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BILL OF COMPLAINT.

Filed July 22, 1912.

In Chancery of New Jersey

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

HUMBLY COMPLAINING shows unto your Honor your oratrix, Ellen E. Harrigan, a resident and freeholder of the Borough of Edgewater, in the County of Bergen and State of New Jersey; that the said Borough of Edgewater is a strip of land only a few hundred feet in width, lying along the Hudson River, between the Hudson River and the top of the steep rocks commonly known as the Palisades, from the Hudson County line, north to the Borough of Fort Lee; that the population of the said Borough was at the time of the taking of the last census, twenty-six hundred and fifty-five; its population has increased considerable since that time; that a large portion of the Borough lying west of a street known as the River Road which street is only a few feet west from the Hudson River, is thickly populated and settled and consists of residences; that upon the land and riparian property there are factories of various kinds; that the Sinclair and Valentine Company, a corporation of the State of New York owns and occupies a piece of land lying in the said Borough described as follows: Beginning in the westerly line of River Road at the northeasterly corner of lot number twenty-four in Block "F" on a map filed in the Bergen County Clerk's office June 20th, 1907, as map No. 943, entitled "Map of property at Edgewater, N. J., belonging to W. O. Ross," running thence

(1) Westerly along the northerly line of lot number twenty-four, one hundred and eighty-nine feet and sixteen hundredths of a foot; thence (2) Northerly, along the easterly lines of lots numbers nineteen, eighteen, seventeen, sixteen, fifteen and strip marked "Reserved," one hundred and thirty-one feet; thence (3) Easterly, along the southerly line of lot number thirty, one hundred and eighty-one feet and sixty-eight hundredths of a foot to the westerly line of River Road; thence (4) Southerly, along said westerly line of River Road, one hundred and thirty-one feet and ninety-six hundredths of a foot to the point or place of beginning. Being lots numbers twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine and strip marked "Reserved" adjoining said lot number twenty-nine on the north in Block "F" on said Map. It being understood and agreed that the said strip of land designated on the herein described map as "Reserved" being about six feet more or less in width and about one hundred and eighty-one feet and thirty-five hundredths feet more or less in depth adjoin and connecting with the northerly line of the herein described lots is conveyed with the provision and condition that the said strip of land shall be maintained at all times for sewerage purposes and at all times be accessible for sewerage purposes in favor of all of the other land shown on the map above referred to and the owners of said land and their heirs, owners and assigns.

Your oratrix further shows unto your Honor that there is erected upon said tract of land above described a large five story brick building and also a small brick building one story in height; that said buildings have been constructed for the past

several months, to wit, about four months, during which time, the said Sinclair and Valentine Company has been operating said buildings as an ink, varnish and glue factory; that by reason of the method, form and manner of manufacturing said ink, varnish and glue unusually noxious, noisome and vile smells, odors, gases, vapors, smoke, fumes and soot are emitted from the chimney connected with said buildings on said above described premises, which said smells, odors, gases, vapors, smoke, fumes and soot fill the air and residences for a great distance at frequent intervals both during the day and night.

Your oratrix further shows that she resides on property owned by her lying a little to the northwest of the property owned and occupied by the said Sinclair and Valentine Company as aforesaid; her house being on the easterly side of Edgewater Place and about two hundred feet from the said buildings of said Sinclair and Valentine Company; that by reason of the said annoyance as aforesaid caused by the said noxious, noisome and vile smells, odors, gases, vapors, smoke, fumes and soot emitted from the chimney connected with said buildings and from the said buildings occupied by the said Sinclair and Valentine Company, it is almost impossible for her or the members of her family to reside on said premises or get any sleep or rest at night; that this is especially so during the hot nights when it is necessary to have the windows of her house open.

Your oratrix further shows that the noxious, noisome and vile smells, gases, odors, fumes and vapors emitted from the said buildings and chim-

ney of the said Sinclair and Valentine Company when inhaled while breathing causes a choking and depressing effect and makes breathing very difficult and the said smoke and soot enters the houses and when settled upon household goods and wearing apparel and other articles stains, tarnishes and destroys same.

Your oratrix further shows that she own considerable property in the vicinity of the said buildings and chimney of said Sinclair and Valentine Company, and that by reason of the said noxious, noisome and vile smells, odors, gases, vapors, smoke, fumes and soot emitted as aforesaid her said property as well a the property of other persons in the same vicinity has greatly deteriorated in value by reason thereof.

Your oratrix further shows unto your Honor that the aforesaid described smells, odors, gases, vapors, smoke, fumes and soot emitted as aforesaid are detrimental to the health of your oratrix and others and are unjustifiable and constitute a nuisance.

All of which acts, doings and pretenses of the said defendant are contrary to equity and good conscience and tend to the manifest wrong, injury and oppression of your oratrix in the premises.

In consideration whereof and forasmuch as your oratrix is without adequate remedy in the premises at and by the strict rules of common law and can only find relief in this Honorable Court where matters of this kind are properly recognizable and relievable, to the end therefore that the said Sin-

clair and Valentine Company may to the best and utmost of its respective knowledge, information and belief, full, true and perfect answer make to all and singular the matters aforesaid, your oratrix hereby waiving answer under oath of the said defendant, and that as fully and particularly as if the same were here repeated and it distinctly interrogated thereto, and that the said defendant may be restrained and enjoined from further maintaining said ink, varnish and glue factory whereby said noxious, noisome and vile smells, odors, gases, fumes, vapors smoke and soot are emitted to the detriment of your oratrix as aforesaid, and that your oratrix may have such other and further relief in the premises as the nature of the case may require as shall be agreeable to equity and good conscience.

May it please your Honor the premises considered to grant unto your oratrix not only the State's writ of injunction issuing out of and under the seal of this Honorable Court, to be directed to the said Sinclair and Valentine Company, restraining it from continuing said ink, varnish and glue factory whereby noxious, noisome and vile smells, odors, gases, fumes, vapors smoke and soot are emitted by it as aforesaid to the detriment of your oratrix, but also the State's writ of subpoena issuing out of and under the seal of this Honorable Court to be directed to the said defendant the Sinclair and Valentine Company, commanding it by a certain day and under a certain penalty therein to be expressed to be and appear before your Honor in this Honorable Court, then and there to answer all and singular the said premises, and to stand to, abide by and perform such order and decree therein as to your

Honor shall seem meet, and as shall be agreeable to equity and good conscience. And your oratrix as in duty bound will ever pray, &c.

WILLIAM E. ELLIS,

Solicitor and of Counsel with Complainant.

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ANSWER

Filed Sept. 6, 1912.

THE ANSWER OF SINCLAIR & VALENTINE COMPANY, A CORPORATION, DEFENDANT, TO THE BILL OF COMPLAINT OF ELLEN E. HARRIGAN, COMPLAINANT.

The Defendant answering says:

1. It admits that the Borough of Edgewater is situated as in the Bill of Complaint alleged; that the population of the said Borough at the last census was as in the said bill stated, but it has no information or belief as to the present population of the said Borough, and leaves the complainant to make proof thereof. It admits that in parts of the Western portion of the said Borough there are residences, but denies that the said borough is thickly populated in the vicinity of the defendant's property.

2. The defendant admits that it is a corporation of the State of New York, and that it owns and occupies the piece of land described and alleged to be occupied by it in the Bill of Complaint. It says that that part of Edgewater in which the said piece of land occupied by the defendant is situated, is and for several years last past has been, wholly given over to manufacturing on a large scale, and has been and is a manufacturing district.

3. The defendant admits that on the said piece of land it has caused to be erected a brick building five stories in height, and a small brick building of one story. It says that the larger building, though fully erected, is not finished, and has not yet been

used or operated by the defendant. It denies that it has ever, upon the premises in the Bill of Complaint described, or elsewhere within the Borough of Edgewater, operated any factory, or carried on any manufacturing business or enterprise of any kind during the night time, or at any time, except as hereafter stated. It has carried on the business of boiling linseed oil to make printer's ink varnish, in the smaller building aforesaid, using coke for fuel. It denies that any smoke or soot has ever proceeded from, or been emitted by its said factory. It denies that any odors, fumes, gases, or vapors of any kind whatsoever, have proceeded from, or been emitted by said factory at any time since on or about the twenty-sixth day of May last, on which day it installed and put in operation a certain coke furnace which entirely consumed all fumes, vapors, odors and gases arising from the boiling linseed oil aforesaid. This defendant denies that it has manufactured, or intends to manufacture glue.

4. The defendant further says that the vapor or fumes, if any, produced by or proceeding from boiling linseed oil under the process now in use by this defendant are not at all harmful or unpleasant to human beings, if breathed by them, nor in any degree damaging to property exposed thereto.

5. The defendant further says that it has no knowledge, information or belief of the situation of the residence of the complainant, nor of the ownership by her of any property in the Borough of Edgewater, and leaves the complainant to make proof thereof.

6. It denies that the operation of its factory in

the bill of complaint mentioned does any damage to any person or persons whatsoever, or causes any annoyance to any person or persons whatsoever, or damages the property of any person or persons whatsoever. It denies that the same will at any time in the future damage any persons or property, or cause any annoyance to any persons whatsoever. It denies that its factory aforesaid ever has been, is, or will be a nuisance to the complainant or to any other persons whatsoever.

And the defendant humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

McCARTER & ENGLISH,
Solicitors of the Defendant.

SINCLAIR & VALENTINE CO.
Frances McD. Sinclair,
(Corporate Seal) President.

Attest:—

A. O. ELDRIDGE,
Ass't. Secretary.

The foregoing answer of Sinclair & Valentine Company, the above named defendant, was taken before me, a Master in Chancery of New Jersey, under its common seal, this sixth day of September, Nineteen hundred and twelve.

ARTHUR F. EGNER,
Master in Chancery
of New Jersey.

ORDER AMENDING BILL

Filed May 20, 1915.

This case having been opened to the Court by William E. Ellis of counsel with the complainant, it is on this twentieth day of May, Nineteen hundred and fifteen, ordered that the Bill of Complaint filed herein be amended as follows, and that said amendment be allowed to be filed as a separate paper.

By changing the second paragraph on page three of the Bill of Complaint to read as follows:

"Your orator further shows that the noxious, noisome and vile smells, gases, odors, fumes and vapors emitted from the said premises, buildings and chimney of the said Sinclair and Valentine Company when inhaled while breathing cause a choking and depressing effect and makes breathing very difficult and the said smoke and soot enters the houses and when settled upon household goods and wearing apparel and other articles stains, tarnishes and destroys same."

And it is further ordered that the answer of the defendant already filed do stand and be taken also as the answer to the amended bill.

E. R. WALKER,
C.

Respectfully advised,
Vivian M. Lewis,
V. C.

AMENDMENT.

Filed May 20, 1915.

Amendment to the Bill of Complaint, filed as a separate paper pursuant to the Order of this Court. The second paragraph of the third page of the Bill of Complaint is amended so as to read as follows:

"Your orator further shows that the noxious, noisome and vile smells, gases, odors, fumes and vapors emitted from the said premises, buildings and chimney of the said Sinclair and Valentine Company when inhaled while breathing cause a choking and depressing effect and makes breathing very difficult and the said smoke and soot enters the houses and when settled upon household goods and wearing apparel and other articles stains, tarnishes and destroys same."

In Chancery of New Jersey

Between

ELLEN E. HARRIGAN,

Complainant,

and

SINCLAIR and VALENTINE COMPANY,

Defendants.

On Bill, &c., Testimony.

Transcript of testimony taken in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on Tuesday, the tenth day of June, nineteen hundred and thirteen, before Hon. Vivian M. Lewis, Vice-Chancellor.

APPEARANCES:

William E. Ellis and William B. Gourley, Esqs., for the Complainant;

McCarter & English, Esqs., for the Defendants.

THE COURT.—When was the suit started?

MR. McCARTER.—The bill was filed July 22, 1912.

MR. ELLIS.—We first offer in evidence a deed from William O. Ross and Adelaide E., his wife, to Ellen E. Harrigan, widow, dated June 20, 1907; recorded in the Bergen County Clerk's Office, June 25, 1907, at two o'clock in the afternoon, in Book 668 of Deeds of said County, on page 28, &c.

Marked "Exhibit C 1."

FREDERICK L. ACKERSON, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. What is your business?

A. Civil engineer.

Q. Where do you reside?

A. I live in New York.

Q. How long have you been a civil engineer?

A. Since 1909.

Q. I show you a map, and ask you what that map is.

A. It is a map showing the houses in a portion of Edgewater; it is a map showing the general location of the houses in a portion of the Borough of Edgewater.

Q. What portion of the Borough does that map set forth?

A. It is bounded on the South by Garden Place; on the East by the Hudson River, and on the North by Hilliard Avenue; and on the West by Undercliff Avenue; that shows all the houses on Undercliff Avenue on the West side.

Q. Does it show any houses on the North side of Hilliard Avenue?

A. Yes, sir.

Q. Was that map made under your personal supervision?

A. Yes, sir.

Q. Now, Mr. Ackerson, I notice different colorings on that map. I ask you what this red indicates?

A. The red one shows the business buildings—factories.

Q. And the yellow?

A. Those are private residences.

Q. I notice green—

A. That represents the church.

Q. And some blue—

A. Those are barns.

Q. Can you point out on that map the location of the residence of the complainant, Mrs. Harrison?

A. Lot Number 3, it is on Edgewater Place.

Q. On the East side of Edgewater Place?

A. Yes, sir.

Q. Can you also show the location of the Sinclair and Valentine ink factory?

A. It is facing on River Road (indicating).

Q. Does that show a small building in the rear of Sinclair and Valentine Company?

A. The small building in the rear is not shown in this map.

Q. Are all those red buildings factories?

A. No, sir, they are not all factories; they are business buildings or factories.

Q. Are they brick buildings or wooden buildings?

A. Some are brick and some are wood.

Q. Can you indicate which are brick and which are not?

A. Only from memory; I would not be sure of it; I could not indicate on the map.

Q. Does red indicate brick?

A. No, sir, not on this map.

BY THE COURT:

Q. What is the scale of your map?

A. One inch equals one hundred feet.

Q. How far, is it, from that scale, the distance between this house of the complainant, and the factory of the defendant, straight across?

A. I should say around 350 feet.

FURTHER DIRECT:

Q. From where to where?

A. From there to there (indicating).

Q. How far is it from the Northeast corner of the property of Sinclair and Valentine to the house or the residence of the complainant?

A. It is about 295 feet; that is as near as you can scale on this map.

CROSS-EXAMINATION by Mr. McCarter:

Q. You say this map was made by you?

A. Yes, sir.

Q. What is your name?

A. Frederick L. Ackerson.

Q. It was made by you, do you say?

A. It was made under my supervision.

Q. It says, "Prepared by Watson G. Clark, Civil Engineer;" who is he?

A. He is my employer.

Q. Did you make a survey from which to prepare this map? A. Yes, sir.

Q. And you located every building on that map from this survey?

A. The general location of it, yes, sir.

Q. Did you take a city map and copy it, or did you make this map from a survey?

A. This map originally was made from a survey, from our notes of the borough, of the streets.

Q. Are you the City Engineer?

A. My employer is.

Q. You simply, in having this map prepared, traced the borough map, or that portion of it which is included within the limits of this map, didn't you?

A. Yes, sir.

Q. There was no survey made for this particular map?

A. No, sir.

Q. You copied the Borough map?

A. Yes, sir.

Q. Did you copy it yourself?

A. No, sir.

Q. As a matter of fact, then, what information have you touching the correctness of this map?

A. I have personally located these houses, over the entire section; in fact, over the entire portion of Edgewater.

Q. And this was traced by a clerk in your office, from that City map?

A. Yes, sir, I checked it over afterwards.

Q. Well, now, tell us what factories there are in the neighborhood, and to the East of the Sinclair and Valentine factory; for instance, what is this large factory with "88" on it?

A. That is a marble yard; the next one to the North of that is Warner's sugar factories?

Q. The next is what?

A. The next is the Undercliff Terminal and Warehouse Company.

Q. The Sinclair and Valentine factory is at the point indicated; why didn't you put the little building there; it was in there at the time the map was made; why wasn't it put on there?

A. We did not show the very small buildings.

Q. What is the first factory building to the North or River Street, on the West side?

A. That is Kaufer's Grain Elevator.

Q. I see some buildings partly red and partly yellow?

A. That indicates that the upper portion is used

for apartments or private residences, that is, the lower portion of the building is used for business.

Q. How far is the river road from the Hudson River bank?

A. The bulkhead line is 560 feet.

Q. Where is the actual water?

A. I could not say exactly.

Q. Where are the dye works?

A. Which dye works do you mean?

Q. Any dye works.

A. (No answer).

BY THE COURT:

Q. How many are there there, do you know?

A. I don't know of but one in this section here; that is up there (indicating); way up on Undercliff Avenue.

FURTHER CROSS:

Q. Are there not any dye works down along the river road?

A. I don't know of any.

Q. This section goes North how far of the Sinclair factory?

A. About 900 feet.

Q. Don't you know that there are dye works on the river road just north of Sinclair and Valentine's?

A. I believe there are.

Q. You recall that now?

A. Yes, sir.

Q. Not only way up here on Undercliff Street, but right North of the Sinclair works, and right in front of the complainant's property are some dye works, are there not?

A. Giggins' dye works is there.

Q. Are they shown on this map?

A. Yes, sir.

Q. On what lot—Lot No. 38—

A. Right in there—Lots 13 and 14.

Q. You now say that the dye works are the large buildings on Lots 13 and 14?

A. Yes, sir.

Q. What is the distance between the rear of the dye works on Lots 13 and 14 and Mrs. Harrigan's house?

A. 175 feet.

BY THE COURT:

Q. What kind of dye works are they?

A. They dye wool there, as far as I know.

FURTHER CROSS:

Q. Have you shown a stable on Mrs. Harrigan's property?

A. Yes, sir.

Q. That is indicated in blue?

A. Yes, sir.

Q. Have you shown a large pile of manure there?

A. No, sir.

Q. Which buildings constitute the dye works that you have just referred to?

A. Only the buildings on Lots 13 and 14, so far as I know.

Q. How about lots 11 and 12?

A. That is an ice plant.

Q. When was this survey made from which this is a tracing?

A. Either 1907 or 1908.

Q. Before the Sinclair and Valentine concern was there, wasn't it?

A. Yes, sir.

Q. Was the Sinclair and Valentine factory put here from a survey, or from just a sort of a desk?

A. It was put there from the general location of the building; not by actual angle measurements.

Q. What I mean is, that the original map from which this tracing was made, did not have the Sinclair-Valentine factory on it?

A. No, sir.

Q. How did you put it there?

A. By measuring from the lot line; we have points along the river road here showing these lot lines and measuring down from those.

Q. Well, the other manufacturers that are indicated here, were there when the original map was made, were they not?

A. The most of them were.

Q. Which have come since?

A. One or two of these.

Q. Which are they?

A. On the Warner Sugar Refinery.

Q. One or two of the buildings of the Warner Sugar Refinery have been put there since?

A. Yes, sir.

Q. Any others.

A. And the Undercliff Terminal and Warehouse buildings.

Q. Both of them?

A. Yes, sir.

Q. Now, as a matter of fact, was not the only change that has been made in the Warner Sugar Refinery Company since that old map was made, an extension on one of the buildings?

A. No, sir.

Q. What is there new that has been put there since that map was made in 1907?

A. I cannot answer exactly which one of those buildings now—

Q. Do you live out there?

A. No, sir.

Q. Have you been there recently?

A. I have been there at least once every week for the last two years, yes, sir.

Q. In the evenings?

A. Yes, sir, and during the day as well.

Q. (BY THE COURT) Do I understand you to say that you made the survey?

A. No, sir, I did not.

MR. McCARTER: He did not make the survey, and he did not make the tracing.

FURTHER CROSS:

Q. Do you recall any other dye house besides the one put here, and the big one down here on Lots 13 and 14, which you forgot about; do you recall any places?

A. No, sir.

Q. You did not fasten your dye houses in your mind?

A. No, sir, I simply show the buildings there; I did not show what they were.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. You located the buildings on that map?

A. I did, personally, yes, sir.

Q. These dye works you speak about, are what —dyeing and cleaning establishments?

A. The one up here, so far as I know, is a dyeing and cleaning establishment.

Q. Which one do you mean?

A. The one up on Undercliff Avenue, this one (indicating).

MR. ELLIS.—I offer the map.

MR. McCARTER.—I do not suppose that technically, the map is admissible, but we do not make any objections.

THE COURT.—It will be received, then. Marked "Exhibit C 2."

CHARLES DOBBELAAR, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. New York.

Q. What is your business?

A. Photographer.

Q. You have been a photographer how long?

A. Seven years.

Q. I show you photographs, and ask you if those photographs have been taken by you?

A. They have, yes, sir.

Q. Just look over them, if you will. (The witness examines them).

A. Yes, sir, they have been taken by me.

Q. When did you take those photographs?

A. Friday of last week.

Q. Have you any other photographs?

A. Yes, sir, I have some. (Witness produces some more photographs).

Q. Were those photoghaphs taken by you?

A. Yes, sir.

Q. When?

A. Yesterday, Monday.

Q. I mark this photograph "1" and ask you what that represents.

A. It represents the road looking north, on Edgewater Place.

Q. What was the position of your camera at the time you took that photograph.

A. About in the center of the road.

Q. About in the center of the road?

A. Yes, sir.

MR. GOURLEY.—Put the map on his Honor's desk, so that he can see the significance of this testimony.

(Mr. McCarter puts the map on the desk of the Court).

Q. I show you photograph No. 2, and ask you what that represents.

A. A picture of Undercliff Avenue, looking South.

Q. (BY THE COURT) Opposite Hilliard Avenue?

A. Showing a part of Hilliard Street corner.

FURTHER DIRECT:

Q. Now, No. 3?

A. That is a picture of Undercliff Avenue looking North from Garden Place.

Q. Now, No. 4?

A. That is a picture of Garden Place, looking East.

Q. Now, No. 5?

A. That is a picture of Edgewater Place, looking South.

Q. Now, No. 6?

A. That is Hilliard Avenue, looking East from Undercliff Avenue.

Q. Now, No. 7?

A. That is the river road, looking West, about Northwest.

Q. Now, No. 8?

A. Pictures of two houses, one is Mrs. Harrigan's, and I don't know the other party.

Q. Which is Mrs. Harrigan's?

A. The one to the left.

Q. Now, No. 9?

A. Picture from Edgewater Place, looking Northwest, showing the rear of the house.

Q. Now, No. 10?

A. Picture of the Valentine Ink factory.

Q. Now, No. 11?

A. Picture taken in the rear of the Valentine Ink factory, looking North.

Q. What does it represent?

A. Showing the small chimney and the small building.

Q. No. 12, what does that show?

A. That shows the small chimney of the small building looking South, showing the rear house on Undercliff Avenue.

Q. The rear house on which side of Undercliff Avenue?

A. On the East side.

Q. Now, No. 14?

A. Picture showing the rear of the building and taken from Mrs. Harrigan's veranda; this is another picture of Undercliff Avenue.

Q. Now, No. 16?

A. Small picture of the small chimney and part of the factory of the Sinclair-Valentine Company.

Q. No. 17?

A. The small chimney of the small building on Sinclair and Valentine's, showing some of the smoke issuing from the chimney.

Q. No. 18?

A. Showing the rear of Valentine-Company's building, and also the small chimney.

MR. ELLIS.—I offer those, if your Honor please.

CROSS-EXAMINATION by Mr. McCarter:

Q. Have you been there on more than two occasions, taking these photographs?

A. Yes, sir.

Q. How many occasions have you been there?

A. Twice.

Q. Not more than two occasions?

A. No, sir.

Q. Yesterday, when you took the small one—

A. Yes, sir.

Q. And when was it you took the large one?

A. Friday.

Q. Who was with you, indicating what photographs you should take?

A. Mr. Ellis was with me.

Q. Anyone else?

A. No, sir.

Q. He pointed out what he wanted taken?

A. He only suggested what he wanted taken.

Q. Did he go with you from place to place, as the photographs were taken?

A. No, sir, not to all the places.

Q. Did you see this gentleman here, sitting by Mr. Ellis's right, while you were up there?

A. I don't remember seeing him, no, sir.

Q. Do you know who that is?

A. Yes, sir.

Q. Who is he?

A. Mr. John McGarry.

Q. Who employed you—Mr. Ellis or Mr. McGarry?

A. Mrs. Harrigan.

Q. Personally?

A. Well, I was called down there by telephone; I don't know who the party was.

Q. Called down to Mrs. Harrigan's?

A. Yes, sir.

Q. On Friday?

A. No, sir, on Thursday of last week.

Q. You saw Mrs. Harrigan?

A. Yes, sir.

Q. Did you see Mr. McGeorge then?

A. No, sir.

Q. Was Mr. Ellis there then when you went down there?

A. He was not there at the time, no, sir; I met Mr. Ellis on Friday morning.

Q. By appointment?

A. No, sir, I met him on the street.

Q. Do you carry on your business in Edgewater?

A. No, sir.

Q. Where?

A. Fort Lee.

Q. Did you develop these pictures yourself?

A. Yes, sir.

Q. Now, there is no mistake—the large photographs were all taken last Friday and developed since then; and the small photographs were all taken yesterday morning and developed since then?

A. That is correct.

Q. Was Mr. Ellis with you on both occasions?

A. No, sir.

Q. Who indicated what you should take yesterday?

A. Mrs. Harrigan.

Q. She was with you then?

A. I happened to be down—

Q. Did she indicate what you should take?

A. No, sir.

Q. I ask you who indicated what different photographs you should take yesterday?

A. I was asked to take this picture here, showing the smoke issuing from the chimney.

Q. By Mrs. Harrigan?

A. Yes, sir.

Q. And what time was that yesterday?

A. It was around 9:30 or 10 o'clock, around that time.

Q. Where did you place your camera, when you took your photograph marked "17," which shows the smoke coming from the small chimney?

A. I took them from the rear of those small tanks; I was in the rear of those brick tanks—in the back.

Q. Anyone with you?

A. No, sir.

Q. Entirely alone?

A. Yes, sir.

Q. You have not yet told us who indicated to you what other places to take, besides the small stack with the smoke coming out, yesterday; you say Mr. Ellis was not there; now, who told you to take these other ones at the different places?

A. These others I happened to take snapshots of, trying to show the smoke issuing from the small chimney,—later on.

Q. Did anyone tell you to take them, or did you do it—

A. I took those on my own—

Q. Without anyone suggesting anything?

A. Not this one—this one was suggested to me; Number 17 was the one that was suggested to me, —by Mrs. Harrigan.

Q. Was she up there with you?

A. Yes, sir; she did not go out there when I took the picture.

MR. ELLIS.—I offer those pictures in evidence.

ELLEN E. HARRIGAN, sworn in her own behalf, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q You are the complainant in this suit?

A. Yes, sir.

Q. You are the owner of the property described in that deed?

A. Yes, sir.

Q. Is that where you live at the present time?

A. Yes, sir.

Q. How long have you lived in your present location?

A. Probably between six and seven years; I am not sure about the time. I have lived in Bergen County 43 years.

Q. Did you build the house?

A. Yes, sir.

Q. Can you point out the location of your house on that picture?

A. That is my house there (indicating); that is my sister's house (indicating on picture No. 8), the house to the left.

Q. You have lived in that house for the past five or six years? (indicating).

A. Yes, sir.

Q. Do you own any other property in the Borough of Edgewater?

A. Yes, sir.

Q. Where?

A. Undercliff Avenue, river road, North of the Valentine-Sinclair property, and on Undercliff Avenue.

Q. Do you know where the Sinclair and Valentine Company's factory is?

A. Yes, sir, thoroughly well.

Q. I show you a photograph, marked No. 10, and ask you what that is, if you know?

A. This is the Warner's Refinery, and this is the Sinclair and Valentine Company's place, and this is the stink chimney (indicating), known as the stink factory.

