who was a brother of Sarah J. Bradley, the decedent, she married Mr. McGinley. Before her marriage to McGinley she was on terms of intimacy and close relationship with the Bradleys. When Mrs. Brad-

ley spoke to her about having remarried, she replied that she had that privilege of getting married; but this relationship between the witness, Mrs. McGinley, and her sister-in-law, the decedent, never affected her feeling toward Dick, or that of her children toward him. In fact there seemed to be no actual objection on their part when the Vice-Chancellor (S. C. p. 133) awarded to complainant's counsel, Mr. Hannoeh, a fee of \$500 to come out of their estate, although they do not acknowledge Dick to be one drop's blood to them, as their mother said, and although his bill had been dismissed by the Court.

The complainant never claimed to be related to any of the defendants herein, and Mrs. McGinley certainly expressed the truth when she stated "that he is not a drop's blood of relation." (S.C. p. 98.)

It is submitted that the whole record discloses not a single speck of positive or affirmative proof that complainant is the child of James J. Bradley or his wife, but on the contrary an obvious lack of such proof, while it does disclose clear and convincing proof that he was not their child, and this evidence could not be shaken, although the seventy-six year old witness was thoroughly cross examined by able counsel. Hence, complainant has no legal or equitable standing, and the decree of the Court of Chancery should be affirmed.

Respectfully submitted,

WILLIAM J. KEARNS,  
Of Counsel with Defendants-Appellees.