Q. What is that little chimney; have you ever seen any smoke or fumes come out of that chimney?

A. Yes, sir.

Q. When?

A. I saw them yesterday morning, from 9 o'clock until 10:45; they started up at 9 o'clock yesterday morning; I had a picture taken—

Q. It was you that asked Mr. Dobbelaar to take No. 17?

A. Yes, sir, he came down with these photos and asked me if they were all right, and I said—

Q. Just answer the question.

A. Yes, sir.

Q. Do you remember when the little building was erected in the rear of the Sinclair & Valentine factory?

A. Yes, sir.

Q. How long ago was that?

A. November, 1911.

Q. What did you notice at that time—shortly after the building was erected?

A. I noticed I was fumed out of my place.

Q. What do you mean?

A. With bad odors.

Q. Have those odors continued from that time?

A. Yes, sir, night and day.

Q. When you first noticed these odors what did you do, if anything?

A. I put my coat and veil on my head, and went down and asked those people what they intended to do.

Q. Whom did you see?

A. A man that is in this court room now; I don't know his name, but I can point him out.

Q. Can you point him out now?

A. He is sitting down; they tell me his name is Barrett.

MR. McCARTER.—Point him out.

THE COURT.—Look around and see if you can see him.

THE WITNESS.—There he is (indicating Mr. Barrett, who stands up).

Q. Is that the gentleman?

A. Yes, sir.

Q. What was he doing at that time?

A. He and another gentleman were coming out of the small galvanized place where they were making those fumes.

Q. What did he say to you?

MR. McCARTER.—Objected to.

THE COURT.—Objection sustained.

Q. Who was this Mr. Barrett working for at the time, if you know?

A. I suppose for Sinclair and Valentine.

Q. Was he working in this small building?

A. Yes, sir; him and another gentleman came out as I went down there; he said he was working for those people—employed by those people, when I spoke to him.

Q. What did you also say to him?

MR. McCARTER.—Objected to.

Q. What did he say to you?

MR. McCARTER.—Objected to.

THE COURT.—The objection is sustained.

Q. Did you make any remonstrance about this smell?

MR. McCARTER.—Objected to as leading.

Q. Did you make it to anybody?

MR. McCARTER.—Objected to.

Q. Whom did you see besides Mr. Barrett?

A. Another gentleman whom I do not know.

Q. Is he here today?

A. I would not know him, because his face was black.

Q. How long were you there, the first time you went there?

A. For ten or fifteen minutes.

Q. And what were they doing?

A. They were coming out holding their noses—coming out of this little place.

Q. How were they dressed?

A. They wore ordinary clothes, with their hats on.

Q. Were they working men?

A. Yes, sir.

Q. Do you know whether or not they were working in this small building?

A. They were in looking at this mixture that they were boiling, I suppose.

MR. McCARTER.—Objected to.

Q. You saw them come out of this building?

A. Yes, sir.

Q. Only those two came out of the building?

A. Yes.

Q. Have you seen them since that time?

A. Yes.

Q. Did you go down there again?

A. I called them up when they fumed me out.

Q. Well, later on, Mrs. Harrigan, did anybody representing himself to be a representative of the Sinclair and Valentine Company, call at your home?

A. This gentleman (indicating Mr. Barrett).

Q. The same man that you saw that day when you went there?

A. Yes, sir, they sent him up as a representative to me.

MR. McCARTER.—I move that that be stricken out.

THE COURT.—Strike it out.

Q. What was said at that time when he got to your house?

MR. McCARTER.—Objected to.

THE COURT.—The objection is overruled.

A. This was at my house that he came to.

MR. McCARTER.—She does not know who this man was at all, except she says that he came to her house; he is trying now to elicit some conversation; I think until the right and authority of this man to represent us is shown—

THE COURT.—I think the evidence may be received and taken for what it is worth, at present; of course, it is not established at all, as far as the Court can see, that Mr. Barrett is actually a representative of this company.

THE WITNESS.—He said he was sent to me.

THE COURT.—I shall allow it. I will note your objection, Mr. McCarter.

Q. What did he say to you when he arrived at your house?

A. I went downstairs and asked him up to my apartment on the top floor, and I showed him through my place, and showed him the nine windows on the south side of my house were closed and had not been opened since they came there.

Q. What did he say to you?

MR. McCARTER.—Same objection.

A. He said that he would tell his people.

Q. Did he say whom he would tell?

A. The Sinclair and Valentine Company.

Q. Did he say that?

A. Yes, sir; he said they sent him as a representative to me.

Q. Did he say why he came?

A. I 'phoned down and asked them to come up and look at my home, and he said that he would tell them.

Q. Did he come the same day that you telephoned?

A. Yes, sir, about fifteen minutes after I 'phoned down to him.

Q. About when was that?

A. That would be last spring, about, in this year, 1912, the spring of 1912.

Q. About what time in the spring?

A. It would be before June, I think; I could not say the date.

Q. (BY THE COURT) You speak of these fumes being continuous night and day; is there no stop to them?

A. Oh, yes, they stop at times; otherwise there would be no one living in Edgewater Place if they continued on all day.

FURTHER DIRECT:

Q. How long after the first time, when you called at this factory was it that Mr. Barrett came to your house; you said you called at the Sinclair and Valentine factory in 1911; now, how long after that was it that Mr. Barrett came up to see you at your house?

A. It would be in the following spring.

Q. Do you know what month it was?

A. No, sir.

Q. What did you say to Mr. Barrett in 1912, in the spring of 1912, when he came to your house?

A. He rang my doorbell.

Q. In the fall of 1911, in November, at the factory, what did you say to him at that time?

MR. McCARTER.—Objected to.

THE COURT.—Objection overruled.

A. I went down to them, and they had a small building with this chimney; they had not erected their large five-stack building at the time, and I said, "It is impossible to live in my home, and don't you go ahead with any building here, because we cannot live where we are." He said, "We are only working men here; the office is in New York." I told him to deliver my message to the people that owned the property.

Q. What else was said?

A. That is all I can remember now.

Q. Did you call up the New York office at any time?

A. No, sir, I did not; I called up the office down here when they built their five-stack building at Edgewater.

Q. Was that in the spring of 1912?

A. Yes, sir, that is the time.

Q. Did you ever go to the office after that?

A. No, sir, I did not.

Q. Did you ever go to the New York office?

A. No, sir.

Q. Did you ever telephone to the New York office?

A. Yes, sir.

Q. Did you ever talk to the heads of the firm?

A. No, sir.

Q. Now, then, if you will tell us about these fumes, and in what way they affect you.

A. They affect me—they affect my nostrils and my throat; they make me sick at my stomach; they deprive me of sitting on my porches, and they keep me enclosed in my home; they keep me from

sleep at night; at eleven, twelve and one o'clock at night, we have the fumes until morning.

Q. What kind of a smell or odor is it?

A. Something that we never had from a factory there before; a heavy, obnoxious smell.

Q. You say it bothers your throat?

A. Yes, sir.

Q. How does it do that?

A. The palate of my mouth has been down time and again; it gives me a dry throat and nostrils.

Q. In what other way does it affect you?

A. Makes me sick at the stomach.

Q. Any other way?

A. I get no sleep.

Q. Any other way?

A. It has made a nervous wreck of me.

Q. What color is it?

A. When they first started, when they had the kettles there, it used to be a brown fume; now they have sterilized it down; when they start in the morning it is a black—

Q. Is it different from the fumes of other factories?

A. Yes, sir, I have lived in the midst of factories all my life and never complained before in my life, but this is unbearable.

Q. Did you ever write any communication to the firm yourself, demanding that they stop it?

A. No, sir; I appealed to the Board of Health, and they told me—

MR. McCARTER.—Never mind that.

Q. I show you "Exhibit No. 12," and ask you if you can state what that is?

A. That is the small chimney from where I get the fumes from Sinclair and Valentine's.

Q. Have you seen the fumes come out of that chimney?

A. From 9 o'clock yesterday morning, until 10:45, when it ceased—then the wind blew it the other way.

Q. I show you "Exhibit No. 17," and ask you what that shows?

A. That is the picture taken yesterday morning with the fumes coming out?

Q. Can you see the fumes?

A. Yes, sir, they are right there (indicating).

Q. I show you "Exhibit No. 11," and ask you if you can show us on that photograph—

A. The smoke right there—there is the small structure; there are other chimneys, but that is the one that I get the most from—

Q. (BY THE COURT) That is immediately in back—

A. It just reaches my house; it is about 30 feet, they say, in height, this chimney is, and it reaches both my porches.

Q. Is this the nearest factory to your house?

A. No, sir, there is Daniel Higgins' Dyeing place, just a little North of me; I am about 200 feet North of the Sinclair-Valentine people.

FURTHER DIRECT:

Q. Now, Mrs. Harrigan, I show you "Exhibit No. 11," and ask you how high, if you can designate, where this small building is.

A. There it is, and there are my porches; there is the chimney and there are the porches on my house; I am 200 feet North of that—

BY MR. McCARTER:

Q. Have you ever measured that?

A. No, sir; I can tell you every inch of ground—

FURTHER DIRECT:

Q. Where is the top of that small building of which you speak; how high up is it?

A. It is down by the line of my 100 foot building against a stone wall—the roof there is; the top of the building is on a level with the ground—

Q. And this chimney extends from approximately the grade of the property—

MR. McCARTER.—Why don't you take the stand yourself?

Q. You mean 30 feet from the top of the building or 30 feet from where?

A. I think it is from the top of the building.

Q. You mean 30 feet from there up—

A. When the fumes come, it reaches us, there on the second step; when you come up on that second porch, you get it as you go up the stairs.

Q. How many stories have you?

A. Three.

Q. You don't get it on the third story?

A. We get it all through.

Q. You live on the top floor of your building?

A. Yes, sir, but you will get it anywhere.

Q. Are the lower floors of the building occupied?

A. My brother occupies the two lower floors.

Q. Now, Mrs. Harrigan, how often do these fumes come out of this small chimney?

A. They start up in the morning with the fumes.

Q. What time about?

A. Some mornings at 5:30, yesterday morning at 9:30; generally in the morning at 5:30, those fumes start up.

Q. How long do they continue?

A. They continue until 11, 12 and 1 o'clock at night, when, whatever they burn then, they send out the balance of the fumes that they don't give us in the day—that smother us.

Q. How frequently does that happen?

A. The past week, on Tuesday of last week, at 6:10; the third, the fourth, the fifth and sixth,—I put it down here just as it happened—I put it down each day; on Tuesday evening, the 3rd, half an hour of blue fumes, that suffocated everybody in Edgewater Place. I ran for my life.

Q. How did it affect you?

A. I ran in the house for my life.

Q. What did you do?

A. Went in the house and looked out of the window; my windows are always closed on the South side of the house, and have been ever since Sinclair and Valentine have been there.

Q. How long did it last on the 3rd?

A. Half an hour.

Q. What was the next day?

A. On Wednesday evening, at 6:15 until 9 o'clock at night.

Q. When was the next time?

A. On Thursday, I was going through Garden Place; the wind was not my way, and I got the clear fumes out of that chimney down in front of Mrs. Scanlan's property.

Q. What time was that?

A. 9:30 in the morning.

Q. And the next time?

A. Friday, they did not burn the chimney that I get it so bad from, but I got it between the tanks coming out towards Mr. Edward Kaufer's grain and feed elevator.

Q. When was the next time?

A. On Saturday, at 5 minutes to 3, for about 20 minutes.

Q. Last Saturday?

A. Yes, sir.

Q. When was the next time?

A. On Sunday, at 11:40, for about 15 minutes.

Q. When was the next time?

A. On Monday, the 9th, from 9 in the morning until 10:45.

Q. Mrs. Harrigan, how long have these fumes continued to come out; did you notice these fumes in November, 1911?

A. Yes, sir.

Q. How frequently, since 1911, have you seen these fumes?

A. Steadily, whenever they ran that plant, I get the fumes if the wind is blowing my way.

Q. How often do you get these fumes?

A. Mostly every day.

Q. During 1911 until 1912?

A. Mostly every day.

Q. And how much through 1912?

A. All the time when they ran; the 15th of August last year it was so bad that we packed up our valises and went to New York.

Q. Where did you go when you say you packed up your valises?

A. I went to Ely's Hotel at Rockaway Beach.

Q. How long did you stay there?

A. From the time I left my home until I came back.

Q. Why did you go there?

A. Because I was suffocated by this smell.

Q. When did you return home?

A. On the 23rd, at 9:30 in the evening.

Q. The 23rd of August?

A. Yes, sir.

Q. 1912?

A. Yes, sir.

Q. What happened then?

A. It was still the same fumes.

Q. Did you notice them then?

A. Yes, sir; they drove me out every day last summer.

Q. How often have you noticed them since August, 1912?

A. Every day that that chimney burns, that the wind comes my way.

Q. How often is that?

A. Mostly every day.

Q. Has there been any change for the better since May of 1912?

A. Oh, yes, it has reduced down some, but not enough to let the people live in a proper way.

Q. The fumes still come out?

A. Yes, sir.

Q. What change have you noticed since May, 1912?

A. They have reduced it down to a clear fire; there is a roar of fire comes up out of that chimney, and in between you get those blue flashes that they run up—such as last Tuesday and Wednesday evenings.

Q. What is the distinction between the fumes prior to May of last year and since May of last year?

A. When they first started it was a yellow fume that came up; now we get it the clear blue.

Q. Were the fumes any worse prior to last May than they are now?

A. When they first started it choked—

Q. What do you mean?

A. That is in November, 1911.

Q. And were they worse then than they were last May?

A. Yes, sir, because they were boiling them in an iron pot.

Q. Did you see it?

A. Yes, sir.

Q. Did you see it in that little building?

A. No, sir, I was not inside the building; the two men came out of that building.

Q. You said you left home last August?

A. The 15th of August.

Q. Did you leave your home at any other time?

A. I left it daily every day; I got out before 11 o'clock, when these fumes would be coming.

Q. Where did you go?

A. I went to New York.

Q. Why did you go away?

A. Because I could not remain in my house.

Q. Why did you go to New York?

A. From the stink from that factory.

Q. It was the fumes that drove you to New York?

A. Yes, sir.

Q. About how many times did you leave your home last summer?

A. About five days a week.

Q. How long did that continue?

A. That continued the whole summer.

Q. From when to when?

A. From June, July, August, September, October and November, every day that they burnt it; and up to the present day.

Q. Do you go away now, too?

A. No, sir, I can stay inside, I can lock myself in.

Q. How about the windows on the East side?

A. I have to have a little breath of air you could not keep them open on the South side, though.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, Mrs. Harrigan, I understood you to say you had lived in Bergen County 43 years?

A. Yes, sir.

Q. Were you born there?

A. No, sir, I came from Brooklyn, South Brooklyn, with the Coal Tar Company, with my father, when I was a child.

Q. Where did you first settle in Bergen County?

A. Down in the estate of Mr. Kent.

Q. Where is that?

A. Down in Shady Side.

Q. Any factories down there?

A. Plenty of them; I lived among them all my lifetime,—coal tar, oil, glucose—

Q. When did you come to live in Edgewater—about eight years ago?

A. Yes, sir, I lived in Edgewater 16 years ago.

Q. And previous to building this apartment house that you now live in, where did you live?

A. At one of my houses on Undercliff Avenue.

Q. You own several houses?

A. I own two houses more besides the house that I occupy; three houses in all.

Q. Had you heard that this lot had been bought by the Sinclair and Valentine Company?

A. No, sir; the first I heard was, that an ink factory was coming, and I was delighted to think—

Q. Answer my question. You made an affidavit in this cause.

A. Yes, sir.

Q. You understood an ink factory was coming?

A. Yes, sir.

Q. That is what you heard?

A. Yes, sir.

Q. In your affidavit you stated that they made glue?

A. Yes, sir.

Q. Reading from your affidavit upon the application for a preliminary injunction: "She resides on premises owned by her, situate on the Easterly side of Edgewater Place, and slightly Northwest of the North line of the premises owned and occupied by the Sinclair and Valentine Company, the defendant herein; upon which is erected its said ink, varnish and glue factory, more particularly described in the bill of complaint; that said ink, varnish and glue factory is erected on the West side of the river road." What foundation had you for the statement that that was a glue factory?

A. Because the stink of it was so terrible.

Q. That was the foundation for your statement?

A. Yes, sir.

Q. That was the foundation for your statement that this company manufactured glue there?

A. Yes, sir.

Q. So that, while you expected they were going to manufacture ink, you swore they had a glue factory, because the smell was so bad; is that right?

A. Yes, sir; I could not think there could be anything else boiling there but glue.

Q. Which was erected first, the mill or the big factory?

A. The small tin galvanized shop in the back there.

Q. Had they erected a building at the time of

your visit when you say you saw two men, or was that the pot?

A. No, sir, that was the galvanized place that these men came out of.

Q. You never were inside the building?

A. No, sir.

Q. What they have in there, you don't know?

A. No, sir.

Q. Does the chimney protrude from the roof of the building or from its side?

A. Well, that I never went down to look at, but it is on the line of the inner wall with my 100 feet.

Q. You have never been down to look at it?

A. No, sir.

Q. Was the chimney there the day you went down?

A. No, sir; there were ventilators there.

Q. The little chimney has been put there since?

A. Yes, sir.

Q. There was no chimney there the day you were there?

A. No, sir; they had those two ventilators, which exploded at 9:30 one night; they had a fire down there.

Q. When did you first notice the chimney?

A. I saw the men building it.

Q. About when?

A. I could not tell you.

Q. You say in November you visited there; how soon after November did you notice the chimney?

A. I could not say.

Q. Was it before you filed your bill?

A. I could not say.

Q. You don't know then at all when that little chimney was put up?

A. I saw them building it from my kitchen window—

Q. Was it before you started your suit?

A. I could not say.

Q. Now, do you say that the fumes that you speak of were constant and recurring before they had any chimney there?

A. Yes, sir, positively.

Q Were you in Court last July when the application for a preliminary injunction was had?

A. I don't know what you mean; I was in Court the day we went over.

Q. Were you in Court when your lawyer presented his case?

A. No, sir.

Q. Then you were not in Court when the application was made for a preliminary injunction?

A. No, sir.

THE COURT.—When was that; July, 1912?

MR McCARTER.—The bill was filed on the 22nd of July; the order to show cause was on the 29th day of July.

Q. So you say, that, as far as you know, at the time you commenced your suit in July, a year ago, there may not have been any chimney there at all?

A. I believe there was a chimney there; I saw the chimney building, but I could not give you the date.

Q. At any rate, you say that all last summer you would go to New York and walk the streets of New York for peace and comfort?

A. I said I was driven out of my home with the fumes from the Sinclair and Valentine factory.

Q. Didn't you say you went to New York every day?

A. Because you could not get any breathing room.

Q. Please answer my question—you did go to New York every day?

A. Not every day, I did not say.

Q. Well, five days a week?

A. Yes, sir.

Q. For how long?

A. For the summer months that I was driven out of my house.

Q. Then, last July and August and September, five days in the week, every day, you would go to New York.

A. Yes, sir.

Q. You would cross over the ferry and go to New York?

A. Yes, sir.

Q. How long would you be there?

A. I would come home to get supper for my boy.

Q. Would you frequently go up to the Sinclair and Valentine factory?

A. I had to pass it.

Q. You did go past it?

A. Yes, sir.

Q. Did you ever go in?

A. No, sir.

Q. Did you ever ask to see Mr. Sinclair?

A. No, sir.

Q. Did you ever go to see Mr. Valentine?

A. No, sir; I did not know either Mr. Sinclair or Mr. Valentine.

Q. Now, you have said that you took these day

trips to New York five days a week all summer; you were off between August 15 and the 23rd on some little vacation?

A. I went down on Rockaway Bay, from 129th Street; arrived in Rockaway and went to Ely's Hotel, and stayed there.

Q. Who lived in this house besides you personally.

Q. My son and myself, on the top floor.

Q. How old is your son?

A. 24 years old.

Q. Is he in Court?

A. Yes, sir.

Q. You and your son lived on the top floor?

A. Yes, sir.

Q. Does your son work?

A. Yes, sir.

Q. Where?

A. For my brother.

Q. Where.

A. Wherever they have their contracts.

Q. Now, on the ground floor, who lives there?

A. My brother occupies both apartments, my brother, his family and the maid.

Q. And did your brother's family go with you to New York?

A. No, sir.

Q. Who lived in the house near yours at Edgewater Place?

A. My sister is on the South of me.

Q. What is her name?

A. Mrs. Catherine Popp.

Q. She is in Court?

A. Yes, sir.

Q. She is in Court.

A. Yes, sir.

Q. Now, who lives on the other side of you?

A. Mrs. John Burns and family.

Q. Is that Mrs. Popp's house that is shown on that photograph?

A. Yes, sir.

Q. How far does Mrs. Burns live from you?

A. She lives about fifty feet north of me.

Q. And is she in Court?

A. Yes, sir.

Q. A witness for you?

A. Yes, sir.

Q. Now, you have stated that your place is 200 feet—

A. About 200 feet.

Q. Wait a minute, 200 feet from this factory; have you ever measured it?

A. No, sir, but I can tell you the lots that are between; I can tell you all the buildings too, if you ask me.

Q. You seem to have a good deal of feeling about this case?

A. What do you mean—I don't know what you mean.

Q. You don't know what that means?

A. No, sir—did you mean that I feel ill towards those people? I don't understand your question.

Q. Now, you have said that you have been made sick?

A. Yes, sir.

Q. How often have you vomited?

A. I vomited three and four times a week when the real bad stench came.

Q. When was the last time you vomited?

A. This morning.

Q. What time this morning?

A. I vomit because they have made me sick; my

stomach is sick and out of order from the fumes, from the fumes; my stomach is thoroughly out of order from the fumes; I am a nervous wreck from them.

Q. Did you vomit yesterday?

A. Yes, sir.

Q. And the day before that?

A. Yes, sir.

Q. And the day before that?

A. No, sir.

Q. What time did you vomit yesterday?

A. Before noon.

Q. What time?

A. About 11 o'clock.

Q. (BY THE COURT) You don't retain your food?

A. No, sir.

FURTHER CROSS:

Q. Did the fumes make you sick yesterday?

A. No, sir, but I am sick from the fumes before.

Q. It was not the fumes that made you sick yesterday?

A. No, sir, but I am sick from the fumes before. a bad stomach.

Q. Your claim is, that because of the past, your stomach has been affected; your claim is, that because, as you say, of the past history, your stomach is disordered and you are apt to vomit any time?

A. Yes, sir.

Q. Have you ever had a doctor for this sickness?

A. No, sir, I don't need any.

Q. And you have been vomiting almost daily?

A. I had to call on a doctor once.

Q. What doctor?

A. Doctor Hubbard, to give me something to put me to sleep for the want of rest.

Q. When did you have Doctor Hubbard?

A. I don't remember hte date; probably he might have the date, I don't know.

Q. Is he here?

A. I don't know.

(A man in the room calls out "Yes").

Q. Now you have stated that last week you took the memorandum; had you a memorandum of any other times than last week?

A. I had; I had last week's, is that sufficient?

Q. Have you any other?

A. No, sir; I did have it, but my little niece destroyed the calendar; I had day and dates for everything.

Q. Turn to the memorandum you had of last week—who do you say destroyed your calendar?

A. My little niece; she took it down from the wall where I had it pinned; that was two months ago.

Q. And you understood to keep no memorandum from two months ago until last week; you understood to keep no memorandum from the time two months ago when your niece destroyed your memorandum, until last week?

A. That is right.

Q. Now, last week, you made a memorandum?

A. Yes, sir.

Q. Have you got it here?

A. Yes, sir.

Q. As I understand you, you say that on the 3rd, on Tuesday, the 3rd, you were almost suffocated?

A. Exactly.

Q. What time?

A. 6:15 in the evening, for half an hour.

Q. Who was with you at that time?
A. I was by myself, in my own apartment.
Q. No one with you?
A. No, sir.
Q. No one with you?
A. No, sir.
Q. How long did that last?
A. Half an hour.
Q. And on the 4th, which was Wednesday, give us the time.
A. From about 6:20 until 9 o'clock at night, we had the fumes.
Q. Who was with you then?
A. Nobody.
Q. Now, on the 5th?
A. That is Thursday; I was walking down Garden Place, and right at Mrs. Scanlan's house, at 9:30 in the morning, I noticed the fumes.
Q. Did you notice them?
A. I was choked with them.
Q. Did you see them?
A. I could not breathe; other people could not, either.
Q. Now, you say that on last Thursday morning, about 9:30, you noticed the fumes, and you were choked and could not breathe?
A. Yes, sir, I was walking the street at Garden Place.
Q. How far is that from your house?
A. I cannot just state.
Q. In which direction is Garden Place?
A. South of me, Garden Place is.
Q. Is it before you get to the next—
A. That is the first street you meet.
Q. You were down at Garden Place?
A. Yes, sir, walking through there.

Q. That was at 9:30 in the morning?

A. Yes, sir.

Q. Now, on the 7th, which I think was Friday, what time did you notice the fumes?

A. In the morning.

Q. What time?

A. I don't remember the time.

Q. Does not your memorandum show?

A. No, sir, I just have the date.

Q. What does your memorandum say about the 7th?

A. It came out between the tanks going towards Mr. Kaufer's elevator. It says, "Friday, the fumes came out back of the tanks towards Mr. Kaufer's elevator."

Q. And what time was that?

A. In the morning.

Q. And when did you make that memorandum?

A. Each time.

Q. And did you have it with you?

A. Yes, sir, each time that I saw it, I marked it down.

Q. Did you have that with you when you were on the street?

A. No, sir; I was walking through Garden Place, and on Friday I was in my own house when the fumes came out.

Q. What did you write down?

A. It did not come out of the chimney, but it came out back of the tank towards Mr. Kaufer's elevator.

Q. Now, you say "Friday the tank, six?"

A. Yes, sir.

Q. Now, what did you notice yesterday?

A. They started up at 9 o'clock yesterday morning.

Q. How did you know that?

A. How would you know, if you were there; the fumes—the smoke and fumes from there; at 9 o'clock yesterday morning the fumes smelt dreadfully.

Q. Did it suffocate you then?

A. No, sir, but it was there.

Q. How long did that last?

A. That lasted until 10:45.

Q. Did you get any fumes at all yesterday?

A. Yes, sir.

Q. You recognized them?

A. Yes, sir.

Q. The same old fumes?

A. Yes, sir, the blue fumes came up yesterday.

Q. Did you notice the same old fumes yesterday that you had noticed before?

A. Yes, sir.

Q. You are as sure about that as you are about the others?

A. Yes, sir.

Q. Now, you have said that since May of last year you have noticed some, haven't you?

A. Yes, sir.

Q. And you began to talk about some change that they had made there; did you ever read the answering affidavits that were put in in court by the defendants here?

A. Yes, sir, I got it lately.

Q. You read it?

A. Yes, sir.

Q. And you learned from those papers—

A. Oh, no, no.

Q. You don't know what I am going to ask. You did not learn anything from the paper?

A. No, sir.

Q. Can you read?

A. A little bit; just enough to keep me alive.

Q. You are pretty healthy, although you do vomit every day?

A. Yes, sir.

Q. Now, I ask you if you learned from those papers, that it was claimed by the company that they had modified the conditions there so as to prevent any recurrence of any smell; did you learn that from those papers?

A. No, sir; I read that, but I knew it was untrue, because I got the fumes.

Q. Did you know that they had made some change?

A. It certainly had not come out as thick and black and brown as it used to.

Q. You have observed that with your own eyes and your own nose?

A. Yes, sir.

Q. How soon did you begin to observe that with your eyes and your nose?

A. Well, here lately I did notice a little improvement.

Q. How lately?

A. I could not say.

Q. As early as May a year ago?

A. Oh, no.

Q. When was it?

A. Just here lately, I noticed there was a little improvement.

Q. Weeks ago or months ago?

A. Weeks ago.

Q. Did not you tell your own counsel that from May 19, 1912, it had not been as bad as it was formerly; didn't you say to Mr. Ellis on your direct

examination, that from May, 1912, there certainly had been some improvement?

A. Yes, sir, there has been a little improvement; why should I tell an untruth?

Q. But you never knew what had happened to cause that improvement?

A. No, sir, I did not. I have never been in the people's plant,—only the once.

Q. Now, about last Sunday; you kept some record about Sunday, didn't you?

A. Yes, sir.

Q. Were you at church Sunday?

A. Yes, sir.

Q. And what time did you get back from church?

A. About 11:30, or a little earlier.

Q. What did you notice with regard to this factory on Sunday—last Sunday?

A. I noticed in my kitchen, when I took off my clothes to commence to get dinner ready, of the blue fumes coming up out of the chimney—the blue fumes and the stink.

Q. Now, that was Sunday; so they were working on Sunday?

A. I don't say they were working; that only lasted about 20 minutes; there must have been a fire where the fumes came up.

Q. At any rate, you say that fumes came out and were visible on Sunday, about 11:40?

A. Yes, sir.

Q. How long did that last?

A. Only about 20 minutes.

Q. Now, there has been a change, as I understand your evidence, in the character and appearance of these fumes, from the beginning?

A. Yes, sir.

Q. They are now lighter?

A. Yes, sir, we get the clear blue fumes now.

Q. Which was first?

A. First, when they started, it used to be dark, murky and yellow, like a heavy sulphur vapor.

Q. Yellow at the first?

A. No, sir.

Q. Which was the first?

A. They have blue fumes now.

Q. As I say, the change occurred from yellow to blue?

A. Yes, sir.

Q. And these fumes that you saw Sunday were blue?

A. Yes, sir, not real heavy, Mister.

Q. Now, you have not been able to sleep at all for the past eighteen months?

A. I certainly have, or I would not be here if I had not.

Q. Does this concern work nights?

A. They pull that chimney at night.

Q. Every night?

A. Yes, sir; the fumes are in the East until one or two o'clock in the morning.

Q. Have you a stable in your place?

A. No, sir.

Q. Have you a stable in your place?

A. Down on my brother's property, Mr. McGarry's.

Q. How many horses are kept there?

A. I don't know.

Q. Is there any pile of manure there?

A. Yes, sir.

Q. Quite a heap?

A. Yes, sir.

Q. That is much nearer your place than this factory?

A. Yes, sir.

Q. You never notice any odors from this big manure heap?

A. We get a little stench once in awhile from that.

Q. You don't know how many horses your brother keeps in there?

A. No, sir.

Q. Does he keep his contracting horses there?

A. Yes, sir.

Q. Has he a dozen horses?

A. I don't know.

Q. How far is his stable from your house?

A. I cannot just tell you in feet; I can tell you how many lots are between my brother's stable and my place; his property adjoins mine.

Q. He keeps as many as a dozen or fifteen horses in his place?

A. I don't know.

Q. Have you been in his stable?

A. Not for six months or a year.

Q. Now, the last time you were there, how many horses were there there?

A. They were all out.

Q. Now, is there any stench from this dye works?

A. Yes, at times I get a little stench of that sulphur when they are burning that wool.

Q. They are much nearer to you?

A. Yes, sir.

Q. And that is a much larger plant?

A. Yes, sir, but they never cause me any distress; it is a one-story little structure; Mr. Higgins' is a one-story little structure, built on two lots.

Q. There is some dye works on Undercliff Avenue?

A. Yes, sir, that is, cleaning; it is not a dye works.

Q. Is it a dye works?

A. No, sir, it is no works.

Q. Have you ever been in it?

A. No, sir.

Q. You have seen the sign "Dyeing and Cleaning?"

A. Yes, sir, but they only come there certain days to do that.

Q. How many hands does the Sinclair and Valentine Company have?

A. They did not own it when I built there, but they bought it from some people.

Q. What was being made there when you built?

A. There was not anything being made there; that building was there, but they put an extension on to it since.

Q. Was it vacant when you went there?

A. I think it was.

Q. Are you positive of it?

A. I imagine it was vacant when I went to live in my house there; I have an ice plant to the north of me, there down on the river road.

Q. There is a residence on the river road every four or five blocks, is there?

A. Yes, sir, plenty of residences.

Q. Mention some of them.

A. There is Mr. McCurr's residence on the river road; he is north of the ice plant.

Q. Any other residence there?

A. There is Mr. Rickle's house on the river road, north of Mr. McCurr's.

Q. But, practically, the use that is made of the river road is for manufacturing and business purposes, isn't it?

A. Towards the river is the largest plant—the Warner Sugar Refinery; the others are small structures.

Q. What does your brother do?

A. He is a contractor.

Q. Does any smell come from the sugar?

A. No, sir, but we got lots of soot, and a noise at times, but not enough to bother me.

Q. So that you have soot and noise from the sugar factory?

A. Yes, sir.

Q. They run night and day?

A. Yes, sir.

Q. And the soot and the noise bother you somewhat?

A. No, sir, they don't bother me at all.

Q. (BY THE COURT) Does the soot deposit itself on your place?

A. Yes, sir, but that is not choking you to death; I never made a complaint of a factory in my life, nor of anyone else; I don't want to make a complaint of those people if they would have done what was right.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. Do you remember July 29, 1912, at the time the application was made for a temporary writ of injunction?

A. I remember, yes, sir.

Q. How were the fumes that day, if you remember?

A. I cannot think back that far.

Q. How are the fumes on rainy days?

A. They would be worse than any other day; they would be worse than on clear days; if the wind

blows my way from the south I get it more than I do at any other time.

Q. Now, if the wind is blowing from the north, do you get the fumes then?

A. No, sir, that would go to Garden Place; when it is coming from the south I get it; I don't get it when it comes the other way.

MR. JOHN McGARRY, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater.

Q. Whereabouts in Edgewater?

A. 57 Edgewater Place.

Q. Is that on the east or the west side of Edgewater Place?

A. The east side.

Q. It is in the same house as owned by Mrs. Harrigan?

A. Yes, sir.

Q. The house in which she lives?

A. Yes, sir.

Q. You occupy the first and second floors?

A. Yes, sir.

Q. How long have you lived there?

A. About six years.

Q. What is your business?

A. Contractor.

Q. You own the property in the rear of Mrs. Harrigan's on the river road?

A. Yes, sir.

Q. What is the lay of the land from the river road to Edgewater Place? What is its physical condition?

A. What do you mean?

Q. As to the elevation?

A. The river road is about 15 feet lower than Edgewater Place; it is kind of an incline.

Q. As you go from river road to Edgewater Place, you go up a little incline?

A. Yes, sir.

Q. How much of an incline, about?

A. It may be from 15 to 20 feet.

Q. Then you come to this level—Edgewater Place?

A. Yes, sir.

Q. You go back how far on that level plain?

A. You go back until you come to Undercliff Avenue, and then you get another raise.

Q. Of how much, about?

A. About 15 feet.

Q. Then you come to what?

A. Undercliff Avenue.

Q. Where is Undercliff Avenue with reference to the mountain?

A. Undercliff Avenue is east of the mountain.

Q. At the foot of the mountain?

A. Yes, sir.

Q. As you go west of Undercliff Avenue, what happens?

A. You get an increase that runs to the top of the Palisades, of, maybe, 300 feet.

Q. Do you know where the Sinclair and Valentine factory is?

A. Yes, sir.

Q. What direction is that from the house in which you live?

A. Southeast.

Q. About how far away?

A. 250 to 300 feet.

Q. Are you familiar with the buildings on the Sinclair and Valentine Company's property; you know the general lay of them?

A. I understand the outside lay of them—as far as the interior goes, I don't know.

Q. What buildings are located on that property?

A. Well, there is one large building, and possibly two or three small buildings.

Q. How large is the large building?

A. It maybe 50 by 125 feet.

Q. How many stories?

A. Four or five.

Q. Do you know when the large building was constructed?

A. I think it was built in the spring of 1912.

Q. A year ago last spring?

A. Yes, sir.

Q. Do you know when the small building in the rear was constructed—the small building?

A. The small building was built in the fall of 1911.

Q. Do you know when the chimney was built?

A. The chimney was built in the spring of 1912, I imagine; I would not be positive about that.

Q. I show you the photograph No. 12, and ask you what that shows?

A. It shows a chimney in the rear of the small building.

Q. I also show you photograph No. 18, and ask you if that also shows the small chimney in the rear?

A. Yes, sir, that shows it.

Q. Do you know on what building that chimney is located?

A. That chimney is located on a building on the

northwest corner of the Sinclair and Valentine property.

Q. And do you know of what that building is constructed—that small building you speak of?

A. I do not, to be sure.

Q. Do you know how high it is?

A. One story.

Q. And with reference to Edgewater Place, does it rise above the level of Edgewater Place, or is it below?

A. I imagine it is about five feet below Edgewater Place.

Q. Is it about level with the ground in the rear of it?

A. At that point.

Q. Do you know how high that chimney is—above Edgewater Place—this picture?

A. 20 feet, I imagine.

Q. Do you know the size of that chimney—the width?

A. The chimney looks to be about three feet square, about 36 inches square.

Q. You lived in this particular house where you live now, for how long?

A. Six years.

Q. And you are now living on the first and second floors?

A. Yes, sir.

Q. Who lives with you?

A. My wife and children.

Q. How many children have you?

A. Three children.

Q. Anyone else?

A. The girl.

Q. What do you mean—a servant girl?

A. Yes, sir.

Q. Now, have you noticed any peculiar odors from the small chimney in photograph No. 12?

A. At what time?

Q. At any time?

A. Oh, yes.

Q. When did you first notice it?

A. Since the chimney has been put up, and previous to that time.

Q. Have you noticed it since?

A. Yes, sir.

Q. What kind of odors come from that chimney —or what comes out of the chimney?

A. Smoke comes out of the chimney.

Q. Does any odor come from that?

A. Yes, sir.

Q. Just describe it as near as you can.

A. I could not describe it, because I am not an expert on anything like that.

Q. What color was it?

A. At first it was dark yellow.

Q. How long did that continue to be dark yellow?

A. Until two or three months ago.

Q. And then what color was it?

A. Blue.

Q. It has continued to be blue up to this time?

A. Every time I saw it.

BY MR. CARTER:

Q. Do I understand that the yellow lasted up to within two or three months?

A. Up until two or three months, as far as I know.

FURTHER DIRECT:

Q. What was the color—what is the color now?

A. A light blue.

Q. Does any odor come from this fume or smoke?

A. Yes, sir.

Q. What kind of an odor?

A. I could not describe it, but it gets your throat dry.

Q. How does it affect you?

A. When I get near enough to it, it makes me cough, and kind of drys up my throat.

Q. What else?

A. Nothing else, only it is disagreeable.

Q. Is it offensive in any way? Does it affect your health?

A. Not as far as I know.

Q. How often have you noticed these fumes come out of this chimney?

A. Two or three times a week.

Q. What time of day—do you know?

A. All hours; sometimes at 9 o'clock in the morning; sometimes at 6 o'clock at night; sometimes at 8 o'clock at night, and sometimes at 12 o'clock in the daytime.

Q. Do these fumes smell about the same each time?

A. Yes, sir.

Q. Just tell us about these fumes—are they pleasant or unpleasant; do they smell or don't they smell?

A. They are unpleasant, because they bother your nose and throat and choke you up.

Q. Is that the way it affects you?

A. Yes, sir.

Q. You are in the contracting business?

A. Yes, sir.

Q. Are you home all the time?

A. No, sir.

Q. How often are you home—that is, through the day?

A. Two or three times.

Q. The rest of the time where are you?

A. Away looking after my business.

Q. Do you know of any particular days when these fumes came out?

A. Some came out on Saturday of last week, about four o'clock.

Q. How long did it last?

A. I don't know; I was around in that vicinity for ten or fifteen minutes, and it was coming out then.

Q. Do you know of any other specific time?

A. On Thursday it came out in the morning, two days previous—that was about 10:30.

Q. Do you know of any other day?

A. On Tuesday it came out in the evening, about six o'clock.

Q. How long did it last then?

A. It lasted until seven o'clock.

Q. Is your wife in Court?

A. No, sir.

Q. Why is not she here?

A. Because we have a sick baby.

Q. She has just had a child recently?

A. Yes, sir.

Q. That is her reason for not being here?

A. Yes, sir.

Q. How does it affect your wife and your family?

MR. McCARTER—That is objected to; this lady's deposition can be taken if she cannot come to Court; we will go up there; I would

rather have the lady than have anyone describe for her as to what she knows.

THE COURT.—I think the counsel is entitled to the very best evidence that is obtainable; and if counsel objects to the testimony, I shall rule out the question.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mr. McGarry, how old is this young baby?

A. About three weeks old.

Q. Now, you say you are in the contracting business?

A. Yes, sir.

Q. And you have a number of horses?

A. Yes, sir.

Q. How many horses do you keep in that stable at the rear of your place?

A. I keep about 16 horses.

Q. And there is quite a large manure heap there exposed?

A. Yes, sir.

Q. About how far would you think that manure heap was from your house?

A. About 150 feet.

Q. Now, your family, prior to the arrival of the last baby, consisted of your wife and how many children?

A. Two.

Q. And what were their ages?

A. The little boy will be two years old in August, and the little girl will be four years old in July.

Q. You have noticed, haven't you, for some time, an improvement in the character of the work that was going on, so far as the effect on your comfort was concerned?

A. No, sir.

Q. And I understand you say, that you had not observed the change in the color of the fumes or smoke—whatever you want to call it—that comes out of this chimney, until some three or four months ago?

A. I said, maybe two or three months ago.

Q. I suppose, that inasmuch as you are away a good deal, that frequently in the past year, days have passed when you have no recollection of any trouble over this?

A. Yes, sir.

Q. Do you hold any public office in Edgewater?

A. How do you mean—relative to the town government?

Q. Yes.

A. No, sir.

Q. Have you no public duties besides your regular business—the Board of Education or otherwise?

A. No, sir.

Q. Are not you a member of the Board of Education?

A. No, sir, I don't hold any public office in Edgewater.

Q. I ask you now, if, up to a month ago you did not hold a public office?

A. No, sir.

Q. Isn't it true that you held a public office up to a month ago?

A. Not until a month ago,—I believe it was in April—over a month ago.

Q. You knew that Sinclair and Valentine proposed to put up this building, didn't you?

A. No, sir.

Q. Didn't you seek to get the contract?

A. No, sir.

Q. For some of the work?

A. No, sir.

Q. Are you sure about that?

A. Sure.

Q. When did you first learn who were the proprietors of the plant that was put on this plot?

A. In the spring of 1911.

Q. When was the first erection put there?

A. In the fall of 1911.

Q. So that you knew who it was before any erection was put there at all?

A. Yes, sir.

Q. The property was vacant prior to that time?

A. Yes, sir.

Q. And do you mean to say that you did no work for Sinclair and Valentine?

A. I did not say that—you asked me if I did not look for the work of the construction of those buildings, and I told you "No."

Q. You did the excavating?

A. Yes, sir; but I had nothing to do with the buildings.

Q. You built the retaining wall?

A. Yes, sir.

Q. And made the personal acquaintance of Mr. Sinclair?

A. Yes, sir.

Q. Did you know what business they were going to engage in?

A. No, sir.

Q. You never asked?

A. No, sir.

Q. You made an affidavit in this case for the application for an injunction?

A. I may have made it.

Q. I have a copy of an affidavit purporting to have been made by you, sworn before Mr. Van Gilder, on the 19th of July, 1912, in which you say, speaking of your sister's house: "That the said house is about 200 feet in a direct line from the property owned and occupied by the Sinclair and Valentine Company, and upon which is erected a large five-story building, and also a small one-story building used by said Sinclair and Valentine Company for the manufacture of ink, varnish and glue." Where did you get the information that justified you in swearing, as you seem to have sworn, that this building was used by them for the manufacture of ink, varnish and glue?

A. From the smell that came from the chimney.

Q. And this was, as your sister said, an inference?

A. I don't know what my sister said—

Q. You heard your sister testify?

A. Not on that particular point; I don't remember what she said.

Q. At any rate, so far as you are personally concerned, you swear that they were making glue there, because of the character of the smell?

A. Yes, sir.

Q. You know as a matter of fact now, that they do not make glue?

A. I would not be positive as to what they are making.

MRS. HARRIET SMITH, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater, River Road.

Q. And in what part of River Road?

A. Near Garden Place.

Q. Is that North or South of Sinclair and Valentine's ink factory?

A. South.

Q. How long have you lived there?

A. Two years and three months.

Q. What is your business?

A. I keep a boarding house.

Q. How long have you been keeping a boarding house?

A. Ever since I have lived there.

Q. Can you locate your house on this map?

A. I think this is it (pointing to the yellow house by the number 87).

Q. Formerly occupied by Mr. Ross?

A. Yes, sir.

Q. Do you own the property?

A. No, sir, I just rent it.

Q. Can you see the little chimney in the rear of the ink factory from your property?

A. Yes, sir.

Q. Is that the chimney that you can see?

A. Yes, sir.

Q. Have you seen anything come out of that chimney recently or at any time?

A. Yes, sir.

Q. What have you seen come out?

A. A blue flame.

Q. Did you see anything else?

A. No, sir.

Q. Did you see any smoke?

A. I have not noticed any.

Q. When did you notice the blue flame?

A. Last Monday, last Saturday, and lots of times before that.

Q. You mean yesterday?

A. Yes, sir.

Q. What did you notice about the smells yesterday?

A. I did not notice it very much, because I am indoors, and we keep those windows closed.

Q. Why do you do that?

A. Because of the smell.

Q. Don't you ever have them opened?

A. We have to sometimes—I keep a boarding house and that is my kitchen down there.

Q. How far is your house from the factory?

A. It is not very far, but I could not tell you exactly.

Q. Is it nearer than the complainant's in this case.

A. I think it is a little nearer than Mrs. Harrigan's.

Q. How large a house is it?

A. My house—we have 17 rooms.

Q. You say you noticed this yesterday?

A. Yes, sir; yesterday my girl called me to see the flame.

Q. You noticed that yesterday?

A. Yes, sir.

Q. What did you do then?

A. I did not do anything.

Q. Did you go outside?

A. My windows were shut.

Q. When did you notice it previous to that?

A. Last week, two or three times.

Q. I think you mentioned last Saturday?

A. Yes, sir, and before that last week.

Q. Did you smell anything last Saturday?

A. Yes, sir, I was out picking roses when I smelled it.

Q. At the time did you look at the chimney?

A. No, sir.

Q. What kind of a smell is this?

A. I really cannot explain it, but it is a kind of choking smell; it gives me a choking in the throat and nauseates me and affects my chest.

Q. Does it bother you in any other way?

A. No, sir.

Q. How often does that bother you?

A. Whenever I go outside, when we have that—it is not every day.

Q. How often—how frequently does it bother you?

A. Probably two or three times a week.

Q. How long does that continue?

A. Not very long, because I don't stay out there.

Q. When did you first notice these smells—how long ago?

A. About a year and a half.

Q. And how often have you noticed it since that time?

A. On the North—right along.

Q. How frequently?

A. Two or three times a week.

Q. You keep a boarding house, don't you?

A. Yes, sir.

Q. How many boarders have you?

A. I have fifteen.

Q. How many boarders did you have a couple of months ago?

A. I had the same number.

Q. Have you the same boarders that you had two or three months ago?

A. For two months.

Q. Have you the same boarders now that you had three months ago?

A. No, sir.

Q. Have any of them gone away?

A. Yes, sir.

Q. Do you know why some of them went away?

MR. McCARTER.—That must be hearsay.

Q. Have any of your boarders complained to you about this smell?

A. Yes, sir, they have.

Q. When?

A. At different times—right straight along; I tried to make them think it did not smell.

Q. How many of your boarders complained to you about it?

A. Most every one—on and off, at times.

Q. Are the same parties that complained to you about this smell still with you?

A. Some of them are.

Q. And where are the others?

A. Some are in New York.

Q. Do you know why they are in New York?

MR. McCARTER.—Objected to.

THE COURT.—Objection sustained.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mrs. Smith, you are probably not more than 100 feet from this place, are you?

A. I don't really know; I don't know anything about distances; I am pretty close to it.

Q. At any rate, the Sinclair and Valentine factory is indicated by the point of my pencil?

A. Yes, sir.

Q. And the yellow house on the large lot running through from the River Road to Undercliff Avenue, is your house?

A. Yes, sir.

Q. Now, you have kept for the past three or four years, a successful boarding house?

A. Yes, sir.

Q. What mansion do you call that?

A. The Ross mansion.

Q. It is a fine old place?

A. Yes, sir.

Q. How many boarders, at the outside, can you accommodate?

A. I have had 22.

Q. How many have you had permanently?

A. Not very many—six all last winter.

Q. Now you have 15?

A. Yes, sir.

Q. How many did you have last summer?

A. Sometimes 20, sometimes 15.

Q. They were gentlemen and ladies and children?

A. Now I have a family of children.

Q. Whose family is that?

A. Mrs. Rhodes' family.

Q. Do you have a Mr. Lane with you?

A. Yes, sir.

Q. How long has he been with you?

A. About a year.

Q. Now, some of these borders sleep on the north side of the mansion?

A. Yes, sir.

Q. Which side do you sleep on?

A. At present, I am sleeping on the south side.

Q. You have heard some talk about the smell?

A. Yes, sir.

Q. And you have always protested there was not very much smell?

A. Not all the time.

Q. You have claimed to your boarders that there was not much smell?

A. Yes, sir.

Q. As a matter of fact, you have pursued the practice of claiming, haven't you, to your boarders, that the smell did not amount to anything?

A. I have, yes, sir; but I did not mean it.

Q. You would not want them to know that?

A. After this, they will have to know it.

Q. When did this family of children come to your place?

A. Two months ago.

Q. How many children are there?

A. Three.

Q. What are their ages?

A. 13—8—4.

Q. Is there a Mr. and Mrs. Rhodes as well?

A. Yes, sir.

Q. Now, I have understood you to say, that sometimes when you were out in the open picking roses, you would notice the smoke?

A. Yes, sir.

Q. But your principal observation, so far as your personal experience has been, you have merely observed a blue flame coming out of there?

A. Yes, sir.

Q. When did you first observe that blue flame?

A. Not so long ago—I really cannot tell you—five or six months.

Q. What kind of flame would come out—

A. Dark brown, murky, heavy and yellow, now it is light; I have noticed a change.

Q. And that change you would put at, at least six months ago?

A. Probably; I would not want to swear to that.

Q. It might be more, and it might be less?

A. Yes, sir.

Q. You thought that was an improvement?

A. I still have that smell occasionally.

Q. How long have you been sleeping on the south side of the house?

A. About two months.

Q. Before that, you slept on the north side?

A. Yes, sir; I have slept on all sides of the house.

Q. You shift your quarters to suit the demands of the boarders?

A. Yes, sir.

Q. Is your house always more full in summer than in winter?

A. No, sir, not as a rule; most of my boarders work down in the linseed works.

Q. Where are they?

A. Quite a way down on the south of us.

Q. Now, tell me, Mrs. Smith about the character of your boarders, are they working people, or are they people that are more in the office?

A. They are office people, most of them.

Q. You don't have factory operatives—you have the higher class of people?

A. That is it.

RECESS TO 2 P. M.

AFTER RECESS.

JOSEPH AFRITSCH, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place, Edgewater.

Q. On which side of Edgewater Place?

A. On the west side.

Q. How long have you lived there?

A. Not quite two and one-half years.

Q. I show you photograph No. 1, and ask you whether or not you can point out the house at which you live, on that photograph?

A. Here it is (indicating the first house on the west side of the street).

Q. You have lived there two and one-half years?

A. Yes, sir.

Q. Do you know where the Sinclair and Valentine ink factory is?

A. Yes, sir.

Q. Where is that, in reference to your house?

A. That is southeast.

Q. Is that a picture of the ink factory (showing photograph No. 10)?

A. Yes, sir.

Q. I show you photograph No. 17, and ask you if you see a small chimney?

A. Yes, sir.

Q. Do you know where that chimney is located on the ink factory?

A. Yes, sir.

Q. Whereabouts?

A. That is back of the factory—of Sinclair and Valentine's factory.

Q. Back of the large building?

A. Yes, sir.

Q. How large is that smaller building in the rear, do you know?

A. Pretty good size.

Q. Have you seen the smaller building in the rear?

A. Yes, sir.

Q. Is it more than one story in height?

A. It is not quite level with the ground where we are living.

Q. How high is that chimney shown in photograph No. 17?

A. I don't know.

Q. About how high?

A. Maybe 20 feet, maybe 30 feet.

Q. Have you noticed any smells from this chimney?

A. Yes, sir.

Q. Just tell us what you have noticed?

A. I work in Edgewater, and I go home every day for my dinner, and when I get a smell of that thing, I cannot eat.

Q. Just describe how it affects you?

A. It takes my appetite away from me.

Q. In what way does it affect you?

A. It stinks.

Q. What else—just describe this fume, if you can, this smell?

A. You cannot stand the smell, you have to go away; it makes you feel like going away from there.

Q. When did you notice this smell lately; did you notice it lately?

A. The worst day we had was June 3rd.

Q. What time of day did you notice it then?

A. After six o'clock; I know I was at my supper; I noticed it and I went out to see what was the matter.

Q. Where did you go?

A. I went out in the yard, to see where the stink came from, and the black came from the factory, from the little chimney—

Q. From this little chimney?

A. Yes, sir. (Indicating photograph No. 17).

Q. What else came from the chimney at that time?

A. The smell.

Q. How did it smell?

A. It smelt like burnt oil, kerosene, or something like that.

Q. How often have you noticed this smell?

A. A couple of times a week.

Q. For how long a time have you noticed it?

A. For over a year. It is not as bad now.

Q. How often?

A. Every day—but lately I have not smelled it so much.

Q. Do you still smell it?

A. Yes, sir.

Q. Twice a week, you said?

A. Yes, sir.

Q. Now, when you noticed it on June 3rd, about what time of day was that?

A. After six o'clock; I was eating my supper at the time.

Q. What did you do; did you finish your supper?

A. It was pretty nearly finished; I think I had only my tea left.

Q. Did you stop eating your supper?

A. Yes, sir.

Q. Why did you stop?

A. I wanted to know what was going on.

Q. Did you afterwards finish your supper?

A. I went back again, sure.

Q. Tell us in what way this smell has bothered you?

A. When I came home at noon time for dinner, I could not eat—

Q. (BY THE COURT) In what way did it affect you, if at all?

A. Well, I am still living yet.

FURTHER DIRECT:

Q. Did it bother you in any other way?

A. No, sir.

Q. Did it bother your throat?

A. I don't know.

Q. Is that the only way it bothered you?

A. You had to cough.

Q. How about it in the night time?

A. At night I got a good, sound sleep.

Q. (BY THE COURT) You sleep soundly at night?

A. Yes, sir, pretty good.

FURTHER DIRECT:

Q. How do you sleep? With your room open?

A. No, sir, closed.

Q. Why do you close it?

A. I close it sometimes on account of the stink, and other nights I want to get it closed anyway, and I keep one window open on the north side.

CROSS-EXAMINATION by Mr. McCarter:

Q. You have got a voice, haven't you?

A. Yes, sir.

Q. Talk out loud, then.

A. Yes, sir.

Q. Whom do you work for?

A. Patterson & Eisele.

Q. In Edgewater?

A. Yes, sir.

Q. Where is their place?

A. That is south from the sugar refinery.

Q. How far from Sinclair and Valentine's place?

A. I cannot tell you that.

Q. A mile?

A. No, sir, about 500 feet, maybe 600 feet; I don't know.

Q. Is it nearer from the Sinclair and Valentine factory than your house is; which is the nearest to the factory, your place of work or your residence?

A. I don't know.

Q. Don't you know which is nearer?

A. I would know if I had measured it.

Q. Is this concern you work for on the River Road?

A. Yes, sir.

Q. Do you go down Garden Place to get to it?

A. No, sir.

Q. You are right next to Warner's, are you not?

A. Yes, sir.

Q. Right next to Warner's?

A. Yes, sir.

Q. You are there from seven o'clock in the morning until five o'clock in the afternoon?

A. From 7:50 A. M. to 5 P. M., except my hour for dinner.

Q. Look at this map—you have Edgewater Place running along here, do you see?

A. Yes, sir.

Q. There is Sinclair and Valentine; here is the Warner place, and that is your place right there, isn't it?

A. Yes, sir, (indicating No. 88).

Q. Now, the Sinclair and Valentine factory is right about 100 feet off from you, during the daytime?

A. Yes, sir.

Q. Now, where is your house—here is Edgewater Place—and it is on the west side, isn't it?

A. Yes, sir.

Q. Which one of these houses is it—the green is the church—you are on Lot No. 35?

A. Yes, sir, that is it.

Q. Block No. 18?

A. Yes, sir.

Q. How long ago did you complete that house?

A. Not quite two and one-half years ago.

Q. Now, have you noticed a considerable improvement there lately—it was not so bad?

A. That is correct—the stink is not so bad.

Q. How long have you noticed that improvement?

A. Maybe two or three weeks; I did not smell that so bad; on June 3rd there was an awful bad smell.

Q. But generally, it has been better for six months or a year?

A. No, sir, not a year.

Q. Well, six months?

A. I don't think so.

Q. Well, four or five months?

A. I don't think it is that long.

Q. When did you notice it before June 3rd?

A. Pretty nearly every week—a couple of times.

Q. What time?

A. It was not regular.

Q. How much of a family have you got?

A. My wife and me.

Q. Well, you don't sleep with the windows open in winter?

A. No, sir, I do not, but still you open the windows to clean it out.

Q. Now, I understand that on the 3rd of June you were at supper and you smelt a very bad smell, unusually bad, and you got up to see what was going on; now, what did you see?

A. I saw the smoke coming out there from that little chimney that I had reference to before, and it stunk, and in about five minutes the thing went up, and the whole thing was over.

Q. It only lasted five or ten minutes?

A. I did not know how long it had been going on before it struck me.

Q. As far as you know it only lasted five or ten minutes?

A. Yes sir—at any rate, from five to ten minutes is all I noticed of it at that time.

MRS. IDA AFRITSCH, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You are the wife of the last witness?

A. Yes, sir.

Q. You live with him?

A. Yes, sir.

Q. On the west side of Edgewater Place?

A. Yes, sir.

Q. Do you know where the Sinclair and Valentine ink factory is?

A. Yes, sir.

Q. What direction is that from your house?

A. Southeast.

Q. Do you notice anything coming from the Sinclair and Valentine Company's factory?

A. Yes, sir, a very bad smell.

Q. Just describe that smell—just describe it, what it is—how it affects you.

A. It gives me stomach trouble.

Q. And what else?

A. And I have to close the windows.

Q. Anything else—does it affect you in any other way?

A. It makes me sick, and I cannot eat.

Q. Any other way?

A. And I have to close the windows.

Q. Does it bother you in any other way?

A. The smoke comes in my kitchen—the kitchen is on the south side.

Q. Is that the only way in which it bothers you?

A. I guess that is enough.

Q. Does it affect your throat?

A. It affects my stomach.

Q. Does it affect your throat?

A. I am sick in my stomach.

Q. Do you vomit?

A. No, sir.

Q. Does it make you cough?

MR. McCARTER.—Objected to as leading.

A. Well, it makes me sick so that I have to stop eating my dinner or my supper.

Q. Do you know where this smell comes from?

A. The smell comes from the Sinclair and Valentine ink factory.

Q. How often have you noticed this smell?

A. Many times—a couple of times in a week.

Q. Did you ever smell it any oftener than that?

A. Yes, sir, in the night and in the daytime.

Q. Any oftener than twice a week?

A. Last Tuesday there was an awful bad smell.

Q. How did it affect you last Tuesday?

A. Well, we had supper, and we went out in the yard to see where the smoke came from, and we saw the smoke come from the ink factory.

Q. Was there any smell with it?

A. Yes, sir, a very bad smell.

Q. I show you photograph No. 12, and ask you if you can show from that where the smoke comes from?

A. From that chimney (indicating chimney on No. 12).

Q. How long have you noticed this smell, Mrs. Afritsch?

A. Well, over a year.

Q. And when did you first notice it, about when?

A. A year and a half, maybe two years ago.

Q. And how often have you noticed it since the first?

A. Well, the first time—and now, four or five times a week, many times more, and many times less—when the wind comes that way I smell more —when the wind comes from the east.

Q. How about a still day, or a rainy, foggy day?

A. I cannot understand that.

Q. A close day or foggy day, when it is all mist?

A. Do you mean on Sunday?

Q. No, on a real warm day, without any wind.

A. When the wind is heavy then it is very much, I smell it very much.

CROSS-EXAMINATION by Mr. McCarter:

Q. This is not the only factory there that smells, is it?

A. Yes, sir.

Q. Did you smell the dye works?

A. No, sir.

Q. Did you ever smell Mr. McGarry's stable?

A. Not a bit.

Q. Did you ever smell that big pile of manure that is there?

A. No, sir.

Q. Not a bit?

A. No, sir.

Q. You know there is a dye factory there?

A. Yes, sir.

Q. Did you ever have any smoke come into your house from the sugar refinery?

A. No, sir.

Q. Now, do you know where the smoke that came into your kitchen, came from?

A. When the air is heavy, we have the south wind, and it comes in the kitchen.

Q. (BY THE COURT) How do you tell the smoke, whether it comes from this chimney or not; how do you tell that; how do you tell whether the smoke comes from this chimney that you have been shown the picture of?

A. I see the smoke; it is blue and yellow.

FURTHER CROSS:

Q. Now, Mrs. Afritsch, your husband said that it is not nearly so bad as it used to be; you agree with him about that, don't you?

A. I don't understand you.

Q. You do not notice the smell from this chimney as much as you used to notice it, do you?

A. I cannot understand you.

Q. The smell from the chimney used to be worse than it is now, or has been for several weeks—is not that right?

A. Last Tuesday—

Q. Generally, every day, it used to be worse than it is now?

A. I don't understand you.

Q. You seemed to understand Mr. Ellis there—he is an Irishman, so am I; you can understand Mr. Ellis and cannot understand me?

A. I cannot understand you.

Q. You say you noticed these smells about a year and a half ago, first?

A. Yes, sir.

Q. Then it got better; it was not so bad for awhile; did it get better?

A. Sure not. I am not sure what you mean.

Q. I am trying to help you; I am not trying to mislead you at all; see if you do not understand me. You lived there about two and one-half years?

A. Yes, sir.

Q. You built your nice little home there?

A. Yes, sir.

Q. Have you ever had any children?

A. No, sir.

Q. Now, when did the Sinclair and Valentine factory come there; when did they come there—how long ago?

A. One and a half or two years ago.

Q. And how soon did you notice the smell after they came?

A. Well, we saw the smoke, and the smoke stunk very much.

Q. Right away—as soon as they came?

A. Yes, sir.

Q. That you noticed for awhile; then, didn't it kind of get better for awhile?

A. Well, they said the stink would stop after a little while, but it did not stop.

Q. Is it just as bad as it ever was?

A. It is all the same as it ever was?

Q. You don't agree with your husband about that, then?

A. What is that?

Q. Never mind; you say it made you sick at your stomach?

A. Yes, sir.

Q. You never vomited, did you?

A. No, sir; it made me sick; I could not finish my supper.

Q. How often does that occur?

A. A couple of times a week.

Q. Every week?

A. Every week, yes, sir.

Q. Two times a week?

A. Sometimes more, sometimes five days; many times every day.

Q. And that has been so every day right along, eh?

A. I don't understand you.

Q. Now, you have talked with Mr. Ellis about this matter, haven't you?

A. No, sir, I never saw Mr. Ellis before.

Q. Didn't you talk outside here in the hall?

A. Yes, sir, outside here.

Q. And when had you noticed this smell before

Tuesday, the 3rd of June; what day had you noticed it before then?

A. Oh, well, I can smell the stink every day.

Q. Give us a single day inside of a month.

A. I cannot say the days or the times; I forget that, but I know the last Tuesday there was an awful bad smell.

Q. And that lasted about ten minutes?

A. For over half an hour.

Q. Then it stopped?

A. The stink was in the air a long time.

Q. Now, have you ever been down to the factory?

A. No, sir, I have nothing to do with the factory.

Q. Have you ever noticed that big manure heap; did you ever notice that?

A. No, sir.

Q. Have you ever seen it?

A. No, sir.

Q. Did you ever see any smoke coming from the sugar refinery?

A. Yes, sir, but it did not stink?

Q. You saw the smoke?

A. Yes, sir.

Q. Have you ever seen any smoke coming from the dye works?

A. No, sir; I smelled nothing from that.

Q. Did you ever smell anything from the concern where your husband works?

A. No, sir.

Q. That does not smell where your husband works?

A. When I make a fire in my house there is smoke, but it does not smell.

Q. Do you ever have any smell come from the dye works on Undercliff Avenue?

A. No, sir.

Q. Did you ever know that Mr. McGarry keeps 16 horses right in front of your place?

A. I know he has horses in there.

Q. 16 of them?

A. I don't know how many.

Q. That stable is right in front of your place?

A. Yes, sir, but it does not smell.

Q. That stable is much nearer your place than the factory of Sinclair and Valentine, isn't it?

A. Yes, sir.

Q. It is right in front of your place, isn't it; right across the street?

A. Yes, sir.

Q. Now, there are other factories in that neighborhood, too, are there not?

A. No, sir.

Q. No other factories?

A. No, sir.

MR. JOSEPH CONNELL, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 369 Undercliff Avenue.

Q. That is on the east side of the avenue?

A. Yes, sir.

Q. How long have you lived there?

A. A little over seven years.

Q. Where are you employed?

A. In the marble yard.

Q. Do you know where the Sinclair and Valentine ink factory is?

A. Yes, sir.

Q. And in going to and from your work, do you have any occasion to pass there?

A. I pass it six days a week.

Q. How many times a day?

A. Twice.

Q. How do you pass it?

A. Generally pass it on the south side.

Q. Do you go down Edgewater Place to work?

A. Yes, sir, as far as about at right angles to the ink factory.

Q. Is that a photograph (showing photograph No. 10); is that a picture of the rear of the factory?

A. Yes, sir.

Q. I show you photograph No. 12, and ask you if you see anything on that photograph that you see at the ink factory?

A. Yes, sir.

Q. What do you see?

A. I see the stack, and where it seems they burn something.

Q. Have you seen anything come out of that stack—chimney?

A. I have seen smoke coming out of it.

Q. Just describe that smoke.

A. It is rather difficult to describe it; sometimes it is one color, and sometimes another; sometimes it looks just like a heat coming out of the top of the chimney.

Q. How long have you notcied that coming out of that chimney?

A. Well, almost ever since it was built.

Q. How long is that?

A. To my knowledge, it is over a year ago.

Q. How often have you noticed it—how many times a week or a month?

A. I should say from three to four times a week; I can smell that stink coming out of it.

Q. Just describe that smell, in your own words.

A. Well, may I describe my first experience of the smell?

Q. Yes.

A. I was coming on the South side of it, about 35 or 40 feet South of it, at right angles with it; I was smoking my pipe, and the pipe tasted down my throat; I took it out and cleaned the tobacco, and put new stuff in, and the same thing happened; and then I looked up and I saw the dirty smoke from the chimney was going down my throat, and ever since I did not need to think about the pipe, because I knew where it was coming from.

Q. How did it smell; describe it as near as you can.

A. A great many years ago, I once smelled an old dead horse in the month of September, on the street, and it smelled much the same.

Q. How does it affect you?

A. I wanted to get away as soon as possible.

Q. Does it affect you in any way?

A. It does not make me sick.

Q. Does it affect your throat?

A. Yes, sir.

Q. How does it affect your throat?

A. It makes you feel dry, as if something was going down there that you did not want; if you were eating anything, you felt as if you wanted to throw it away.

Q. Did it make you cough?

A. No, sir, I cannot say that it did.

Q. How often do you say you noticed these smells?

A. From two to four times a week, at least.

Q. Are they any better than they were a long time ago?

A. Yes, sir, I will have to admit that they are.

Q. Just describe how.

A. Well, you even don't feel them so often, and you don't feel them so long when you do get them —I mean so long at one time.

Q. Now, Mr. Connell, what time do you have to pass this Sinclair and Valentine factory; what time of day?

A. About 7:15 in the morning, and 5:15 in the evening.

Q. You are returning from your work about 5:15 in the evening?

A. Yes, sir.

Q. Where does the smell come from?

A. It comes from both of them.

Q. Now, you travel along Edgewater Place on your way back and forth—how far are you away from the chimney, when you are at Edgewater Place, on the rear?

A. 100 feet, perhaps, 103 feet; the length of the lot, as far as I can see.

Q. Do you get this odor in the morning or in the evening?

A. Both times, sir.

CROSS EXAMINATION by Mr. McCarter:

Q. Now, you have noticed it quite as frequently in the morning at 7:15, as you have in the evening going home?

A. Yes, sir.

Q. Was this experience when you had the episode with your pipe, in the morning?

A. No, sir, that was in the evening.

Q. Describe these two chimneys.

A. The chimneys, to me, seemed to be about ten or twelve feet high, and seemed to be about ten or twelve feet high, and seemed to start four or five feet below the level, of the West of them.

Q. Now, you have noticed the photograph of one of these chimneys there, a moment ago?

A. Yes, sir.

Q. That is just like the other chimney?

A. As far as I can see.

Q. Where do they stand relative to one another? —the two chimneys?

A. One stands in the Northwest corner, and the other one stands pretty nearly in the Southwest corner, as far as I can see.

Q. When did you notice the improvement, Mr. Connell?

A. This last three or four months I have not smelled it so bad as I did before.

Q. Your house is up on Undercliff Avenue?

A. Yes, sir.

Q. How do you get down from Undercliff to Edgewater?

A. I go on the second lot, South of my house, and go down Edgewater Place, and walk along Edgewater Place about 100 yards, until I get at right angles to, and West with, that first chimney, then I strike towards the East down by Ross's property.

Q. How far is the ice plant at which you work—

A. I never worked there.

Q. Where is the marble yard that you work at?

A. It is on the River Road, right opposite to Ross's property, East of Ross's old house.

Q. How far from the Sinclair and Valentine property?

A. The entrance of it—oh, I should say about 200 feet to the gate of the marble yard.

Q. Are you at work in the yard?

A. I work in the building, or in the yard, or any other part that I am sent to work in.

Q. I understand that the first time that you became aware of the existence of this particular trouble, was your pipe experience that you spoke of?

A. Exactly, yes, sir.

Q. Now, when was that?

A. It is over a year ago.

MR. JOSEPH SCHUBAUER, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. I live at Undercliff Avenue and Columbia Terrace, Edgewater.

Q. How long have you lived there?

A. About six or seven years.

Q. What is your business?

A. I work in the marble yard.

Q. That is a little to the Southeast of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. Are you familiar with where the ink factory is?

A. Very well.

Q. (BY THE COURT) Do you know the chimneys on the factory?

A. Yes, sir, and I have smelled them sometimes.

FURTHER DIRECT:

Q. I show you photograph No. 10; what does that represent?

A. This represents the ink factory here; this is the chimney that there is so much talk about; this behind is the sugar factory (indicating the left-hand corner of the picture).

Q. I show you that picture, and ask you what you see on that?

A. I see a tank, part of a tank, and the chimney where the stink comes out.

Q. You said you saw a chimney where the stink comes out; what did you mean by that?

A. Sometimes when I pass there in the morning, I have to hold my nose close so that I can breathe.

Q. Why do you have to close your nose?

A. You see a little vapor coming out sometimes, and sometimes thick smoke; sometimes the smoke is brown and sometimes it is yellowish; and sometimes it is a little blue, like vapor; it is hard to describe.

Q. What is the matter with that vapor or smoke?

A. That doesn't smell very nice.

Q. How does it smell?

A. Rotten.

Q. Is that the only way it smells?

A. It smells as if they are burning oil, or something.

Q. How often do you pass this place?

A. At 12 o'clock, when I go for dinner, and I pass there in the evening.

Q. You pass that place about four times a day?

A. At dinner time, I pass it twice, and in the evening also; I pass it four times a day; that is correct.

Q. When did you first notice this smell?

A. It must be at least a year and a half, maybe a little more.

Q. How often have you smelled it since then?

A. Several times a week.

Q. How does it affect you?

A. It does not affect me at all—well, it makes my throat dry.

Q. Does it affect you in any other way?

A. No, sir.

Q. What times of the day do you smell this mostly?

A. Sometimes in the morning, and sometimes at dinner time. I don't think I ever smelled it in the evening, because it is around five o'clock when I go home, and I don't think I smell it then; it is according to how the wind blows, though.

CROSS-EXAMINATION by Mr. McCarter:

Q. Do you work in the stone works?

A. Yes, sir.

Q. How far do you stand or work in the stone works from the little chimney?

A. I suppose 250 or 300 feet away.

Q. Have you noticed any improvement?

A. The last two weeks I think it is not as bad as it was.

Q. Leave out the last two weeks—say, the last six months?

A. I could not swear to that; I don't know as it is that long or not, but I say for the last two weeks it has been better.

Q. I say, leave out the last two weeks, and take the last six months?—It has been better than it was the previous six months, hasn't it?

A. It is generally better in the winter time than in the summer.

Q. Was it better last autumn than it was last summer?

A. I don't remember about that.

Q. Now, how near to this place do you pass—about 35 feet?

A. It might be a little more; I take the same route that Mr. Connell does.

Q. And your experience has been about the same as his?

A. Yes, sir.

Q. Are you sure you smell that in the morning at seven o'clock?

A. Last week, one day, it was something terrible; black smoke came out, and it nearly choked me.

Q. That was what time of day?

A. In the morning.

Q. What day last week?

A. I could not tell you whether it was Monday or Tuesday, but it was in the early part of last week.

Q. But ordinarily, how about the morning?

A. Sometimes I smell it and sometimes I don't.

Q. Would the smoke be pretty black in the mornings?

A. That morning it was; that is the first time I have noticed that black smoke since I passed there; it always was that bluish vapor that came out before.

MR. FERDINAND PFETZNER, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Undercliff Avenue.

Q. Borough of Edgewater?

A. Yes, sir.

Q. How long have you lived there?

A. About two years—over two years.

Q. On the East side or the West side of the avenue?

A. That is on the East side of Undercliff Avenue.

Q. In what direction from the ink factory of Sinclair and Valentine?

A. About West.

Q. I show you photograph No. 10, and ask you if you know what that represents?

A. That is back of their factory.

Q. Do you see anything else on that?

A. That is the smoke stack; this is in the Northwest corner of their property.

Q. I show you photograph No. 12, and ask you what you see on that?

A. Yes, sir.

Q. What is it?

A. That is the smoke stack.

Q. Have you seen any smoke, or what have you seen come from that smoke stack?

A. Well, ever since the smoke stack has been up, there has been—well, when they first put it up, it was a dark, heavy smoke; but lately, it is a light blue smoke—very light.

Q. When did you first notice that; how long ago?

A. Ever since the chimney has been up.

Q. How long ago is that, about?

A. I don't recollect—probably over a year; I am not sure how long that chimney has been up.

Q. You say smoke comes from that chimney?

A. Yes, sir, it does.

Q. Is there anything about that smoke that you have noticed?

A. You could not call it a smoke—it is a vapor.

Q. Describe it in your own way.

A. It seems that they boil oil, and that is the smell of it; it is a heavy smell; it chokes you when you pass.

Q. How does it affect you, if any?

A. It dries my throat; otherwise, it don't affect me, much, outside of getting that smell.

Q. Is it a pleasant smell?

A. I guess not; it is not at all a pleasant smell; it is a smell almost that would suffocate you; that is the way the smell is.

Q. Have you noticed anything in particular recently at that factory, or at this chimney?

A. Well, on the 26th of last month, I worked in the grinding, and I heard a noise, and the noise was about like an engine; and I looked around, and I saw this smoke stack (witness makes a peculiar noise, imitating the noise from the smoke stack, namely, "Achoo, achoo"), that is about 7 o'clock at night, and I thought probably it was some explosion. I walked right down to the factory where this chimney was; I looked in the yard, and I saw the door to this little place where they pull this place open; and as I walked back, this smoke came down, and I had to get away from it—it was so heavy and so thick.

Q. How did it smell?

A. Just as I described; it was choky; you had to get out of it; you could not stand it..

Q. Does it choke you like ordinary black smoke, or differently?

A. No, sir, it is not like a smoke at all; it is a suffocating smell; you could not stand it; you would have to get away.

Q. Can you smell it at your house?

A. When we get an East wind, we smell it, but we have to get the East wind.

Q. How often have you noticed this smell within the past 18 months?

A. I go to work through Edgewater Place; I cross the lots at Edgewater Place and go to Hilliard Avenue—that is going North, to the ferry, but I smell it on my way coming home; I come home every noon for dinner, and if the wind comes that way, you cannot help but smell it.

Q. About how often do you smell this, or how often have you smelled it within the last year, or year and a half?

A. Every time the wind comes that way you will smell it when they boil it.

Q. Have you noticed the smell very recently?

A. Yes, sir, on the 4th of this month, the very same thing happened—that black smoke; but I was not in the smoke; I was just eating my supper, and the wind did not come my way, but I saw it. I can see the smoke stack when I eat my meals.

Q. Did you smell any of it?

A. No, sir, I did not smell that, because the wind did not blow this way.

Q. You live in a large house?

A. I live in a six-family house.

Q. Are you the owner of the house?

A. Yes, sir.

Q. Taking tenants?
A. Yes, sir.
Q. Have you ever received any complaints?
A. Yes, sir.
Q. What about?

MR. McCARTER.—Objected to.

THE COURT.—The objection is overruled.

A. One of my tenants complained that if the smoke kept up that she could not stand it; that she would have to remove; she would have to get out.
Q. She is still in the house, though?
A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. When was that complaint?
A. About three months ago, about; I am not quite sure of that.
Q. Who was that made that complaint?
A. A party named Mrs. Shoemaker; she lives one flight up.
Q. Does Mrs. Shoemaker still live in the house?
A. Yes, sir.
Q. Who else lives in the house?
A. We have Mrs. Freley on the first floor, South; Mrs. Gilroy on the top flat, South; Mrs. Mooney on the top flat, North.
Q. How long have they been there?
A. I don't know how long Mrs. Mooney has been there, but Mrs. Freley has been there ever since the house was up, and Mrs. Shoemaker has lived there for about six months.
Q. The house was up before the defendant's factory was put up?

A. Yes, sir.

Q. You were told by someone, were you not, when you proposed to put up that house, that you had better not do it?

A. No, sir.

Q. Are you sure about that?

A. Yes, sir.

Q. Didn't you have a talk with a man, in which he told you, that he thought you were foolish to put a house in that neighborhood?

A. No, sir.

Q. When you talked of buying that place, were you not warned by a man not to do it, because of the neighboring factories?

A. No, sir; the factories were all there.

Q. Do you know Mr. Hout?

A. I do.

Q. I will ask you if, before you finally determined to purchase there, whether you did not have a talk with Mr. Hout on the street in Edgewater, and if he did not say to you that he thought you were foolish if you bought where you proposed to buy—because of the neighboring factories?

A. If he did, I don't remember it.

Q. Now, you come how near to the Sinclair and Valentine factory when you go down to your work —about a hundred feet?

A. No, sir, I cross—sometimes it is 200 feet, and sometimes it is only, probably, 125 feet; I don't always go the same way.

Q. Now, I show you pictures No. 13 and No. 15, and ask you if you can point to your house on either one of those pictures?

A. Those are my two houses.

Q. Which—the two right-hand houses on picture 13; is that right?

A. Yes, sir.

Q. And the two left-hand houses on picture 15?

A. Yes, sir.

Q. The two left-hand houses on picture 9, is that right?

A. Yes, sir, and here is where I live.

Q. The lower floor, that is the apartments which you personally occupy with your family?

A. Yes, sir.

Q. Leaving out the last week or two, have you noticed any improvement during the past six months or a year?

A. There was an improvement, yes, sir.

Q. Did you understand that some change had been made in the mechanism?

A. That is what I was told; I did not know.

Q. And that improvement generally continued, didn't it?

A. Not that I can say.

Q. Except, that on the 26th of May and the 4th of June, you now recall on those two occasions hearing a kind of explosion, and looking up and seeing that an unusual quantity of some kind of stuff was coming out of the chimney there; is that right?

A. Yes, sir; I saw that before, but I have not the dates of it.

Q. What was the character of the improvement that you speak of?

A. The smoke is not quite as dark now as it was at that time, but as you come along the road, the smell is identically the same thing as it was with the heavy smoke, when the wind blows towards the way you come.

Q. When did you notice that change or improve-

ment; when did you notice the change that you have spoken of?

A. I could not tell you when; it may have been about two months, I might say.

MR. WILLIAM POPP, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place.

Q. Which side?

A. The East side.

Q. How long have you lived there?

A. About three years or longer.

Q. I show you photograph No. 8, and ask you if you can point out your residence?

A. Yes, sir, the one to the right.

Q. Are you familiar with the location of the Sinclair and Valentine Company's ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you if you can recognize that?

A. Yes, sir.

Q. What is it?

A. That is the rear of Sinclair and Valentine's ink factory.

Q. I show you photograph No. 17, and ask you if you recognize that?

A. Yes, sir, that is the low building where all the fumes come from; that is the stack right there (indicating).

Q. What do you notice coming out of that stack?

A. I notice a heavy fume; a horrible, choking fume coming out of there.

Q. When did you first notice those fumes?

A. Ever since the factory has been built—two years.

Q. How often, from the first?

A. Well, I am away in the day time.

Q. How often have you noticed it after five or six o'clock in the evening?

A. Quite frequently—three or four times a week.

Q. Just describe that smell.

A. It is a choking—it fills me all up in the throat, —a nasty choking smell; it affects my throat and lungs; when I breathe it is like a whistle going through.

Q. Does it make you cough?

A. Yes, sir.

Q. In the night time do you notice it?

A. I do, when they keep the windows open on the South side.

Q. What time have you reference to in the night time?

A. Any time after six o'clock.

Q. Do you sleep with your windows open?

A. Not on that side of the house, no, sir.

Q. Why not?

A. I would not want to be filled up with that fume and smell.

Q. You keep your windows closed on account of these smells?

A. Yes, sir.

Q. How often do you smell these of an evening; how often have you smelled them?

A. From the 2nd of July, 1912, until February, 1913; I was away during that time; I worked in Newark Bay during those months.

Q. Have you noticed those smells recently?

A. Yes, sir.

Q. When did you notice them last?

A. I have noticed them two or three times a week, ever since I got back in February, but on the 26th of last month, it was something that was horrible; a man could not stand it, from 6:55 until 20 minutes past 7; the town was blue with these blue heavy fumes.

Q. Did you see where they came from?

A. It came from that small stack in photo No. 12.

Q. How long did they last?

A. From 20 minutes to half an hour.

Q. Did you notice it after the 26th of May?

A. Yes, sir, I have noticed it on the 2nd, 3rd and 4th and 5th of this month.

Q. What time of day did you notice them then?

A. It was always in the evening after six o'clock, when I got home.

Q. How was the smell then?

A. About as bad as on the 26th of last month.

Q. How long did it continue?

A. Some evenings 15 or 20 minutes; some evenings it would be up to 9 o'clock.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mr. Popp, what connection by marriage are you with Mrs. Harrigan?

A. I am her brother-in-law.

Q. Your wife and she are sisters?

A. Yes, sir.

Q. Do your houses adjoin?

A. No, sir; there is a lot between her house and my house.

Q. And on this picture No. 8, which you have stated shows your house on the right-hand side, I see in the rear a great big tall building; what is that?

A. That is a stable.

Q. Whose stable?

A. Mr. McGarry's.

Q. How many horses has he in there?

A. Maybe 16 or 18.

Q. He has a big pile of manure there?

A. Yes, sir.

Q. How near is that manure heap and that stable containing 18 horses, to your house?

A. Probably 125 feet away.

Q. I don't suppose you ever had any smell from that at all?

A. It never affects me in the throat that way.

Q. I am talking about smell now.

A. Not a great deal.

Q. Just a little bit?

A. Just a little bit, once in a while.

Q. That had nothing to do with keeping the windows shut, I suppose?

A. No, sir.

Q. Do you sleep in the front of your house?

A. Yes, sir.

Q. You don't face the South?

A. The windows are on the South side.

Q. Behind this stable of Mr. McGarry's, is a very tall building?

A. That is Warner's Sugar Refinery.

Q. Does any smoke ever come from that?

A. Quite a little.

Q. Whose tall stack is this I see in the right-hand corner of the picture?

A. That is Warner's sugar house.

Q. How far is that stack from your place?

A. Four or five hundred feet.

Q. Is that the stack from which this smoke comes?

A. Yes, sir, the smoke, that is the one.

Q. You made an affidavit in this suit?

A. Yes, sir.

Q. I see you say they manufactured glue there; where did you get that information?

A. I went by the smell; the smell was as bad as glue, but glue would not affect you that way.

Q. Did you ever have a glue factory near you?

A. No, sir.

Q. How do you know how glue would affect you?

A. I have smelled it.

Q. Now, you have noticed generally, since February, when you got back, down until a month or so ago, rather an improvement there?

A. A little improvement on the smoke, but not on the smell; when the wind would blow South, I would get this same smell; it is more like a sky-blue, now, but the smell is there just the same, if you don't get any smoke at all.

Q. What was it that happened on the 26th of May that called your particular attention to it?

A. I was in New York on business on that day and happened to go over on the ferry; I remember that day very well; I saw a sky-blue smoke; it came out very heavy; I should say it was about 6:55 and lasted until 7:25; about half an hour.

Q. Who constitutes your family?

A. My wife and two children.

Q. How old are the children?

A. 12 and 13 years old.

FRANCIS HARRIGAN, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You are the son of the complainant in this suit?

A. Yes, sir.

Q. And you live with your mother on the top floor of her building?

A. Yes, sir, I do.

Q. And how long have you lived there?

A. Since the house was built.

Q. How long is that?

A. Five or six years, I guess.

Q. You are familiar with the location of the Sinclair and Valentine Company's ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you what that represents.

A. The rear view of Sinclair and Valentine Company's plant.

Q. Have you noticed anything else on it?

A. Warner's Sugar—one of the tanks of the Sinclair and Valentine Company.

Q. I show you photograph No. 17, and ask you if you see any part of the Sinclair and Valentine Company's plant on that?

A. Yes, I see the roof of a little building on the Northwest corner, and the chimney coming out of the same.

Q. Now, have you noticed anything particular about this chimney that you speak of?

A. I have noticed the smoke—the fumes coming out of there.

Q. Do you know how large that chimney is?

A. About 25 feet high, and about 3 feet square.

Q. Have you ever measured it?

A. I never measured the height.

Q. How many tier of brick are there in it?

A. 104, I think.

Q. Is that from the top of the building?

A. Yes, sir.

Q. How often have you noticed this smoke, or fumes, as you call it, coming out of this chimney?

A. At different times.

Q. When did you notice it first?

A. As soon as it was built.

Q. How long ago was that?

A. A year, possibly.

Q. How often have you noticed it since then?

A. Three or four times a week.

Q. Just describe this smoke or fume, as you call it.

A. It looks like a heavy blue vapor that seems to come out and roll and hang in the air, and waves.

Q. Is there anything about it—

A. Yes, sir, it catches your throat and makes you gag and hawk, and it makes you want to sneeze and blow your nose; it makes you sick at the stomach if you are in it too long.

Q. Did it ever affect you that way?

A. Yes, sir, that Wednesday night.

Q. What time last Wednesday night was that?

A. A little after six.

Q. How long did you notice it Wednesday night?

A. I did not stay there long; I got out.

Q. How long were you there altogether in the fumes?

A. About 20 minutes.

Q. Did it affect you in any particular way then?

A. It did; I could not finish my supper; it made

me sick at the stomach, and my throat got dry, and there was a burning sensation in the nose, and it makes you hawk and sneeze.

Q. How often have you noticed this smell?

A. Every time that I would get into it, I would notice it.

Q. How many times a week have you noticed it?

A. Four or five times a week.

Q. What time of day?

A. Different times of day.

Q. Any particular time?

A. No, sir.

Q. Was there any difference in the smell any of these times?

A. No, sir, it is all about the same, only sometimes there is more of it; it is thicker and heavier.

Q. Does it affect you about the same each time?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. You work for Mr. McGarry?

A. Yes, sir.

Q. Do you run that stable?

A. I am interested in it—part of my work.

Q. Are you a partner wtih Mr. McGarry?

A. No, sir, I am working for a salary.

Q. I don't suppose you ever smell anything from that manure?

A. No, sir, nothing to speak of.

Q. That is very much nearer your dining room than the Sinclair and Valentine factory?

A. Yes, sir.

Q. It is about half as near again, isn't it?

A. No, sir, I don't think it is half.

Q. How far do you imagine the Sinclair factory is from your place, from your home?

A. Between 200 and 250 feet.

Q. The engineer said it was 295 feet; how far do you think your stable is, the manure heap, from the rear of your house?

A. 135 feet, possibly 140 feet.

Q. What is the largest number of horses you ever kept in that stable for the past two years?

A. I cannot answer that.

Q. You are engaged in this business; you have had sometimes as many as 20 horses there?

A. No, sir.

Q. 18?

A. Yes, sir, we have had 18.

Q. Possibly 19?

A. No, sir, I don't think we have ever had 19 in there; we had them in other barns way up the road.

Q. Do you take all of your meals at home, Mr. Harrigan, your mid-day meals?

A. The biggest part of them, 99 per cent of them.

Q. And that has been true for the last two years?

A. Yes, sir.

MR. EDWARD G. KAUFER, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Fort Lee.

Q. What is your business?

A. Hay, grain and hardware dealer.

Q. You have a grain elevator at Edgewater?

A. Yes, sir.

Q. Whereabouts?

A. Right opposite the Warner's Sugar Refinery.

Q. And about how near to the Sinclair and Valentine Company's factory?

A. I should judge about 100 feet north.

Q. It is all open between your grain elevator and the Sinclair and Valentine factory?

A. Yes, sir.

Q. I show you photograph No. 17, and ask you if you see anything on that that you have seen before?

A. I don't recognize it.

Q. Have you seen the little chimney in the rear of Sinclair and Valentine's plant?

A. I never took notice.

Q. Have you ever noticed any fumes in Sinclair and Valentine Company's plant?

A. I don't know whether it came from the Sinclair and Valentine plant or not; I have smelled it from the South of me.

Q. When did you first notice it?

A. Last summer.

Q. Did you ascertain where that came from?

A. Yes, sir.

Q. Do you know where they came from?

A. Yes, sir, I know where they came from.

Q. Where?

A. From the little ink factory South of me.

Q. How often did you notice these smells last summer?

A. Several times, when I went down in the building.

Q. How many times would you be in that building a week?

A. I have not been in there much lately.

Q. I mean last summer; how often would you get down to your grain elevator?

A. Three or four days a week.

Q. Would you notice it then?

A. At times.

Q. How often have you noticed it since?

A. I have not been down within the last year or so.

Q. When have you noticed it last?

A. Not since last summer, you might say.

Q. Just describe that smell which you noticed last summer.

A. When I took notice of it first, I thought it was someone burning axle grease—something like that.

Q. What kind of smell was it—was it a pleasant smell?

A. No, sir, it was very dry and very suffocating.

Q. What do you mean?

A. It made you feel miserable while you were smelling it; it made me dry in the throat.

Q. Anything else?

A. No, sir, not particularly.

Q. Did it make you cough?

A. No, sir.

Q. How often did you notice that last summer?

A. Two or three times a week.

Q. What part of last summer?

A. During much of the summer; not any later than August.

Q. Did you notice it through July?

A. I could not specify any particular time.

Q. It was through the summer?

A. Yes, sir.

Q. Have you noticed it lately?

A. I have not been in there much lately; I could not say.

CROSS-EXAMINATION by Mr. McCarter:

Q. I suppose before you made the ascertainment which you spoke of, Mr. Kaufer, you thought it might have come from the dye works, possibly?

A. I would not expect it would come from there, because the southern part of my building is exposed, and I was working in the southern part, and naturally, I would expect the smell to come from the southern direction.

Q. In which direction is the dye works?

A. North; there are several buildings between me and the dye works.

Q. Well, there is a number of manufacturing establishments in that neighborhood, isn't there?

A. Yes, sir.

Q. And smoke comes from the stacks of most all of them?

A. Yes, sir.

Q. In fact, you have a stack at your place?

A. I burn Public Service gas, so there is no necessity for a stack; all I have is an exhaust pipe.

Q. And you keep grain on your place?

A. Yes, sir.

Q. Does it ever ferment?

A. No, sir.

Q. Guaranteed not to, eh?

A. Yes, sir, I am like the boarding-house keeper.

Q. That is what you claim, any way, to your customers, that it never ferments?

A. You are right—have it your own way.

MRS. ELIZABETH REVERE, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater, New Jersey.

Q. What part?

A. Between River Road and Edgewater Place.

Q. There is a little lane running in there, isn't there?

A. Yes, sir.

Q. You live on that lane?

A. I live next to the lane.

Q. Which side of the lane do you live on?

A. I live on the West side of the lane.

Q. How long have you lived there?

A. I have lived in Edgewater 25 years, not in that one spot, though.

Q. Do you know where Sinclair and Valentine Company's factory is?

A. Yes, sir.

Q. Have you noticed any smoke or fumes coming from that factory?

A. Yes, sir, I have.

Q. From what part of the factory?

A. Well, from the west end of the factory.

Q. Can you show, by looking at that photograph, what part it comes from?

A. Right there—from that smoke stack (indicating).

Q. What kind of smoke did you notice coming from that chimney?

A. I have noticed several kinds of smoke.

Q. When did you first notice it?

A. About a year or a year and a half ago.

Q. What kind of smoke came from it then?

A. A very heavy, dark brown smoke.

Q. Was there anything about that smoke?

A. Yes, sir, it was very, very unpleasant, very smothery.

Q. Did it affect you in any way?

A. It surely did.

Q. Just state how it smelled, and all about it, in your own words.

A. It made me so very sick that one day, I went in and inquired of my mother what it was; it made me very sick; I was so sick that I could not stand up; it made you feel as if you would like to lie down; it made me sick in my throat and head; it made my throat very dry.

Q. Did it make you cough?

A. Yes, sir, a great deal.

Q. How often have you noticed this unpleasant odor?

A. I have noticed it right along since the factory went up, for the past year and a half.

Q. About how often?

A. Some days three or four times a day, and some days not at all; and then again, three or four times a day.

Q. About how many times a week would you notice it?

A. On an average of six days a week.

Q. How long would these smells last at different times?

A. Oh, I should say about half an hour, or 25 minutes; just long enough to give you a sickly smell.

Q. What time of day did you smell these mostly?

A. Well, I had occasion to be up in the morning at one o'clock, and I noticed it at that time.

Q. What other times in the day did you notice it?

A. At ten o'clock, before lunch hour.

Q. Any other time of day?

A. Yes, sir, towards evening, around five o'clock.

Q. When do you smell it mostly, in the morning or in the evening?

A. I smelled it at one o'clock in the morning—that was the worst I ever smelled it.

Q. How many times did you smell it at one o'clock in the morning?

A. Every other morning.

Q. For how long?

A. The last year and a half.

Q. Is the smell about the same now, or what is the difference between the first time you noticed this smell and the present time, or any time within the last six months?

A. Well, it is not any better; the more you smell the worst it is, and the more you hate it.

Q. Is the smoke any heavier now than it was?

A. I have never noticed the smoke in particular; the smell was enough.

CROSS-EXAMINATION by Mr. McCarter:

Q. Do you say you have business that keeps you up until one o'clock in the morning?

A. Yes, sir.

Q. What is the business that keeps you up until one o'clock?

A. My father owns a hotel, and he has sandwiches and cold drinks of different kinds, and we supply the sugar refinery and the different factories with their lunch, and I help him, and for that reason, I am up at 1 o'clock in the morning.

Q. When did you sleep?

A. I sleep in the morning until 9 or 10 o'clock some mornings.

Q. Now, I understand the smoke feature of it has never attracted you?

A. I have noticed the smoke, but it did not bother me as much as the smell; I have never had occasion to look at the smoke.

Q. What is your father's name?

A. James McCurry.

Q. Where does he keep a saloon?

A. On the north side of the Sugar Refinery.

Q. Where do you say you live?

A. Directly behind my father's hotel, on the west end of River Road—between River Road and Edgewater Place.

Q. How far from the factory of the defendant?

A. Oh, I should say about—well, I have never measured it, but it is about 300 or 350 feet

Q. Is your husband alive?

A. Yes, sir.

Q. Does he work until one o'clock, too?

A. No, sir.

Q. He sleeps?

A. He does not sleep—he waits for me, usually.

Q. What does he do while he is waiting for you?

A. He sits up reading and writing and different things.

Q. Ah, he is pursuing a literary career, whilst you work?

A. Yes, sir.

Q. Now, I understand you to say that every morning—for every morning, rather, for the last year and a half, you have smelt that smell?

A. Yes, sir.

Q. Have you looked to see where it came from?

A. No, sir; I have not the time.

Q. You are too busy?

A. Yes, sir.

Q. How do you know where it does come from?

A. It is very easy to find out that it comes from there—you can tell the smell

Q. What do you mean by that?

A. Well, it agrees with the smell that you get in the daytime, and if you pass it, you can tell it when you are passing the factory, that it comes from there; and I have occasion to pass there in the daytime.

Q. What takes you by there in the daytime?

A. My father owns property on the south side of the factory, and I go down and look after it for him; and I used to live there.

Q. I am talking about the last year and a half?

A. Yes, sir.

Q. Do you know when this factory was put up?

A. I don't know the day.

Q. Did you go down and look after this business of your father's ever since this factory was there?

A. Yes, sir, I lived there.

Q. You say you have been for a year and a half bothered with this smell in the morning, up at your father's place?

A. Yes, sir.

Q. How long do you say this factory has been there?

A. I don't know

Q. It is very funny, isn't it—how long ago did you first notice this smell?

A. A year and a half ago.

Q. Then is when you were living up above?

A. No, sir, I left there.

Q. Where?

A. In Garden Place.

Q. When did you move to where you live now?

A. Two months ago.

Q. Then you were not living up there when you were working at one o'clock in the morning?

A. No, sir.

Q. Would you work all night there?

A. No, sir.

Q. When did you stop working?

A When the men would go to their business.

Q. What time does that mean?

A. I don't know; I never bothered to find out; it would be after one o'clock, I suppose—probably before one.

Q. What time would it be?

A. I don't know; I never bothered to find out.

Q. Your husband would be waiting for you until you got through working?

A. Yes, sir.

MRS. MARY BURNS, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 63 Edgewater Place.

Q. Which side of the street is that on?

A. On the east side.

Q. How long have you lived there?

A Seven years.

Q. Do you know where the Sinclair and Valentine ink factory is located?

A. Yes, sir.

Q. Did you ever see it?

A. Yes, sir.

Q. Have you ever seen the stack there?

A. Yes, sir.

Q. The chimney?

A. I have seen it before the large building was put there; when they were using the small building.

Q. Is that the stack you say you have seen (indicating photograph No. 11)?

A. Yes, sir.

Q. That is the one you have seen?

A. Yes, sir.

Q. What have you seen come out of that stack?

A. I have seen lots of smoke come out of there.

Q. What do you mean by lots of smoke?

A. I have seen thick dense smoke come out of that place that you could not draw your breath for.

Q What was the color of it?

A. It was dark brown at the beginning, and then it went off to a shade lighter until it got to be a light blue.

Q. Have you seen it recently?

A. Yes, sir.

Q. What was the color the last time you saw it?

A. Very light blue.

Q. Did you notice anything about the smell?

A. Indeed, I did.

Q. What did you notice about it?

A. I noticed it is very disagreeable, and the smell of it is something terrible.

Q. How long has it been disagreeable?

A. Oh, it has been disagreeable over a year and a half, since it started.

Q. Does it affect you in any way?

A It affects my throat and nose; it makes me cough for 20 minutes to half an hour at a time.

Q. How often do you smell this?

A. I used to smell it about four times a week.

Q. When was that?

A. Last October, it was something awful; and here last week, Tuesday and Wednesday, it was something terrible; it was past describing.

Q. What was the smell like; was it a pleasant smell?

A. Indeed, it was not; it was a smell like old varnish, or old rotten fish.

Q. What times of the day do you notice this smell?

A. 7:30 in the morning; we have breakfast at 7:30, and we had to close our windows on account of the smell.

Q. Is it this same smell from the ink factory?

A. Yes, sir.

Q. The same smell that you have been getting right along for the past year?

A. Yes, sir.

Q. How does it affect you in the night time?

A We have to get up about 11:30 and close the windows, because we cannot stand the smell coming in.

Q. How often does that bother you that way?

A. It has been bothering us now two and three times a week since last March; last March it was terrible.

Q. Was it worse before then?

A. It is a little better now.

Q. You mean the fumes are not as heavy now as they were?

A. I don't see any difference.

Q. Is the smell just the same as it always has been?

A. Yes, sir, when it is coming our way.

Q. Does it make you sick at the stomach?

A. Yes, sir.

Q. At these different times that you noticed this smell, how long does it last?

A. It lasts from an hour, half an hour, three-quarters of an hour

Q. It does not last the same length of time each time?

A. No, sir.

Q. Sometimes longer and sometimes shorter?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. Are you a widow?

A. Yes, sir.

Q. What was your husband's name?

A. John.

Q. He used to work in the Higgins Dye Works?

A. Yes, sir.

Q. How long did he work there?

A. 33 years.

Q. Did you live in the same house where you now live, during that time?

A. No, sir, I lived in New York.

Q. Did you come and live over there after his death?

A. No, sir, he is only dead six weeks.

Q. Then you moved over there when?

A. Seven years ago.

Q. Did he continue to work with the Higgins Dye Works until his death?

A. Yes, sir.

Q. Now, did you ever notice any smell from the Higgins Dye Works?

A. No, sir.

Q. Did you notice any smoke from there?

A. Only the ordinary smoke when they get up steam in the boilers.

Q. Now, I understand you to say, that your principal annoyance from this factory of the defendants, has been either about 7 o'clock in the morning, or after 7:30 in the evening?

A. No, sir, I said 7:30 in the morning, and from 6 until 7:30 in the evening, and at 11:30 at night.

Q. You noticed no difference in that respect during the last six months than before?

A. Not worth speaking of.

Q. When was the last time that you say you had to close the windows at 7:30 in the morning on account of the smell from this chimney?

A. It is this May past.

Q. The 23rd of May?

A. About that.

Q. Did you notice it in April?

A. Yes, sir, I did; my husband was sick then, in April; we had to close the windows down in April; he could not stand the smell of it in his bedroom.

Q. Did you notice it in March?

A. Yes, sir.

Q. Did you notice it in February?

A. No, sir, in February, I did not, very much; but last October I did; my husband was sick, and he suffered terribly.

Q. As a matter of fact, between October and February, you did not notice it?

A. No, sir, not until March.

Q. Your husband died of consumption?

A No, sir, he did not; he died of Bright's Disease, after a long illness.

Q. How far do you live from Mr. McGarry's stable?

A. I don't know, I should judge about 25 or 35 feet.

Q. Did you ever have any curiosity to know how many horses he kept there?

A. No, sir.

Q. Did you ever have any curiosity to know whether you were troubled at all during your husband's illness, or before or since, by the big pile of manure that he has there?

A. I see it, but it don't annoy me in the least.

Q. It is about 35 or 40 feet from your house?

A. Yes, sir.

MISS MAY BURNS, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You are the daughter of the previous witness?

A. Yes, sir.

Q. You reside on the east side of Edgewater Place with your mother?

A. Yes, sir.

Q. And have lived there for the past seven years?

A. Yes, sir.

Q. I show you photograph No. 11, and ask you whether or not you see anything on that photograph which is familiar?

A Yes, sir, I see here this chimney; that looks very familiar to me.

Q. What do you say with reference to that chimney?

A. I have to say in reference to that, that I see fumes of smoke coming out of there for the past year and a half.

Q. What was the color of it when you first noticed it?

A. Very muddy brown, which finally developed into a sort of yellowish color, and then into a light blue.

Q. What color was it lately?

A. Pale blue, or light.

Q. Was there anything about the smoke—

A. The odor of the smoke was obnoxious and nauseating.

Q. Did it affect you in any way?

A. Yes, sir; it affected me so that the membrane in my nostrils was shrivelled up; the inner lining of my nostrils was just shrivelled up.

Q. And did it affect you in any other way?

A. Yes, sir, my throat was just like being parched.

Q. Did it affect you in any other way?

A. It caused nausea.

Q. How long have you noticed this smell?

A. I noticed it first when they first had a little iron pot in the lots.

Q. Did you see that?

A. Yes, sir.

Q. About how often have you noticed the smell for the last year or a year and a half?

A. I have noticed it when I was eating breakfast in the morning, and I noticed it in the evening between six and seven, and then about eleven or twelve o'clock, if I had cause to get up.

Q Did you ever have cause to get up?

A. Yes, sir, I would get up to shut my windows down, because the odor was so intense, that it was stifling.

Q. Would it waken you up?

A. Yes, sir, that is why I wakened, to shut the windows down from the odor.

Q. About how often have you noticed that within the last year and a half?

A. I have noticed it very much from last March on, and also July and August and the first of September; and I could not stay on the lawn; that was last July and August, and of late, this past week, I had occasion to walk up towards the factory, towards the rear of the factory—last Tuesday evening—

Q. What did you notice then?

A. I noticed the fumes coming out; just the same old fumes, and the same old stink; I don't see any improvement; none whatever.

CROSS-EXAMINATION by Mr. McCarter:

Q. Did you say the "same old stink?"

A. We call it the "stink-pot."

Q. You have some feeling about this?

A. Yes, sir, very much; I am a great advocate of this.

Q. Are you an advocate of Woman's Rights?

A. No, sir, not wholly.

Q. I noticed the expression that you used, that the membrane of your nostril was shrivelled up?

A. Yes, sir.

Q. Are you a school teacher?

A. Yes, sir.

Q. I knew it; where do you teach school?

A. In New York, Jackson street, way down town, a public school.

Q. You had to leave home in order to get to your work, which I suppose commenced at 9 o'clock?

A. Yes, sir, about 8:40 I have to be there.

Q. So you have breakfast when?

A. 7:15; I get the 7:30 boat.

Q. Now, it has been an invariable practice of this concern since it started, to emit obnoxious and nauseating odors, practically every morning while you were at breakfast?

A. Yes, sir.

Q. No doubt about that?

A. Yes, sir.

Q. And that same odor of that obnoxious and nauseating character that you refer to, would be usually prevalent at 7 o'clock when you got back from school, and it sometimes wakened you up as late as 11 and 12 o'clock.

A. Yes, sir.

Q. The same odor exactly?

A. Yes, sir—it just becomes a by-word.

THE COURT.—Strike that out.

Q. You talked, I suppose, with Mrs. Harrigan about this?

A. Not very often; I am not here much to talk, not very much.

Q. You are home Saturday afternoons?

A. Yes, sir.

Q. You are here Sundays?

A. Yes, sir.

Q. You are home every evening?

A. Yes, sir.

Q. You visit her and she visits you?

A. Not very often, twice a year, maybe.

Q. Now, when was the last time that you shut down the windows at midnight because of the stench, or, if you prefer to use a school teaching word, the "stink?"

A. You don't need to be sarcastic.

Q. When was it? When was the last time you shut down the window on account of this stink, at midnight?

A. The last time was this past May, about the middle of May.

Q. When before that; when did you shut down the windows before that, over night?

A. In April.

Q. That is while your father was very ill?

A. Yes, sir, and I fanned him.

Q. Were you taking care of him?

A. Yes, sir.

Q. You did not waken up out of a sound sleep on account of the stink and put down the window, it was because he was ill and you were fanning him?

A. I did not say that; that was not when I was awakened out of my sleep.

Q. When did you notice it before that, so that you had to get out of bed and close your windows?

A. In February.

Q. Have you any sisters?

A. One.

Q. Is she here?

A. Yes, sir.

Q. How old is she?

A. 22.

Q. And how old are you?

A. 24.

JOSEPH RAVESE, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 386 Undercliff Avenue.

Q. How long have you lived there?
A. Two years.
Q. You own the house in which you live?
A. Yes, sir.
Q. What side of Undercliff Avenue is that on?
A. On the west.
Q. You are also in the grocery business?
A. No, sir.
Q. Where is your grocery store located?
A. Hilliard Avenue.
Q. Do you know where the Sinclair and Valentine ink factory is?
A. Yes, sir.
Q. Have you been past the rear of that factory?
A. Yes, sir.
Q. I show you photograph No. 11, and ask you whether or not you see on that anything which you recognize; did you ever see any smoke come out of the chimney?
A. Not very often; I pass there once a week, or three times a week with the horse and wagon; I pass the factory once or twice a week.
Q. Have you noticed smoke come out of that chimney?
A. Yes, sir.
Q. What did you notice about that smoke last summer?
A. One day I came from New York and I came in the store, and it was a close day, and I came inside the store, and there was a terrible smell in the store; the wind must have been from the south.
Q. Where did that smell come from?
A. It came from the ink factory.
Q. What kind of a smell was it?
A. It made me feel like vomiting.
Q. Did it affect you in any other way?

A. No, sir.

Q. Did it affect your throat?

A. It gave me a weak stomach.

Q. How often did you notice that smell?

A. All last summer I noticed it, and I noticed it once this last week.

Q. What kind of smell was it last week when you noticed it?

A. About the same as it was last summer.

Q. How often do you smell that?

A. For five or ten minutes.

Q. How frequently—how often do you smell it; quite often or not often; how many times a week, about?

A. Last summer I smelled it pretty nearly all the time, but last week I only smelled it once.

Q. Are you away much?

A. I go to New York now in the daytime, and I am away a lot of the time now.

CROSS-EXAMINATION by Mr. McCarter:

Q. Who bought your goods last summer? You did, didn't you?

A. Yes, sir.

Q. You used to go to New York last summer to buy your goods, just the same as you go this summer to buy your goods?

A. Yes, sir.

Q. Now, I understood you to say that you smelled a bad smell once, and you asked somebody where that smell came from, and they told you it came from the ink factory?

A. Yes, sir.

Q. And that is all you know about it—whom did you ask?

A. My workingmen.

Q. You did not know where it came from?

A. Yes, sir, I found out where it was coming from.

Q. They told you?

A. I went and found out.

Q. Last summer they told you it came from the ink factory?

A. They told me, and I looked out of the window, and it was from the ink factory.

Q. Could you see the chimney from your place?

A. I was working at Edgewater Place, and I found out it was coming from the ink factory; I saw the smell coming out of the ink factory.

Q. Where did you stand and see it coming from the ink factory?

A. Near Edgewater Place.

Q. Near the factory—that is not by your grocery store?

A. No, sir.

Q. Now, I understand you have only noticed it once this past year, and that was one day in May?

A. I don't remember what day it was.

Q. Can you remember how long ago it was?

A. It was either last June or May.

Q. I am talking about this year.

A. It was one day last week.

Q. What time of day was it?

A. It was in the afternoon.

MRS. ELLEN SCANLON, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Garden Place.

Q. What part—on the north or south side?

A. On the south side of the factory, on the north side of Garden Place.

Q. In what direction is that from Sinclair and Valentine's factory?

A. South.

Q. Do you know about how far from it?

A. I could not say the distance; it adjoins the Ross estate.

Q. Is it a couple of blocks or more?

A. It is about two blocks.

Q. How long have you lived there?

A. Since the beginning of last September.

Q. Do you own that property?

A. Yes, sir.

Q. It belongs to you and your husband?

A. Yes, sir.

Q. To both of you?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you whether or not you recognize that picture?

A. Yes, sir.

Q. What is it?

A. The ink factory.

Q. Is it the front or rear?

A. It is the rear.

Q. I show you photograph No. 17, and ask you if you notice anything on that picture which is peculiar?

A. It is the small smoke-stack where the fumes come out.

Q. You say you notice this picture of the chimney—have you seen the smoke come out of that chimney?

A. Yes, sir.

Q. How often, or about how often, have you

noticed that since the 15th of last September—that is the time you came to Edgewater, wasn't it?

A. Yes, sir—about three days a week.

Q. Have you seen the smoke come out?

A. Yes, sir.

Q. What color was the smoke?

A. It was a month ago an awful heavy yellow smoke that came out.

Q. Have you noticed it since then?

A. Yes, sir.

Q. What is the color of it since then?

A. Well, it is light blue.

Q. What was it prior to a month or so ago?

A. Heavy, yellow smoke.

Q. Up until about a month or so ago, it was a heavy yellow smoke?

A. Yes, sir.

Q. That is, from last September?

A. Yes, sir.

Q. Now, what do you notice about the smoke?

A. It stinks; it smells awful.

Q. How does it smell?

A. Like burning varnish, or refuse, paint burning up.

Q. Did it smell the same last September?

A. Yes, sir.

Q. Does it smell the same now?

A. Yes, sir.

Q. How does it trouble you?

A. It dries up your throat; two nights last week my little girl got up and her throat was raw.

Q. Have you noticed this smell recently?

A. Yes, sir, last Tuesday and Wednesday night.

Q. How did it smell last Tuesday and Wednesday night; just describe the smell, if you will, the odor?

A. Just the same, like something burning up.

Q. Is it a pleasant smell?

A. Not at all.

Q. In what other way does the smell affect you, besides affecting your throat?

A. The little girl sleeps in the back bedroom; it affected her so that she could not eat.

Q. How did it affect you?

A. It made me cough.

Q. Did it affect you in any other way?

A. No, sir.

Q. How often do you get these fumes?

THE COURT.—She has testified to that.

Q. What time of day do you get these mostly?

A. Well, in the morning, about 11 o'clock or 11:30.

Q. Do you always get them in the morning around 11 or 11:30?

A. Yes, sir, and in the evening, and late at night.

Q. What time in the evening do you get them?

A. I should say about 7:30; it varies; at different times.

Q. How about when the wind is from the North?

A. Then I get it good and strong.

Q. Do you get it stronger then than you do when the wind is from the south or southeast?

A. Yes, sir.

Q. Why?

A. Because it is facing my place then, and it comes right to me.

CROSS-EXAMINATION by Mr. McCarter:

Q. Is your husband in business in Edgewater?

A. No, sir.

Q. Where is he in business?

A. In New York.

Q. And did you live in Edgewater before you bought this place?

A. I lived in the borough, but not up in the town of Edgewater.

Q. Where did you live in Edgewater before you bought this place; where, in Edgewater, where did you live before you bought this place?

A. I came from Woodcliff to Edgewater.

Q. You never lived in Edgewater anywhere except in this place?

A. I was born in Shady Side.

Q. Then, before you moved to this place, where were you living?

A. In Woodcliff.

Q. How far is that from this place?

A. Probably two miles.

Q. How long did you live there?

A. A year.

Q. And how long is it since you lived in the borough?

A. A year next September.

Q. When did you live in Shady Side?

A. Five years ago.

Q. That is part of the borough?

A. Yes, sir.

Q. Now, how long were you negotiating for this house?

A. About two weeks.

Q. Whom did you buy it from?

A. From Mr. Baisden.

Q. Did you go and look at it?

A. Yes, sir.

Q. In September?

A. Yes, sir.

Q. Did your husband go with you?

A. Not the first time; I went alone the first time, and then the second time I went with my husband.

Q. How many times were you there before you bought it?

A. Twice.

Q. How long were you there each time?

A. About 15 minutes.

Q. Did you go through all the house?

A. Yes, sir.

Q. Now, look at this map which is before you—here is the River Road; here is Undercliff Avenue; here is Edgewater Place, and this is the Ross place, and that is Mrs. Smith's boarding house; here is the factory of the Sinclair and Valentine concern; now, where is your place?

A. About where it is marked "89."

Q. Does the Ross house impair the view of the factory from your place?

A. No, sir.

Q. You are sure it is "89," or is it one of the others?

A. The Ross house runs that way.

Q. Is your No. "89" or is it the one to the west of 89—that side—or don't you know?

A. Mine is this side.

Q. Then it is probably the first house to the west, on Garden Place, of the house that is marked "89;" is that right?

A. Yes, sir.

Q. Does this place smell all the time?

A. Not all the time; you could not stand it if it smelled all the time.

Q. Does it smell all the time?

A. No, sir.

Q. You did not smell it before you bought it?

A. I did not stay there long enough.

Q. It was not smelling when you bought it?

A. I don't suppose it was the real estate man's business to tell me about it smelling.

Q. How long apart were those two occasions when you and your husband visited this place?

A. About two days apart.

Q. Is your husband here?

A. No, sir.

Q. Where does he work?

A. New York City.

Q. Did you notice that there were factories all around here when you bought it?

A. Yes, sir.

Q. Did you notice the Sinclair and Valentine factory?

A. Yes, sir.

Q. You were familiar with the locality before, or were you a stranger to it?

A. I had not been up there before for two or three years.

Q. Had you noticed much change with regard to the factories?

A. Yes, sir, I had; there were some new ones.

Q. Which new one did you observe had come there in the two years?

A. The ice plant and the Sinclair and Valentine; those were the two that I noticed.

Q. How old is your little girl?

A. Ten years old.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. How many children have you?

A. Two.

MRS. SUSAN VAN GELDER, sworn in behalf of the complainant, testifies as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater.

Q. In what part of Edgewater?

A. Garden Place.

Q. Which side, the north?

A. No, sir, on the south side.

Q. Near Undercliff Avenue?

A. Yes, sir.

Q. How long have you lived there?

A. 16 years.

Q. Do you know where the Sinclair and Valentine ink factory is?

A. Yes, sir.

Q. Can you see any part of the factory from your house?

A. Yes, sir.

Q. I show you photograph No. 11, and ask you whether or not there is anything on that that you recognize as part of the ink factory?

A. This is the chimney where the smoke comes out.

Q. Is that the same chimney?

A. Yes, sir.

Q. On photograph No. 17?

A. Yes, sir.

Q. How long have you noticed that smoke coming out of that chimney?

A. For the past year.

Q. How often have you noticed it coming out?

A. Four and five times a week.

Q. Is it just smoke?

A. It is blue.

Q. Is it always blue?

A. Yes, sir, I think it is—ever since I have noticed it.

Q. Is it a pleasant smell?

A. No, sir, it is very disagreeable, it is vile.

Q. Just describe the odor, the way it affects you?

A. It smarts my throat and nostrils and causes a little coughing, and it is very unpleasant.

Q. Has it always affected you that way?

A. Yes, sir.

Q. For how long?

A. For the past year.

Q. Now, when do you get the most of that smell?

A. It depends how the wind is; when the wind is from the northeast, I get more.

Q. Do you keep the window in your house open?

A. No, sir, not on the north side; and on the east side I keep them closed as much as I possibly can, to avoid that smell.

Q. Why is it?

A. To avoid the smell.

Q. How about when it is a foggy day, or a sultry day?

A. It is much worse; I smell it more; I smell it longer, and I smell it stronger on a damp day.

Q. What time of day do you get the smell?

A. At lunch time.

Q. When does it seem to you to smell more than usual?

A. Well, I have smelled it worse on Fridays.

Q. What do you mean—

A. It is stronger, and longer continuing at the time.

Q. Does it bother you at night time?

A. It depends on what room I sleep in; if

I sleep in the north, then I feel it more, but if I sleep at the back of the house, I don't notice it so much.

Q. Has it bothered you between six and eight o'clock or nine o'clock in the evening?

A. No, sir, I have not noticed it so much at that time.

CROSS-EXAMINATION by Mr. McCarter:

Q. Well, you have not slept in the front of the house for the past year, have you?

A. Sometimes I sleep in the front of the house, and sometimes in the back; as a rule, I sleep at the back of the house.

Q. As a mater of fact, how late at night do you notice those odors?

A. As I said before, I don't notice it but very little in the evening; if I do, it is about seven o'clock.

Q. How near do you live to Mrs. Scanlon?

A. She lives on one side of the street—on the north side; and I live on the south side.

Q. Right opposite?

A. I should think there are about six or eight lots between us.

Q. You live further west towards the Palisades?

A. My home faces on Garden Street.

Q. I want to know if you live six or seven lots from Mrs. Scanlon, on the same street?

A. Yes, sir.

Q. Are you nearer the Palisades than she, or nearer the water than she?

A. I am nearer the Palisades.

Q. Have you any family besides yourself and husband?

A. Yes, sir.

Q. How many?

A. Four children.

Q. What are their ages?

A. One is 16.

Q. From 16 to what?

A. To 25.

Q. Do they all live at home?

A. No, sir.

Q. How many live home?

A. Two.

Q. Have you lived there during the summer?

A. Yes, sir; I lived there 16 years.

Q. Now, have you noticed any difference between—I am not speaking now of individual days,—but take it since the first of April, say, of this year, and the first of April of last year, and say for six or eight weeks or two months—now, have you noticed any difference between last year and this year?

A. I have not seen any change for the better whatever; there has never been any change.

Q. You have heard some of the testimony here, haven't you?

A. Yes, sir, I did not have cotton in my ears.

Q. You have not got cotton on your tongue, either, have you?

A. No, sir.

Q. Does your husband hold an official position in the borough?

A. Yes, sir.

Q. Is he here?

A. Yes, sir.

MRS. AGNES GOTTHOLD, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Garden Place, Edgewater, New Jersey.

Q. On the north side or the south side?

A. On the north side.

Q. How long have you lived there?

A. Six years.

Q. I show you photograph No. 11, and ask you whether or not you see anything on that familiar —do you notice the chimney?

A. Yes, sir.

Q. Have you not noticed anything come out of that chimney?

A. Yes, sir.

Q. What?

A. Dark brown smoke.

Q. When did you notice dark brown smoke?

A. Last fall.

Q. How long did that dark brown smoke continue?

A. All the fall.

Q. Have you noticed anything lately?

A. I have noticed it was lighter in color.

Q. What is the color there now, or what was the color there recently?

A. Kind of blue.

Q. Do you know anything about that smoke or fume?

A. Yes, sir.

Q. What about it—just describe this smoke or fume?

A. A very bad smell comes from it.

Q. How does it affect you?

A. It affects my nose and throat, and gives me a nauseated feeling.

Q. When the wind blows from the north, do you get it?

A. Yes, sir.

Q. When do you get it most?

A. From the north.

Q. How often do you notice it in a week?

A. Four or five times a week.

Q. What time of day, mostly?

A. In the morning, and round half-past eleven, and in the evening.

Q. Do you notice it about three times a day?

A. Yes, sir.

Q. How often through the week—four or five times a week?

A. Yes, sir.

Q. You have your windows open?

A. I cannot keep them open at times.

Q. Why not?

A. On account of the bad odor.

Q. What does the odor do?

A. It affects my nose and throat, and makes me sick at my stomach.

Q. You live with your husband?

A. Yes, sir.

Q. Have you got a family?

A. Yes, sir.

Q. How many children have you?

A. Three.

Q. They all live home?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. How late in the fall did you first notice this thing?

A. Well, last September.

Q. Were you home through the summer?

A. Yes, sir.

Q. You did not go away last summer at all for any length of time?

A. No, sir.

Q. Do you remember when it was in September that you first noticed it?

A. In the morning.

Q. Was it the first part of September?

A. Yes, sir.

Q. How early in the morning would you notice this smell?

A. Around 7 or 7:30.

Q. Any time you noticed it in the morning, you would notice it as early as that?

A. Yes, sir.

Q. So that this stench would commence about 7:30 in the morning?

A. Yes, sir.

Q. And if the wind was in the right direction, it would bring it to your house as early as that?

A. Yes, sir.

Q. Would it disappear?

A. It would disappear and come back again about 11:30.

Q. And last how long?

A. A half an hour or three-quarters of an hour.

Q. And then disappear again?

A. Yes, sir.

Q. And then come back again?

A. Around 7:30 in the evening.

Q. And last how long in the evening?

A. About half an hour.

Q. And that would be the history of the thing generally?

A. Yes, sir.

Q. Now. you did not notice it during the winter, did you?

A. Yes, sir.

Q. All winter?

A. Yes, sir.

Q. And have you noticed it constantly since?

A. Yes, sir.

Q. You have noticed no change or improvement?

A. No, sir.

Q. You have noticed a change in the color of the smoke that came out of this chimney?

A. Yes, sir.

Q. When did you notice that change?

A. About six months ago.

Q. That changed from a sort of a yellow or drab, to a light blue?

A. Yes, sir.

Q. Well, is there always smoke when there is a stench?

A. I would smell the odor and look out of the door and see the smoke.

Q. Did you ever see the smoke when you did not have the smell?

A. No, sir, and when I would smell that, I would open the door and I would see the smoke coming out of the chimney.

Q. Did you ever notice the smoke when you did not notice the smell?

A. No, sir.

Q. You think the smoke and the smell were together?

A. If I would have the door closed, I would not see the smoke.

Q. You have never had occasion to observe

whether, sometimes, there would be smoke without any smell?

A. No, sir, I have not.

Q. Have you ever been nauseated so that you vomited from this thing?

A. Yes, sir.

Q. When was that?

A. About three weeks ago.

Q. That was the first time?

A. That I ever vomited, yes, sir; I really vomited.

Q. Can you remember the date?

A. No, sir, I was preparing a lunch, and I got that odor and became sick at my stomach.

Q. Was that May 23rd?

A. I could not recall the date.

Q. You did not make a note of the date?

A. No, sir, I did not.

MR. JOSEPH F. KEHOE, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. No. 7 Hilliard Avenue.

Q. Is that on the north side?

A. Yes, sir.

Q. And how long have you lived there?

A. About four years.

Q. And what is your business?

A. I am a patrolman.

Q. Where?

A. In the Borough of Edgewater.

Q. And how long have you been such?

A. About two and one-half years.

Q. Are you familiar with the location of Sinclair and Valentine's ink factory?

A. Yes, sir.

Q. Are you familiar with the location of the little building in the rear?

A. Yes, sir.

Q. Have you noticed anything about the chimney?

A. I have seen smoke come out of there.

Q. What kind of smoke? How long ago was this?

A. Right after its being built.

Q. Before the large building was erected?

A. Yes, sir.

Q. Have you seen it since then?

A. Yes, sir, I have seen it several times since then.

Q. Now, what came out of there at first?

A. I have noticed different colored smoke coming out of there, and fumes, as if they were burning fish oil.

Q. How does it smell?

A. It smells like rotten fish, or something like that.

Q. How often have you smelt that within the last year and a half?

A. Oh, 50 times easily—more than that.

Q. Once a week?

A. I used to be on post there; I would go down through Edgewater Place, and I would smell it most every night.

Q. How did that affect you?

A. Well, I would get away from it.

Q. Did it affect your throat?

A. Yes, sir, all the time.

Q. Just tell us how it affected you?

A. It would make me hawk and spit and cough all the time.

Q. Did it make your throat dry?

A. Always dry.

Q. Do you remember the last time you noticed that?

A. The last time I noticed it was when I was sitting on the stoop—the latter part of last week, on Hilliard Avenue.

Q. Where did the odor come from?

A. This is the same smell that I smelled coming from the Sinclair and Valentine ink works.

Q. How long was it going; how long did it last?

A. It lasted long enough for me to get in out of there.

Q. How was the wind blowing that night?

A. It was blowing north.

Q. You don't know how long that lasted?

A. It drove me indoors.

Q. How was the smell that night?

A. It smelled just like decayed fish, that is what it smelled like.

Q. In the air?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. What night or day was this?

A. This was Friday night.

Q. Last Friday night?

A. Yes, sir.

Q. What time?

A. Between 6 and 8 o'clock.

Q. You have got that right now, have you?

A. Yes, sir.

Q. You were sitting up on your porch on Hilliard Avenue?

A. Yes, sir.

Q. You were through with your day's work?

A. Yes, sir.

Q. Now, the other testimony you have given us, has been about when you were on your beat down in the neighborhood of the factory?

A. Yes, sir.

Q. And you would notice it late at night and when you were coming in to close your night's work, early in the morning?

A. Yes, sir.

Q. What time in the morning?

A. Between seven and eight o'clock in the morning.

Q. How often would you notice it as early as that?

A. Occasionally three or four times a week.

Q. Where would you be when you noticed it?

A. I came up Undercliff Avenue as far as Garden Place, and cut through the lots over to Edgewater Place, and then up to Hilliard Avenue and through the River Road to the Station House.

Q. How near would you get—

A. I was within 200 feet of it.

Q. How late at night would you notice it?

A. As late as 11 and 12 o'clock.

Q. On the same beat?

A. No, sir, I would be over at Undercliff Avenue at my post then.

MRS. MAY CONKLIN, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place.

Q. On the East side?

A. Yes, sir.

Q. How long have you lived in Edgewater Place?

A. About five years.

Q. Are you familiar with the location of the Sinclair and Valentine Company's ink factory?

A. Yes, sir.

Q. Have you ever noticed the chimney in the rear?

A. I have, yes, sir.

Q. Have you noticed anything come out of that chimney?

A. I have, several times.

Q. What came out of it at the times you have seen it?

A. At the time my attention was called to it, it was a sort of a blue flame.

Q. How long ago was that?

A. I think that was about five or six months ago.

Q. Was there anything about that blue smoke that came out—did you notice something about it?

A. I noticed that it semed to hover right around Edgewater Place there, right around in that vicinity.

Q. Was it a pleasant odor?

A. No, sir, very unpleasant.

Q. Just describe what it was—the odor.

A. The way it affected me was, that if you should remove a cork from an acid bottle, and inhale it—that is the way it always affected me.

Q. Was it a pleasant smell?

A. No, sir, it was not.

Q. How often have you noticed this smell?

A. I never kept track of it, that is, the days and date, but I noticed always when the wind was in a

southerly direction, that it affects us more—when the wind is from the South.

Q. Have you noticed it recently?

A. Yes, sir.

Q. What was the last time you noticed it?

A. I think last Tuesday evening was the worst.

Q. What time, about?

A. Well, I think this was after eight o'clock.

Q. Well, just tell us what you noticed then.

A. Well, it was a very peculiar odor, and it affected your throat and nostrils mostly.

Q. Does it affect you in any other way?

A. No, sir.

Q. How about keeping the windows open in your house?

A. Sometimes we do.

Q. Why don't you keep them open all the time?

A. We would rather keep the smell outside than allow it to come in.

Q. How about in the night time; do you keep your windows open over night?

A. Not all the time, no, sir.

Q. Do you in the summer time?

A. Not at all times, no, sir, especially not when the odor is so strong.

Q. You are a married woman?

A. Yes, sir.

Q. Have you any children?

A. Yes, sir.

Q. How many children have you?

A. I have four children.

Q. Do they all live at home?

A. Yes, sir, they do.

Q. Do they complain to you about it?

MR. McCARTER.—I object.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mrs. Conklin, you said that the only way you could describe this thing was, that it was the same as if a cork had been removed from a bottle containing acid, and you inhaled it?

A. Yes, sir.

Q. What kind of acid?

Q. Most any kind of acid.

Q. Mention one, for instance?

A. Muratic acid; my son has had that in the house for a sort of cleaning, and it smelled the same as muriatic acid; it affected my throat and nostrils the same.

Q. Was this smell something like vinegar?

A. No, sir, worse than that.

Q. Does muriatic acid smell anything like vinegar?

A. No, sir, it does not.

Q. Now, how early in the morning would you notice this?

A. Sometimes, maybe, it would be eight o'clock.

Q. Never any earlier than that, I suppose?

A. My windows would be closed.

Q. Suppose the windows were open?

A. I did not open them so early.

Q. You would not know before eight o'clock?

A. No, sir.

Q. But you have noticed it as early as eight o'clock?

A. Yes, sir.

Q. Now, prior to last week, you had not noticed it for some time, had you?

A. Well, at intervals, yes, sir, I had; some days it would be very bad, and other days not quite so bad.

Q. How late in the evening would you notice it?

A. Well, I have noticed it as late as ten or eleven o'clock.

Q. How recently?

A. I think last Tuesday evening.

Q. Leave that one occasion out—how recently have you noticed it regularly, in the evening?

A. Last Friday.

Q. As late as ten or eleven o'clock?

A. No, I don't think it was as late as that; well, in fact, I have smelled it so much.

Q. Did you notice it the week before—the week before last Tuesday and last Friday?

A. Yes, sir.

MR. McCARTER.—It is quite evident to me that we cannot get through in another day, and my suggestion is, that we adjourn to a time when we can finish the case; I suggest that when we do adjourn, we adjourn to a time that will be sufficient to finish the case.

THE COURT.—We will adjourn to the 27th of June.

SECOND DAY.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendants.

On Bill, &c., Testimony.

Transcript of testimony taken in the above entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on June twenty-seventh, nineteen hundred and thirteen, before Hon. Vivian M. Lewis, Vice-Chancellor.

APPEARANCES:

William E. Ellis, Esq., and William B. Gourley, Esq., for the Complainant;

McCarter & English, Esqs., by Mr. Robert H. McCarter, for the Defendant.

WILLIAM D. DOBBS, sworn in behalf of the complainant testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Richfield.

Q. What is your business?

A. I am a painter.

Q. How long have you been in that business?

A. I have been in the painting business about 18 or 20 years, possibly longer.

Q. Did you have any painting to do at Edgewater, New Jersey?

A. Yes, sir, I painted a house for Mr. William Popp.

Q. When was that?

A. I think I started the house about June 1st or June 2nd, possibly about the second of June.

Q. And how long were you painting that house; about how long a time did it take you to do it?

A. I think I got through about the 13th of June.

Q. While you were painting that house, did you notice anything in particular?

A. Well, I can recollect about the 10th of the month—there was a very foul odor.

Q. Just describe that odor, if you can.

A. It is a pretty hard thing to do; it is a gassy sort of odor.

Q. Do you know where it came from?

A. I did not know at that time, but I noticed the following day that it came from the chimney on the South side of the house of William Popp.

Q. I show you photograph No. 11, and ask you whether or not you can notice anything on that?

A. This is the house (indicating) that I painted, and that is the chimney.

Q. What did you notice coming out of that chimney?

A. Smoke.

Q. What kind of smoke?

A. Dark, black smoke, like—

Q. Was it always a dark, black smoke?

A. Not at all times, no, sir; sometimes more like gas rising.

Q. Just describe this smell, as best you can.

A. It is a pretty hard thing to describe that smell; it was a very gassy sort of odor, very inferior odor, a very bad odor.

Q. How often did you notice that?

A. I noticed it on several occasions, but I did not notice it as much as I did that day—on the 10th of June.

Q. What part of this house were you working on at this time?

A. At the South side, and I had to leave that side of the house on account of the odor.

Q. Where did you go then?

A. On the North side of the house.

Q. Did you notice any odor there?

A. When I reached around the front of the house, I got the odor.

Q. Did you notice it on any other day in particular?

A. I noticed it on the following day, on the day after that.

Q. What street is this house on?

A. It is on Edgewater Place.

Q. I show you photograph Number 8, and ask you if you can identify the house on that photograph?

A. That is the house I painted.

Q. And that is Edgewater Place?

A. Yes, sir; No. 53 is the number of the house

Q. What did you notice on that day?

A. A tarry sort of a smell.

Q. Which day is that?

A. On the 11th of June,—a gassy, tarry sort of smell.

Q. Did you look over in the direction of this chimney at this time?

A. Yes, sir, and I saw a lot of people climbing on a ladder around the chimney; it is on the South of Mrs. Popp's house.

Q. What else did you notice?

A. I noticed the odor, that is about all I noticed.

Q. Was it an agreeable smell?

A. It was very disagreeable.

Q. You noticed the odors after the 11th?

A. Not so much as that time.

Q. Now, on the 10th and 11th, how long did these smells last?

A. Possibly half an hour, I should judge.

Q. Do you know what time of day it was?

A. It started along about two o'clock.

Q. And lasted how long?

A. Possibly three hours.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mrs. Popp is a sister of Mrs. Harrigan, isn't she?

A. I believe so.

Q. And were you there alone, or did you have some other man with you?

A. I had two men with me.

Q. Making a party of three?

A. Yes, sir.

Q. Now, what time was it on the 10th, the day before you saw the party climbing up on a ladder, what time was it that you noticed the smell?

A. Around two o'clock, two o'clock or after; I cannot recall the exact time.

Q. In the neighborhood of two o'clock?

A. Yes, sir.

Q. And it lasted how long?

A. Well, possibly about an hour, a little over an hour, as near as I can judge.

Q. Was that the day you left and went to the other side of the house?

A. Yes, sir.

Q. So that the smell was so bad coming from that chimney on that day about two o'clock, that you had to quit work on the South side of the house and went around to the North side of the house?

A. Yes, sir.

Q. Was Mrs. Popp home that day?

A. No, sir, she was not at home, to my knowledge.

Q. You did not see her at all, did you?

A. No, sir.

Q. Did your men go around to the North with you also?

A. Yes, sir.

Q. Now, the day after that, the 11th, the day that you saw the gentlemen climbing up on a ladder on the stack, what time did you notice the smell—while they were climbing?

A. It kind of raised my curiosity to see those men on the ladder, and I looked towards the stack and I saw the fumes arising,—a gassy sort of odor.

Q. (Question read).

A. I don't know the exact time.

Q. I don't mean the exact minute; was it while they were climbing that you noticed this odor?

A. Yes, sir.

Q. Was that in the forenoon?

A. I think that was in the afternoon, if I am not mistaken; I am not quite sure; it was in the afternoon or in the morning.

Q. You did not quit work that day?

A. No, sir, I did not.

Q. You were at work on the North side?

A. Yes, sir.

Q. How could you see them climbing the ladder, if you were on the North side of the house?

A. I had occasion to leave my scaffold to see what the men were doing.

Q. Where were you when you saw them climbing?

A. On the North side of the house, leaning over the scaffold—

Q. And you could see from that position, the stack?

A. Very plainly.

Q. And you saw some gentlemen climbing?

A. Yes, sir.

Q. Did you see those gentlemen putting their things over the chimney?

A. Yes, sir.

Q. And did you learn that it was an inspection being made—

A. I knew nothing about that at all.

Q. Now, was the smell that you noticed that day, the tarry, gassy smell that you speak of, the same character of smell as you had noticed the day before?

A. No, sir, it was not.

Q. Was it a different kind of smell?

A. It was a meaner odor.

Q. So that the day before—the 10th—the smell was a great deal worse?

A. It was worse, yes, sir.

Q. Now, was Mrs. Popp home on the 11th?

A. Yes, sir.

Q. Was Mr. Popp home too?

A. No, sir.

Q. The smell on the 10th was for about two hours or three hours after two o'clock, is that right?

A. Yes, sir.

Q. You cannot remember whether it was the forenoon or the afternoon, on the 11th?

A. I cannot quite remember, no, sir.

Q. How did you happen to speak of this to Mrs. Popp?

A. I don't know exactly how it happened.

Q. You spoke to her about it?

A. Yes, sir; I told her it was a very inferior odor coming from there, and I asked her where it came from, and she told me it came from that chimney over there.

LEO GLASSON, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Ridgefield, New Jersey.

Q. Do you live with Mr. Dobbs?

A. Yes, sir.

Q. What is your business?

A. Painter,—the same as Mr. Dobbs.

Q. Are you employed by Mr. Dobbs?

A. Yes, sir.

Q. Now, were you painting at Edgewater recently?

A. At the same time that Mr. Dobbs was; I was working on the scaffold with Mr. Dobbs at Mr. Popp's house.

Q. While working at Mr. Popp's house, did you notice anything in particular of the odors?

A. The odor I noticed—a very bad, gassy odor.

Q. Do you know where those odors came from?

A. I was told it came from the chimney of the Sinclair and Valentine Company.

Q. Did you notice anything when you saw that smoke?

A. Only the smell.

Q. Did you satisfy yourself that it came from that chimney?

MR. McCARTER.—Objected to.

Q. What did you do when you noticed this smell?

A. I could not do anything.

Q. Did you notice the smell after you noticed the smoke?

A. Surely.

Q. Can you describe that smell?

A. It was a gassy, tarry smell.

Q. Was it an agreeable smell?

A. I would not like to smell it at night.

Q. Did it agree with you?

A. No, sir

Q. Did it affect you in any way?

A. I don't know that it did.

Q. Did it bother your throat or stomach?

A. To breathe that in is not healthy, I can tell you that.

THE COURT.—Strike that out.

BY THE COURT:

Q. Did it affect you in any way?

A. I choked a little bit.

Q. Did it make you cough?

A. No, sir, it did not.

Q. Did you notice that smell on any other days?

A. On the 11th.

Q. What did you notice on the 11th?

A. The same smell as I smelled the day of the 10th.

Q. What did you see on the 11th?

A. I saw the men climbing up the stack there; Mr. Dobbs called my attention to it; that was in the afternoon.

Q. Did you notice any smells on that day?

A. Yes, sir.

Q. Just describe the smell on that day.

A. On that day it was just a trifle stronger than it was on the 10th.

Q. What kind of smell was it?

A. Gassy and tarry—sort of burnt varnish—same odor.

Q. Was it an agreeable smell that day?

A. I did not like it at all.

Q. How many men were on that chimney that day—did you notice?

A. I did not notice; about four of them, I should think.

Q. Were they on a scaffolding?

A. They climbed up the chimney; they had a ladder; one man in particular was looking in the top of it.

Q. Was smoke coming out of it at that time?

A. Yes, sir.

Q. I show you Photograph 11, and ask you whether or not you see on that a chimney?

A. Yes, sir.

Q. Is that the chimney from which you saw this smoke come?

A. It is the exact one.

Q. Did you notice that smell at any time after the 11th?

A. Before we left I noticed it a little bit.

Q. Did you notice it before the 10th?

A. I did, yes, sir—I never drawed my attention to it.

Q. About how many days were you working on that job?

A. I started on the 2nd, and worked over there until the 15th.

Q. About how many times did you notice that smell during that time?

A. On the 10th and 11th I noticed it more than any days at all; of course, each day I smelled it a trifle; it depended on the way the wind was blowing.

CROSS-EXAMINATION by Mr. McCarter:

Q. How old are you?

A. 25.

Q How long have you been a painter?

A. For years.

Q. You are used to the smell of paint?

A. Yes, sir.

Q. You have been painting how long?

A. About six years.

Q. The smell of fresh paint makes some people sick?

A. Yes, sir.

Q. You have gotten beyond all that?

A. Yes, sir.

Q. Now, the first time you had your attention particularly called to this, when it was really bad enough to remark, that was the 10th—

A. Yes, sir.

Q. And that day it was very bad?

A. Yes, sir.

Q. The smell was very bad?

A. Yes, sir.

Q. Was that the day you quit work on the South and went round to the North of the house?

A. Yes, sir.

Q. Because of the smell?

A. Yes, sir.

Q. Now, I take it, the next day you asked Mrs. Popp—who was not around that day,—where that smell came from?

A. Yes, sir.

Q. And she told you it came from that chimney?

A. Yes, sir.

Q. That was the day that it had been so bad—the day of the 10th?

A. Yes, sir.

Q. That made it the 11th you asked her?

A. Yes, sir.

Q. Now, on the 11th you say Mrs. Popp told you where the smell came from, and you saw some people climbing up the stack with a ladder, didn't you?

A. Yes, sir.

Q. And was your attention called to them by Mrs. Popp?

A. No, sir, Mr. Dobbs called my attention to them.

Q. And did you notice who these gentlemen were?

A. No, sir.

Q. Would you know any of them by sight, if you saw them now?

A. No, sir.

Q. Did you see some of the gentlemen that were climbing up those ladders put their things on the top of the stack?

A. I saw one do it.

Q. That is the time you noticed the smell?

A. About that time.

Q. Was it the same time or later?

A. From two o'clock on, I smelled that odor, and then I saw these men go up there; it was right after luncheon hour.

A. Yes, sir.

Q. It was after lunch?

Q. Now, how early would you commence work —8 o'clock?

A. Yes, sir.

Q. And work until five?

A. Yes, sir.

Q. Did you remain in Edgewater over night?

A. No, sir.

Q. Where did you live?

A. Ridgefield, New Jersey.

MR. GEORGE T. HOLM, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Hudson Avenue, Edgewater, New Jersey.

Q. Hudson Avenue is in what direction from the ferry—Edgewater Ferry?

A. North of the ferry.

Q. About how far North of the ferry?

A. About one block—the first street North of the ferry.

Q. What is your business?

A. I am an instructor of the Department of Physical Education in Columbia University.

Q. How long have you lived on Hudson Avenue?

A. Since the last week of March of this year.

Q. Where did you live prior to March?

A. 372 Undercliff Avenue.

Q. Is that on the West side of Undercliff Avenue?

A. Yes, sir.

Q. Are you acquainted with the location of Sinclair and Valentine's ink factory?

A. Yes, sir.

Q. And in what direction, or about how far from this ink factory did you live on Undercliff Avenue —in what direction from the ink factory?

A. We were Southeast from the ink factory.

Q. Southeast would be the river, wouldn't it?

A. We are on the West side of Undercliff Avenue.

Q. It would be Northwest, wouldn't it?

A. It would be to the right of us.

BY MR. McCARTER:

Q. You mean the factory is Southeast of where you formerly lived?

A. Yes, sir.

FURTHER DIRECT:

Q. How long did you live on Undercliff Avenue?

A. Two years.

Q. While living on Undercliff Avenue, did you notice any smells?

A. Yes, sir.

Q. Did you know where those smells came from?

A. I supposed it came from the ink works.

Q. Did you ever investigate to know? Did you ever look there?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you if you know what that is?

A. That is the Sinclair and Valentine ink factory.

Q. What view is that?

A. That is a rear view of it.

Q. I show you photograph No. 11, and ask you if you see on that where the smoke came from?

A. I saw the smoke coming from the chimney here (indicating the small chimney).

Q. At the time you noticed this smoke coming out of this small chimney, did you notice anything else?

A. I smelled an odor from it.

Q. Did you know that the odor came from that smoke?

A. Yes, sir.

Q. Just describe this odor.

A. It is more like a burning oil; that is about as I would describe it.

Q. Is it an agreeable smell?

A. No, sir, it is very disagreeable.

Q. Did it affect you in any way?

A. Nothing more than that it was a very disagreeable odor; I did not care to smell it.

Q. You say about the latter part of March you moved to Hudson Avenue?

A. Yes, sir.

Q. Why did you move to Hudson Avenue?

A. Well, to get a better place to move to—to

get better sir; the ground is higher; it is a higher altitude.

Q. Did the smell of this ink factory have anything to do with your moving?

A. I was glad to get away from it.

Q. Then it had something to do with your moving, didn't it?

MR. McCARTER.—Objected to.

THE COURT.—He said he was glad to get away from it; he cannot put the inference on the thing that he did move because of that which counsel is trying to put in that question.

Q. (Question read).

MR. McCARTER.—I object to the question.

THE COURT.—I sustain the objection.

Q. Was it a factor in your moving?

A. I should say it was one reason for my moving.

Q. And that reason was, to get away from this smell?

MR. McCARTER.—Objected to.

MR. ELLIS.—Question withdrawn.

CROSS EXAMINATION by Mr. McCarter:

Q. Now, Mr. Holm, you lived in Undercliff Avenue up until last March?

A. Yes, sir.

Q. For two years?

A. Yes, sir.

Q. And you were a tenant of Mrs. Harrigan?

A. Yes, sir, she was my landlady.

Q. And there was water in the cellar, and you were recommended by the doctor to move, were you not?

A. No, sir.

Q. Were you not recommended to move because of the dampness in the cellar?

A. No, sir.

Q. Well, you said you wanted to get to higher ground?

A. Yes, sir.

Q. So that the dampness in the cellar had nothing to do with your leaving?

A. No. sir.

Q. Well, now, you said that you noticed a smell while you lived there, and that it was supposed to come from the ink factory; where did you get that supposition from; who told you that it came from the ink factory—did Mrs. Harrigan?

A. No, sir; I walked along and saw the smoke coming out of there, and smelled that odor coming from that chimney.

Q. Why did you say that it was supposed to come from the ink factory—on your direct examination?

A. I did not mean to say "supposed."

Q. You know there are a great many other factories around there?

A. Yes, sir.

Q. There are two dye works there?

A. Yes, sir.

Q. There is a sugar refinery?

A. Yes, sir.

Q. Did you ever notice any smell from the sugar refinery?

A. No, sir.

Q. Do you know whether or not burning sugar makes a smell?

A. It does, yes, sir.

Q. Where is the sugar factory with reference to this house that you had?

A. Right directly opposite.

Q. Now, you noticed the latter part of the time, a great improvement in the smell, didn't you?

A. Not at the time I left Undercliff Avenue.

Q. And you have noticed lately, that the smell, if there be a smell, or was a smell, from the ink factory, that it is very much better, and has practically been removed?

A. I have not been up there except on two occasions, since I removed.

Q. Haven't you a pupil named Miss Martha Anshanston over there?

A. No, sir.

Q. What is your business?

A. I have charge of the swimming pools at Columbia University; I think there is one by that name.

Q. Didn't you tell her recently that the smell from the ink factory had been very much improved and was not nearly as bad as it was?

A. No, sir.

Q. Didn't you tell Martha Anshanston some day when she was at the pool last autumn, that the smell from the ink factory was very much less than it had been?

A. No, sir.

Q. Or words to that effect?

A. No, sir.

Q. Are you sure of that?

A. I feel pretty sure of that; I can say I am positive I never told her that.

Q. Do you mean to say, Mr. Holm, that you had no trouble with malaria, or were not afraid of malaria in that house of Mrs. Harrigan's, and that you were not advised by the doctor about moving?

A. No, sir.

Q. You have a wife?

A. Yes, sir.

Q. Is she in court?

A. No, sir.

Q. And don't you know that your wife told Mr. Shepherd, the bookkeeper of the Sinclair and Valentine concern, that your doctor had advised you or her to move, because the cellar was damp, and you were afraid you would get malaria?

A. No, sir.

Q. What doctor did you have when you lived in Mrs. Harrigan's house?

A. I had Dr. Brewster, on two occasions, from Grantwood, and then we have had our own family doctor in New York City, Dr. William McCastline; there are two brothers; we came over to him.

MISS HELEN BURNS, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place, 63.

Q. Is that on the East side of Edgewater Place?

A. Yes, sir.

Q. How long have you lived there?

A. About seven years.

Q. Your house is directly North of Mrs. Harrigan's house?

A. Yes, sir.

Q. (BY THE COURT) How near to it?

A. I should say about 20 feet from it.

FURTHER DIRECT:

Q. Do you know where the Sinclair and Valentine ink factory is?

A. Yes, sir.

Q. I show you photograph No. 11, and ask you whether or not you see anything on that which is familiar?

A. Yes, sir, that chimney.

Q. Have you seen anything come out of that chimney?

A. Yes, sir, fumes.

Q. And what else, if anything?

A. Dark brown smoke, and now it is a light bluish color.

Q. Have you noticed anything from that smoke?

A. Yes, sir, very bad fumes.

Q. Is it agreeable?

A. Very disagreeable.

Q. Just describe that smell, if you can.

A. Well, it gets down your throat; it parches your throat; and causes me to cough; I have coughed for 15 or 20 minutes at a time, and it causes nausea.

Q. How often have you noticed that smell within the last year?

A. About three times a week.

Q. And what time of the day or night would you notice it?

A. I have been compelled to shut the window down at a quarter past seven in the morning.

Q. Did you notice it any other times in the day?

A. Yes, sir; I had to get up at night and shut the bedroom window down at 11 o'clock at night.

Q. How often did you notice these smells?

A. About three times a week.

Q. How long would these smells last at the different times?

A. I don't know how long they would last, because as soon as we smell them, we have to shut down the windows and suffocate in the house.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, you are a sister of Miss Burns, the school teacher that testified here before?

A. Yes, sir.

Q. And you are a daughter of Mrs. Burns?

A. Yes, sir.

Q. Do you work, or do you stay home?

A. I go to business in New York?

Q. You are there every day except Sundays?

A. Yes, sir.

Q. And then the three times a week that you noticed this smell, has been either before you leave in the morning, or after you get back at night?

A. Yes, sir.

Q. Did you ever notice it Sundays?

A. No, sir.

Q. What time do you get back in the evening?

A. Six o'clock.

Q. What time do you leave the house in the morning?

A. The 7:30 boat.

Q. How long does it take you to go from the house to the boat?

A. It does not take me very long to run.

Q. That does not answer my question.

A. About two minutes.

Q. Now, when was it that you say that this smell was so bad that you were compelled to shut the window and suffocate in the house?

A. Well, on Tuesday night of this week, I had to get up at eleven o'clock and shut the windows down.

Q. Tuesday night of this week?

A. Yes, sir; and this morning at breakfast at 7:15, I had to shut the window down.

Q. (BY THE COURT) This same odor?

A. Yes, sir.

Q. How did it affect you this week?

A. It made me cough.

Q. How long did you cough?

A. 15 or 20 minutes.

Q. Did you vomit then, too?

A. No, sir.

FURTHER CROSS:

Q. Which occasion are you speaking of now?

A. Tuesday night.

Q. What time was that?

A. 11 o'clock; I woke up suffocated with it, and I had to shut the window down.

Q. It was dark?

A. Yes, sir, very dark.

Q. You could not see where it came there from?

A. No, sir, but I knew where it came from.

Q. And it was so bad on Tuesday night, at 11, that you had to shut the window and suffocate?

A. Yes, sir.

Q. Then again this morning while at breakfast?

A. Yes, sir.

Q. At what time?

A. 7:15.

Q. The same smell that you noticed Tuesday night at 11 o'clock?

A. Yes, sir.

Q. The same identical odor that you noticed Tuesday night at 11 o'clock?

A. Yes, sir.

Q. It was so bad that you had to shut the windows again?

A Yes, sir.

Q. And did you cough this morning?

A. Yes, sir.

Q. How long did you cough this morning?

A. About ten minutes.

Q. When you say you coughed ten minutes this morning and twenty minutes the other night, do you mean that you constantly coughed?

A. Yes, sir; I woke up and was suffocated.

Q. Did you constantly cough for 15 or 20 minutes?

A. Yes, sir, for 15 or 20 minutes.

Q. Have you any other occasions in mind when you noticed this very bad smell?

A. Yes, sir.

Q. When?

A. On June 11th

Q. How do you fix that date?

A. Because I came home from business about six o'clock, and I was just finishing my supper when we had to close the windows down on account of that smell, and I was taking my tea, and I could not finish it with the smell coming in the windows.

Q. How do you fix June 11th?

A. Because I remember distinctly it was the day after this previous trial.

Q. Were you down here that day?

A. No, sir, but I knew it was on June 10th.

Q. Now, the day that you have in mind is the day after the previous trial?

A. Yes. sir.

Q. And what time was it you noticed it so bad that day?

A. The day after the trial?

Q. Yes.

A. About seven o'clock at night; around seven o'clock.

Q. Well, which is it, six or seven?

A. Seven o'clock; I get home at six.

Q. And you did not notice it until seven?

A. No, sir, not until I was finishing my supper.

Q. Now, have you got any other day in mind?

A. Yes, sir, I smelled it last summer in July and August. and also in October and November, very bad.

Q. You have not any dates?

A. No, sir, but I remember it was in July and August.

Q. What time did you get your holiday last summer?

A. In July.

Q. Did you stay home?

A. Yes, sir; and I could not sit on the lawn, I had to go inside.

Q. Now, there are several other factories there?

A. Yes, sir, I believe there are.

Q. Don't you know there are?

A. Yes, sir.

Q. Don't you know that right behind your house is a large dye house?

A. Yes, sir.

Q. Then, why do you say you believe there are?

A. Well, they are there.

Q. And the sugar refinery is right near there?

A. Yes, sir.

Q. And other dye works on Undercliff Avenue?

A. I know nothing about that.

Q. (BY THE COURT) How long have you lived there?

A. About seven years.

Q. Do you remember the erection of Sinclair and Valentine's factory?

A. Yes, sir, and I remember long before they built it.

FURTHER CROSS:

Q. When was it erected?

A. They had a retaining wall built along the bank, and had this pot set over a charcoal fire, and had a man there stirring it.

Q. What attracted your attention to it then?

A. The odor.

Q. That was before the factory was built?

A. Yes, sir, long before it was built.

Q. Do you remember what year it was?

A. About a year and a half ago, I should think.

Q. By whom are you employed?

A. By a mechanical engineer in New York, William Wanstall, 74 Cortlandt Street, New York City.

MRS. MIRIAM BROCK, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place.

Q. On the East or West side?

A. On the East side.

Q. You live in the house directly North of the previous witness?

A. Yes, sir.

Q. How long have you lived there?

A. I lived in Edgewater twelve years.

Q. How long have you lived in this house?

A. About seven years.

Q. Are you familiar with the location of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you what that shows?

A. That is the ink factory.

Q. I show you that photograph, and ask you if you see anything on that that is familiar?

A. Yes, sir, the smoke stack.

Q. Have you seen anything come out of that smoke stack?

A. Yes, sir, I have seen thick smoke coming out of it.

A. Sometimes very dark blue. and sometimes very light brown, and sometimes light vapor, light fumes coming out of it.

Q. Did you notice anything about that smoke or fumes?

A. It gives a terrible odor.

Q. You say a terrible odor,—describe it.

A. I cannot describe it, it is so terrible.

Q. Is it pleasant?

A. It affects me so that I get sick at my stomach, and get a headache, and it scratches my throat; I cannot stay in the house; I have a little girl five years old that gets sick and vomits, and I have to take her to the city.

Q. How often did you notice this smell?

A. I have noticed it from two to three days a week, ever since this factory has been at work

Q. Do you know when this factory started to work?

A. No, sir, that I don't know.

Q. About how long have you noticed this?

A. About two years.

Q. You have noticed it how often a week since then?

A. Two or three times a week.

Q. What time of day was it that you noticed these smells?

A. Sometimes in the morning, and sometimes in the afternoon and in the evening.

Q. Did you notice it more than once a day—at times?

A. Oh, I do if I am at home.

Q. You spend most of your time at home, don't you?

A. I do, if I can stay there.

Q. Have you ever had to go away?

A. Yes, sir.

Q. Just tell us about it.

A. The smell is so terrible, that even if I shut down my windows, it is just like a cloud in the rooms; I cannot get the odor out.

Q. How about in the night time?

A. When I sleep, I get a good tight sleep.

CROSS-EXAMINATION by Mr. McCarter:

Q. Do you own the house you live in?

A. My husband does.

Q. You don't own the house you live in?

A. No sir, my husband does; I think what is my husband's is mine.

Q. What is your husband's business?

A. Merchant tailor.

Q. Now, you are quite a friend of Mrs. Harrigan?

A. I am not.

Q. And of Mr. McGarry?

A. No.

Q. And isn't it true that you or your husband, or both of you, are under business obligations to one or the other of them?

A. Not to my knowledge.

Q. Isn't it true that they have advanced money to your husband to help him in his difficulties?

A. I don't know anything about my husband's business.

Q. Is your husband here?

A. No, sir.

Q. Now, I understand that for the last two years or so, you say that the stench has been so bad that you have been compelled to shut the windows, and have frequently been compelled to take the little girl, five years old, to New York?

A. Yes, sir.

Q. Shut your house up?

A. Yes, sir.

Q. Where would you go to New York?

A. To a picture show and do a little shopping, if I had to do it.

Q. It must have been a great sacrifice to go to moving pictures?

A. It was.

Q. And the little girl went too?

A. Yes, sir.

Q. You naturally are inclined to stay at home and atend to your domestic duties?

A. Yes, sir.

Q. But you were compelled, on account of this smoke and smell, to go to the moving pictures?

A. Yes, sir, I would not walk the streets, so I thought I would take in the moving pictures.

Q. Now, how often did you go to the moving pictures with your little child?

A. As often as I was driven out of the house.

Q. I say, how often would you go with your little child?

A. As often as I was driven from my home.

Q. How often did that occur?

A. I could not go every day, because I had too much to do at home.

Q. But when you get through your work and get into condition to go, then you go?

A. No, sir, I stay at home; I have a husband to give meals to when he comes home.

Q. He is not at home in the middle of the day?

A. No, sir.

Q. What time would the little girl go to New York?

A In the afternoon.

Q. After your work is done?

A. No, sir; sometimes it is not done by that time.

Q. Now, when was the last time you noticed this particular smell?

A. Wednesday; I was at luncheon, and I had company at the house.

Q. I did not ask you about your company—it was Wednesday, was it?

A. Yes, sir.

Q. That is, Wednesday of last week?

A. This week.

Q. Day before yesterday?

A. Yes, sir.

Q. What time?

A. I had lunch about two o'clock—1:45.

Q. And at that time you noticed it?

A. Yes, sir.

Q. Who was lunching with you?

A. Mrs. Warner, and her son, and Mr. Brock; he happened to be at home that day.

Q. And it was that smell that you noticed that day?

A. Yes, sir.

Q. The same smell?

A. Yes, sir.

Q. Now, when, before that, did you notice it?

A. I noticed it today a week ago.

Q. That is Friday—

A. The 20th, I think.

THE COURT.—That is right.

Q. What time did you notice it that day?

A. About 10:45 or 11 o'clock in the morning?

Q. How long did that last?

A. I could not tell you, because I closed down my windows, and then I tried not to notice it.

Q. And you succeeded?

A. After a battle.

Q. What other day, recently, did you notice it?

A. I noticed it all through last summer.

Q. July and August?

A. Yes, sir.

Q. Now, can you mention any particular time, or any other dates between a week ago today and the day before yesterday, previous to last July and August?

A. No, sir, I cannot; I did not keep any dates.

Q. Have you consulted any physician with regard to this illness that you and your child suffer from?

A. It is not necessary; I know what it comes from.

Q. (Question read).

A. No, sir.

Q. So that no one prescribes the moving pictures?

A. No, sir.

Q. That you took on your own responsibility?

A. Yes, sir.

Q. These moving pictures that you have been to—are you speaking now of last summer?

A. This summer.

Q. When was the last time you went to moving pictures?

A. Yesterday.

Q. Was that on account of the smell?

A. Not exactly on account of the smell.

Q. You took the little child with you yesterday?

A. Yes, sir, I went away early in the morning.

Q. So that was a time that you went, not on account of the smell, but because you wanted to see the moving pictures?

A. Yes, sir, that time.

Q. And when last, about, did you go to the moving pictures this year?

A. I could not tell you.

Q. You go two or three times a week?

A. A few times.

Q. They change once a week, don't they?

A. I don't know; I go to different houses, and I could not tell you.

MRS. JAMES MURPHY, sworn on behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. At Garden Place, Edgewater.

Q. Is that on the north side or the south side?

A. On the north side of Garden Place.

Q. How long have you lived there?

A. Four weeks.

Q. When did you move there?

A. The 31st of May.

Q. Last May?

A. Yes, sir.

Q. Do you own the house in which you live?

A. Yes, sir.

Q. Does it belong to you alone?

A. Yes; it belongs to me.

Q. Are you familiar with the location of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you what that represents?

A. That is the ink factory.

Q. Can you see that from your house?

A. Yes, sir.

Q. I show you photograph No. 11, and ask you what that indicates.

A. That is the factory, too.

Q. What part of the factory is that; is that the front or the rear?

A. That is the rear.

Q. Do you see that part from your house?

A. Yes, sir.

Q. Do you notice that little chimney there?

A. Yes, sir.

Q. Have you seen anything arise from that chimney?

A. Yes, sir.

Q. Tell us what you have seen?

A. Smoke.

Q. What kind of smoke?

A. Dark, bluish smoke.

Q. And any other colors to it?

A. A brown smoke.

Q. At different times of the day was it different colors?

A. Yes, sir.

Q. Did you notice anything from this smoke?

A. A bad smell.

Q. Just describe that?

A. A nasty smell that turned your stomach.

Q. Did it turn your stomach?

A. Yes, sir.

Q. How does it affect you besides turning your stomach?

A. It makes me dizzy; I felt like falling; I have to sit down.

Q. (BY THE COURT) Do you vomit?

A. No, sir.

FURTHER DIRECT:

Q. Just upsets your stomach and makes you dizzy?

A. Yes, sir.

Q. You have only lived in Edgewater a month?

A. Yes, sir.

Q. How often during the month have you noticed this smell?

A. Twice a week, about.

Q. What time of day would you notice it?

A. On last Monday I smelled it about 11 o'clock.

Q. Do you always smell it in the morning?

A. Generally.

Q. Do you ever smell it any other time in the day?

A. No, sir.

Q. It affects you mostly in the morning?

A. Yes, sir.

Q. Do you know how long this smell lasted at a time?

A. About an hour.

Q. Sometimes it lasted longer than that?

A. No, sir, I generally smell it in the morning, but I could not say, how long it lasts.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mrs. Murphy, have you any children?

A. Yes, sir.

Q. How many?

A. Six.

Q. Do you know Mrs. Scanlan?

A. Yes, sir.

Q. How long have you known her?

A. Let me see—about two months.

Q. Well, now, when did you first notice this smell?

A. I moved in on the 31st, and on Monday I noticed the smell.

Q. Were you ever there to look at this property before you bought it?

A. Yes, sir.

Q. How often?

A. Maybe three times.

Q. Who was with you?

A. My husband was with me.

Q. Three times? During the daytime?

A. Yes, sir.

Q. Where did you come from?

A. From the Bronx, in New York.

Q. Now, of course, you looked around and saw that ink factory there before you bought?

A. No, sir, I did not know it was there.

Q. Didn't you say you lived there at Garden Place?

A. Yes, sir.

Q. Here is the River Road; here is Garden Place; there is Undercliff Avenue; here is the marble works; there is the Sugar Refining Company; there is the ink works; now, have you got the map in mind?

A. Yes, sir.

Q. Now, here is Garden Place; do you live between the River Road and Undercliff Avenue at Garden Place?

A. Yes, sir.

Q. On which side of Garden Place?

A. On the north side.

Q. So that your house backs right out on the ink works?

A. Yes, sir.

Q. Now, how far from the River Road do you live?

A. I could not exactly say.

Q. Fifty feet?

A. I guess so.

Q. And you can plainly see the ink works from your rear windows?

A. Yes, sir.

Q. How near to the ink works does your lot run?

A. About 150 feet, I should think.

Q. Well, now, when you went out there you saw

this marble works and the sugar works and the ink works there, didn't you?

A. I knew they were there, but I was a stranger there, and I did not take much notice of them.

Q. Of whom did you buy this lot?

A. From Mr. Baisden.

Q. What kind of house is there on it?

A. It is a six-room house.

Q. And you moved in on the day after Decoration Day?

A. Yes, sir.

Q. And you had not hardly gotten in before you noticed the smell?

A. I noticed the smell on Monday.

Q. But you had not noticed it the three days you were out there before?

A. No, sir, because I was not there long enough to notice it.

Q. Was your husband with you on these three occasions?

A. Yes, sir.

Q. And you went through the house each time?

A. Yes, sir.

Q. Did you know Mrs. Scanlan before you went?

A. Yes, sir.

Q. And she suggested your coming there, didn't she?

A. It was through her we got the house.

Q. She lives just across the street?

A. No, sir, right next to me on the same side of the street.

Q. And it was through her that you bought this house?

A. Yes, sir.

Q. And she lives next to you?

A. Yes, sir.

Q. Did you see her the days you were out there —the three days?

A. Yes, sir.

Q. Did you take any meals with her?

A. Yes, sir.

Q. How long was the longest time you stayed there on the three occasions before you actually moved in the place—a whole day?

A. No, sir.

Q. But you were there long enough to take meals with Mrs. Scanlan?

A. Yes, sir.

Q. You took lunch?

A. Yes, sir.

Q. Where had you gotten acquainted with Mrs. Scanlan?

A. Her husband and my husband work in the same place.

Q. And it was through them that you moved from the Bronx down to Edgewater?

A. Yes, sir.

Q. Now, did Mrs. Scanlan tell you that she was a witness down here the other day?

A. I was here with her.

Q. And you heard her testify?

A. Yes, sir.

Q. Had she spoken to you on any of these occasions before you bought, of any smell from this factory?

A. No, sir.

Q. On the contrary, she wanted you to come and live there?

A. Yes, sir.

Q. And bring your six children?

A. Yes, sir.

Q. How old were they?

A. The oldest is 18 and the youngest is six Everyone of them smell it badly.

THE COURT.—Strike that last observation out.

Q. Now, the 31st of May was Saturday?
A. Yes, sir.
Q. You got settled, I suppose, over Sunday?
A. No, sir, not over Sunday.
Q. Were you settled on Monday?
A. No, sir.
Q. Did you notice the smell on Monday?
A. Yes, sir.
Q. When was the last day you noticed it?
A. Last Monday.
Q. What time did you notice it?
A. At 11 o'clock in the morning.
Q. You have not smelled it since?
A. No, sir.
Q. Before last Monday, when did you notice it; can you remember any particular time?
A. Well, I have smelled it, but not any particular time.
Q. You have no present recollection of any particular day?
A. No, sir.
Q. Do you know the smell of burning sugar?
A. No, sir.
Q. Do you sometimes see smoke come out of that chimney when you don't smell it?
A. Generally when the smoke is coming out you can smell it.
Q. You do sometimes see smoke come when you don't smell it?
A. No, sir.

Q. It does not always smell when smoke comes out?

A. I only smell it when the smoke is coming.

Q. I mean to say, sometimes smoke comes and you don't notice the smell?

A. No, sir.

Q. Whenever there is a smoke, there is a smell?

A. Yes, sir.

Q. Why do you always look down there at Mrs. Harrigan?

A. I don't see her.

Q. Isn't she out there?

A. Yes, sir; but I am not looking at Mrs. Harrigan.

Q. Did you ever see smoke from other chimneys?

A. Yes, sir.

Q. Which?

A. From the other chimney from which smoke comes.

Q. Which chimneys?

A. I don't know which chimneys they are.

Q. Well, don't you know to whom the—

A. I am only a stranger around there.

Q. Well, you have seen smoke come out of the marble works place?

A. Down on River Road?

Q. Yes?

A. Yes, sir.

Q. You have seen smoke come out of the sugar place?

A. Yes, sir.

Q. And out of the dye place?

A. I don't know the dye place.

Q. Have you talked with Mrs. Scanlan about this?

A. No, sir.

Q. You never talked to a soul about it?

A. No, sir.

Q. This is the first time you have ever spoken of it?

A. Oh, well, I have heard people speaking about it.

Q. Did I understand you now, that when you went on the witness stand and testified in this case, was the first time you had spoken about this to anyone?

A. No, sir

Q. To whom had you spoken about it?

A. People in the neighborhood.

Q. To whom?

A. I did not know them; there was a woman came down one day, and she stopped to speak about it.

Q. Who was that woman—was it Mrs. Popp?

A. No, sir.

Q. You know her, don't you?

A. Yes, sir.

Q. Well, was it Mrs. Harrigan?

A. No sir.

Q. Who was it?

A. I did not know the woman's name.

Q. Do you see her here?

A. No, sir.

Q. She came down and told you about this ink works, and wanted to know if you had noticed the smell?

A. No, sir.

Q. What did she say to you?

A. We smelled it that morning very badly.

Q. What did that woman say to you when she came down?

A. She came down, and she mentioned that there was no smell from the factory, and there was an awful bad smell; this woman tried to make us believe there was no bad smell from the factory; she was talking to Mrs. Scanlan and my husband and me.

Q. When was this?

A. It must be about three weeks ago.

Q. Is your husband in Court?

A. No, sir.

Q. Is Mrs. Scanlan here?

A. Yes, sir.

Q. Did you hear her testify the other day?

A. Yes, sir.

Q. Did it cross your mind at that time, that it was strange, that if the smell had been so bad from that factory for months before, she induced you to buy there—that she, a good friend of yours, would induce you to buy there; did that cross your mind when she was testifying here?

A. No, sir.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. Now, Mrs. Murphy, do you know who that lady was that came down talking to you?

A. She was a stout lady; I don't know her name.

Q. What kind of hair did she have?

A. Gray hair.

Q. Would you know her name if you heard it?

A. No, sir.

Q. Do you know Mrs. Southard?

A. Maybe that was the name; I could not say.

RE-CROSS EXAMINATION by Mr. McCarter:

Q. Do you know what price you paid for your property?

A. Yes, sir.

Q. What was it?

A. $3600.00.

MRS. KATHARINE POPP, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place.

Q. On the east side?

A. Yes, sir.

Q. I show you photograph No. 8, and ask you if you recognize your house on that?

A. Yes, sir. (Indicating the one to the right on photograph No. 8).

Q. I show you photograph No. 10, and ask you if you are familiar with that?

A. Yes, sir, that is the ink factory.

Q. Is that the front view or the rear view?

A. I think it is the front.

Q. I show you photograph No. 11, and ask you what that indicates?

A. That is the back of the factory.

Q. Do you notice anything else on that?

A. I notice the small chimney.

Q. What do you know about that small chimney?

A. Nothing, but there is a terrible fume comes out of it, blue fumes, and dark brown fumes or smoke.

Q. Have you noticed anything about that fume or smoke?

A. A very nasty odor, very disagreeable.

Q. How long have you noticed it that way?

A. About a year and a half or over.

Q. Do you remember when the Sinclair and Valentine factory was erected?

A. Yes, sir.

Q. Do you remember when it was being erected?

A. Yes, sir.

Q. Did you smell it then?

A. Yes, sir; ever since it started there, I smelled it.

Q. About how often have you smelled it?

A. Most all the time since it was built, two or three times a week.

Q. Just describe the smell?

A. It is a gassy, acid, sickly smell, very sickening smell, very disagreeable; it affects my nose and throat very much.

Q. How does it affect your nose and throat?

A. A dryness in the throat, and a stoppage in the nose.

Q. Does it affect you in any other way?

A. Sometimes my stomach—a very disagreeable feeling.

Q. What time of day do you notice this smell?

A. Different times; sometimes in the morning and sometimes in the afternoon; mostly on Friday.

Q. Does it ever bother you in the evening?

A. Yes, sir, many times.

Q. How does it affect you in the evening?

A. Just the same.

Q. What time in the evening?

A. Sometimes it is after six in the evening, and about one o'clock at night I have smelled it, if I came in late from my lodge, at one o'clock I smelled it.

Q. Do you ever notice it in the house?

A. Yes, sir, very often; I hardly ever have my

windows open on the south side; I have to keep them down practically all the time because of this terrible odor.

Q. Have you kept any record of the days when you noticed this smell?

A. Well, of this past month I have; this month I have marked the calendar, and I tore it off this morning, and here it is, sir.

Q. Have you got any days marked on there?

A. Yes, sir.

Q. How did you mark them?

A. When I smelt the smell I would look over and see the fumes coming out, and I would go in to the calendar and take a blue lead pencil and mark the date.

Q. What is the first date you have marked on that?

A. The 11th, June 11th.

Q. Do you know what time of day it was on that date?

A. It was all day, in the morning and in the afternoon.

Q. Did it bother you that day?

A. It was more of what I should call tarry, a different odor entirely; it was not the same odor that we have smelt the last year and a half; it was as if they had changed the burning; all day it burnt tar—

Q. That was the 11th?

A. Yes, sir.

Q. Was that the day there was an inspection there?

A. Yes, sir, those men were climbing the chimney that day.

Q. Did you see those men?

A. Yes, sir.

Q. Did you notice this smell while those men were climbing the chimney?

A. Yes, sir, it burned all day,—this smell.

Q. What is the next day you have marked on the calendar?

A. The 12th.

Q. What time of day did you smell it then?

A. I did not mark the time of the day; I just marked the date.

Q. What kind of odor did you have that day?

Q. (BY THE COURT) What effect did the odor of the 12th have on you?

A. The same as it had all along.

Q. The 11th was different?

A. Yes, sir.

FURTHER DIRECT:

Q. What is the next day you have marked on your calendar?

A. The 13th; that is the day it smelled the most; it always smells the most on Friday.

Q. Have you any other days marked on there?

A. Yes, sir, I have the 16th.

Q. Do you know what time of day it was then?

A. Really, I could not describe the time of the day; sometimes it is before noon, and sometimes after; it does not burn all day.

Q. What was the nature of the smell at that time?

A. Exactly as it is always—that acid, gassy, unhealthy smell, disagreeable smell.

Q. Now, give the other days you noticed it.

A. The 17th, 18th, 19th, 20th, 24th, 25th, 26th, 27th.

Q. What time did you smell it this morning?

New Jersey State Library

A. I should think about eight o'clock.

Q. What was the nature of the smell this morning?

A. Just the same as it has been for the past year and a half; that blue fume came out of the small chimney; I always look over at the chimney and see the blue flame.

Q. It is a blue flame?

A. Yes, sir, acid, regular blue flame.

Q. Isn't it like heat arising; is not that what you mean?

A. Yes, sir.

MR. McCARTER.—Don't lead her; let her testify.

Q. And these smells have been all the same, except on the 11 th of June?

MR. McCARTER.—I object.

THE COURT.—She has said that they were, except on the 11th, when, she said there was a tarry odor—different from the other days—an odor like burning tar.

Q. What is the position of your house with the location of the ink factory?

A. Very near to it; just a little distance from it.

Q. How far from it?

A. I should judge about 175 feet from this chimney.

Q. How near Mrs. Harrigan's house?

A. There is a lot between her and I; I am more south of the chimney, and she is more north; I am nearer to the chimney than she is.

Q. And does this smell bother you in the night time?

A. Yes, sir, very often.

Q. How does it bother you in the night time?

A. My children sleep at the corner, and I practically have to be pulling the windows down to keep the smell from coming in the bedroom continually—it affects them, and it often affects me; I have one window leading to the back of the house towards the east.

Q. How long have you lived in this new house?

A. About four years.

Q. The house is in the name of both you and your husband?

A. Yes, sir.

Q. Have you lived in that ever since the house was built?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, Mrs. Popp, you are a sister of Mrs. Harrigan?

A. Yes, sir.

Q. And what relation are you to Mr. McGarry?

A. Sister.

Q. How near have you lived to McGarry's stable?

A. I guess there is about one lot between him and I.

Q. And how near do you live to McGarry's big manure heap?

A. About a lot and a half, that is still further away.

Q. And how near do you live to the dye works?

A. I should judge about two, or three lots; about three lots away from my house.

Q. They are nearer to you than the ink works —the dye works are nearer than the ink works?

A. I don't think so, because there are buildings between, and there is no building between me and the chimney.

Q. As a matter of fact is not the dye works—

A. That I really could not say.

Q. Now, on the 11th of June, that is, the day after you had been down here in Court?

A. Yes, sir.

Q. Did you tell the painters that day where the stench came from?

A. No, sir, I did not; they had remarked it.

Q. You say you did not tell them?

A. No, sir.

Q. They were mistaken when they said you did?

A. I did not say—they did not ask me .

Q. You talked with them, didn't you?

A. Yes, sir, I have often had a conversation with them.

Q. I mean that day, the 11th?

A. Yes, sir.

Q. How did you know there was an inspection being made?

A. Because I saw 11 of the men climbing the chimney.

Q. Had you been told by Mrs. Harrigan that the experts were to be up there that day?

A. No, sir.

Q. Who directed your attention?

A. Nobody; when I went out on my porch I saw them there.

Q. What time was that?

A. They were there all morning.

Q. What time did you notice them first?

A. Around nine o'clock.

Q. How soon did you notice the smell, the tarry smell?

A. From that on.

Q. From the time they were there?

A. Yes, sir.

Q. You noticed it before?

A. No, sir.

Q. Where did you see the men when you noticed the tarry smell?

A. There was a group of them standing at the foot of the chimney, standing all around there.

Q. There was one man climbing the chimney?

A. Yes, sir, it was in the morning.

Q. How many were in the group?

A. Quite a number.

Q. Now, the smell was very much different that day?

A. Yes, sir, it was not the same smell at all; it was a smell more of a tarry smell; the other is a very disagreeable acid smell, very acidy and disagreeable.

Q. And that has been so always, except on that one day?

A. Yes, sir.

Q. Since then and before this?

A. Yes, sir.

Q. Now, you have that memorandum; look at it again. I understand that you noticed this nasty acid smell on the 12th, the 13th, the 16th, the 17th, the 18th, the 19th, the 20th, the 24th, the 25th, the 26th and this morning before you came down here?

A. Yes, sir.

Q. No doubt about that?

A. No, sir.

Q. The same acidy smell?

A. Yes, sir.

Q. On each of those days?

A. Yes, sir.

Q. And, for instance, on the 24th you went out on the porch, and you smelt the smell, and you came in and checked it off on your little memorandum?

A. Yes, sir; I took this blue pencil and marked it down.

Q. You did that on the 24th?

A. Yes, sir.

Q. And on the 20th?

A. Yes, sir.

Q. And this morning before you left?

A. Yes, sir.

Q. What time was that this morning?

A. Around eight o'clock.

Q. The same smell that you smelled when you shut the window down on account of your children not being able to sleep,—was precisely the same as it was this morning at 8 o'clock?

A. Yes, sir.

Q. Won't you again describe what it is you see coming from the chimney?

A. Sometimes it is a dark, heavy smoke, brownish, cloudy.

Q. When it is that way, do you smell anything?

A. Yes, sir, I can get a smell whenever I see anything coming out of the chimney, when the wind comes my way.

Q. When the wind comes from the South and the smoke is a dark smoke?

A. Yes, sir; sometimes it is brownish, and at other times it is a terrible blue flame.

Q. Sometimes you have dark smoke, either dark brown or dark blue, and then you have the smell, and then again you have the black?

A. Yes, sir; it is not as heavy as this dark brown.

Q. You called it a flame a little while ago?

A. It comes out like a flame, but it is a lighter smoke.

Q. Is there a flame to it?

A. No, sir, there is no fire flame—a lightish blue —there is no fire comes out. .

Q. Just a lighter smoke?

A. Yes, sir.

Q. Is there any difference in the smell that you experience when the lighter smoke is coming out than when the darker smoke is coming out?

A. No, sir, the smell is the same.

Q. Is it just as bad in either case?

A. I would not say, but when I see the smoke coming from that chimney—the smell is just—

Q. Is the smell as bad?

A. I think it is worse when the blue smoke comes; it is worse then.

Q. Now, which comes first, the blue or the black?

A. The black; sometimes the black does not come at all; sometimes the blue comes alone; there are mornings when they only have a blue smoke, and other times it is black; sometimes blue will come without the black, and sometimes the black will come without the blue.

Q. And sometimes they come one after the other?

A. Yes, sir, and the last will be the blue smoke.

Q. Now, have you any recollection of any time this year before the 11th, that is, the day they were making the experiments, have you any recollection of any day this year previous to that day?

A. Really, I never bother with the dates of anything, but mostly I smell it, not every day in the

week, but two or three days in the week, not every day, and sometimes the smell is worse than others.

Q. You made an affidavit to the bill of complaint, didn't you?

A. I don't think I have.

Q. Are you the wife of William Popp?

A. Yes, sir.

MRS. MAY MOONEY, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. I live at Undercliff Avenue.

Q. On the east side?

A. Yes, sir.

Q. In what kind of a house?

A. I live in an apartment house, six-family house.

Q. On what floor?

A. We are on the top floor of the third—on the north side.

Q. And how long have you lived there?

A. Over a year.

Q. Are you familiar with the location of the Sinclair and Valentine ink factory?

A. Yes, sir, quite well.

Q. I show you photograph No. 10, and ask you what that indicates?

A. That is the Sinclair and Valentine ink place; this is the chimney where these fumes are emitted and smoke.

Q. Have you seen the smoke and fumes coming out of that chimney?

A. Yes, sir.

Q. How often have you noticed them?

A. Well, I get them whenever the wind blows west in my direction; I get this smoke and odor then.

Q. About how often do you notice these smells?

A. I usually have them in the morning, but I have these dates that I have marked down recently.

Q. Produce that, if you will.

A. Now, the morning of the 11th I had that smoke, odor.

Q. Just describe the odor on that morning.

A. It is nauseating—more of a smoky odor on the 11th.

Q. Did it affect you physically?

A. Yes, sir.

Q. How?

A. Because it is very nauseating.

Q. Did it cause you nausea on that day, the 11th?

A. Yes, sir, it usually does; and then on the 12th, I had it again, in the morning.

Q. What was the nature of the smell on the 10th?

A. It smells to me exactly like burning fish.

Q. Did it affect you that day?

A. Yes, sir.

Q. What other days have you marked?

A. And then on the 18th, I had it off and on all day.

Q. From what time to what time?

A. Well, it was in the morning I noticed it, and at different times of the day; I could not tell you exactly what times they were.

Q. Until about how late?

A. That I could not say.

Q. Did it extend into the evening?

A. Yes, sir, it was in the afternoon.

Q. In the night time?

A. No, sir; I did not smell it on the night of the 18th.

Q. When was the next time you noticed this smell after the 18th?

A. That was on the 24th.

Q. What was the nature of the smell then?

A. It was the same; but I will tell you it was from a different chimney; it was from a smaller chimney belonging to this ink place. That was on a Tuesday.

Q. On which side of the large building was that —the west or the north or south?

A. It is a sort of south, a little southwest.

Q. Did you see the smoke come out of the chimney at that time?

A. Yes, sir.

Q. How was the smell that day?

A. The same; that same nauseating odor.

Q. What was the next time?

A. That was the last time that I was annoyed by that odor.

Q. How does this smell affect you?

A. It makes one sick?

Q. Does it make you sick?

A. Yes, sir.

Q. Violently sick?

A. No, sir; it makes me sick at the stomach.

Q. Do you throw up from your stomach?

A. No, sir.

Q. Did you watch the flame coming out of this chimney?

A. Yes, sir.

Q. What color is it?

A. It seems to me when it first started—it starts

in the morning, it is of a dark, smoky color; then it gets blue during the day.

Q. Were you subpoenaed to appear before the Court on the 10th?

A. Yes, sir.

Q. Were you here on the 10th?

A. Yes, sir, I was.

Q. How did you come to keep your calendar dates?

A. Well, I had been notified to come then, and I wanted to be sure and accurate with my dates.

Q. Were you asked by anybody to keep the dates?

A. No, sir, I did it voluntarily, of my own accord.

Q. Did you notice the smell on the 11th?

A. Yes, sir.

Q. Was there any difference with the smell on the 11th and on these other occasions?

A. Well, it made me sick.

Q. Did you notice any difference in the odor?

A. It affected me in the same way.

CROSS-EXAMINATION by Mr. McCarter:

Q. Were you here on the 10th?

A. Yes, sir.

Q. You were here?

A. Yes, sir.

Q. Did you have any dates before then?

A. Not exactly. You mean marked on the calendar before then?

Q. Did you have any dates in mind when you had been annoyed by the stench, previous to the 10th?

A. Yes, sir.

Q. Can you recall any of them?

A. No, sir, not exactly; no, sir, I cannot recall them.

Q. Yet you had some particular dates in mind at that time?

A. Yes, sir.

Q. But you cannot now recall when they were?

A. I remember one in the evening, but what evening it was, I could not tell you.

Q. So that, after having been down here, you went home, and you determined thereafter to put it down when you noticed it?

A. Yes, sir.

Q. Whenever you noticed the same smell, you put it down in the calendar?

A. Yes, sir.

Q. And therefore, you put it down on the very next day, the 11th?

A. Yes, sir.

Q. And you put it down on the 12th?

A. Yes, sir.

Q. And on the 18th?

A. Yes, sir.

Q. And on the 24th?

A. Yes, sir.

Q. And on each one of those days, having been here and heard the testimony about this smell, you now say you noticed this smell, odor, coming from this same factory?

A. It had the same effect on me.

Q. Now, on the 24th, you speak of the smoke that you observed coming from the ink factory, and not coming from the tall chimney, but from some other chimney?

A. Yes, sir, right beside that or near there.

Q. I wonder if we have any photographs that

will show that; I am trying to find out the little chimney now; now, Mrs. Mooney, where is the little chimney that you refer to located, with reference to the big one?

A. It is towards the south.

Q. And what does it connect with,—do you know?

A. Well, there are some smaller tanks there, and a little building.

Q. And does the chimney come out of the little building?

A. I think it does; I am almost sure it did.

Q. And on this 24th, when you saw the smoke coming out of the smaller chimney and observed the same smell, what color was the smoke?

A. Blue.

Q. Have you any recollection what time of day that was?

A. Yes, sir, it was about between eight and eight-thirty in the morning.

Q. What time on the 11th did you observe the stench or smell?

A. At nine o'clock it began, and it came in my direction until nine-thirty.

Q. And then it stopped?

A. Yes, sir.

Q. Now, did you see any gentlemen there that day?

A. Yes, sir, later in the day I did; I had the odor of that smoke until 9:30.

Q. Had you observed anything of the gentlemen around there?

A. No, sir.

Q. Can you see from your apartment, the chimney?

A. Yes, sir.

Q. What time did you first observe the gentlemen?

A. Well, about ten o'clock and after.

Q. You saw the gentlemen as early as ten o'clock in the morning?

A. Yes, sir.

Q. How many did you notice?

A. There were quite a few of them.

Q. What attracted your attention?

A. There was a ladder there, and I saw one gentleman climbing this ladder.

Q. Against the chimney?

A. Yes, sir.

Q. And that was about ten o'clock?

A. Well, ten or after ten; it was not before ten, I know.

Q. And at that time was the wind blowing from that direction to you?

A. After 9:30 it did not.

Q. The wind did not blow?

A. Not in my direction, no, sir.

Q. Did you notice whether there was a change in the wind?

A. I only noticed the men after that.

Q. How late did you see the men?

A. Well, I think there were some there in the afternoon, but I would not say how late.

Q. What did they seem to be doing then?

A. I remember one young man was walking around the lot there; I don't know what he was doing unless he was waiting for somebody.

Q. Now, every other time that you have noticed this smell, the smoke has been coming out of the big chimney?

A. Yes, sir, except that Tuesday.

Q. Now, you have said that it makes you sick?

A. It does.

Q. What do you mean by that; you have not actually vomited, have you?

A. No, sir.

Q. You mean you felt sort of nauseated?

A. Yes, sir.

Q. When was the last time you felt nauseated?

A. It was on that Tuesday.

Q. The 24th?

A. Yes, sir.

Q. And did you feel nauseated on the 11th?

A. It had the same effect on me all the time that I smelled it.

Q. Can you tell us where your house is on Undercliff Avenue—the east side—where is it—next to whom?

A. Next to a new family named Mustard; it is Pfitzmen's house.

Q. Mr. Ellis suggests, that if I show you photograph No. 9. you can probably point out the rear of your house?

A. Yes, sir, right there.

Q. The apartment on the top of the north side under the letters "T. A. L.?"

A. Yes, sir.

Q. Now, where is Mrs. Harrigan's house with reference to your place?

A. I think Mrs. Harrigan's is over here.

Q. Her house is further north?

A. Yes, sir.

Q. You are nearer the ink works than she?

A. Well, I don't know whether it is nearer in distance, but I am exactly west and she is north; I am exactly west of the ink place.

Q. How many other families live in this six-family house besides you?

A. There are five besides myself.

Q. So the house is full?

A. Yes, sir.

Q. You spoke of some property having been recently sold?

A. There was a house built here; it is completed now—

Q. Right north of your apartment, a new house has been put up?

A. Yes, sir.

Q. How recently?

A. Well, it was completed last month, I think.

Q. Is that an apartment house or a one-family house?

A. A two-family house.

Q. Who built that?

A. A family named Mustard.

Q. And have the people moved in?

A. I think I saw a family move in there yesterday.

Q. So that one of the apartments, at least, is now occupied.

A. Mustard has moved here, and another family moved in yesterday.

Q. So that there are two families in there now?

A. Yes, sir.

Q. And do you understand that Mr. Mustard built this house himself?

A. Well, it was he who had it built.

Q. I mean it is his property?

A. Yes, sir.

Q. When did he buy the lot?

A. It must have been sometime ago,—I don't know.

Q. When did you move into this place, Mrs. Mooney?

A. Over a year ago.

Q. Was it the first of May last year?

A. No, sir, I think it was in February I moved, February, a year ago.

Q. Where did you move from?

A. I moved from the bank house, the Union Trust building.

Q. That is further away from the ink works?

A. Yes, sir.

Q. And the ink works were up when you moved there?

A. Yes, sir—in the dead of winter I moved there.

KATHARINE GREY, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 376 Undercliff Avenue.

Q. In Edgewater?

A. Yes, sir.

Q. How long have you lived there?

A. Eight years this August.

Q. And is No. 376 on the east side or on the west side of the avenue?

A. The west side.

Q. Do you know the location of the Sinclair and Valentine ink factory?

A. I do, yes, sir.

Q. I show you photograph No. 10 and ask you what that indicates; do you know what that building is?

A. No, sir.

Q. Miss Grey, have you noticed any smoke coming from the Sinclair and Valentine Ink Company's factory?

A. Yes, sir.

Q. From what part of the factory?

A. From the small chimney.

Q. Where is that?

A. It is almost directly behind the large chimney —they have two, haven't they?

THE COURT.—Strike out the latter part of the answer.

Q. Have you seen the chimneys there?

A. Yes, sir.

Q. How many are there?

A. Two.

Q. Which one did you notice the smoke come out of, the large one or the small one?

A. The small one.

Q. I show you photograph No. 17, and ask you if that is the one?

A. Yes, sir, this is the one.

Q. Now, what kind of smoke did you notice coming out of that chimney?

A. Well, I have seen every color—dirty looking brown, fading out to a bluish white.

Q. Did you notice anything about that smoke?

A. Yes, sir, I noticed a very bad smell.

Q. Just describe the smell, as near as you can?

Q. I have never smelled anything like it.

Q. How does it affect you?

A. I cannot say that it affects me badly, but I don't like it; it is very disagreeable, though.

Q. How near is you house to it?

A. About, I should think, five to six hundred feet; that is as near as I can guess.

Q. Now, how often have you noticed this smell, Miss Grey?

A. Well, I am not home all the time, but I must say that I smell it too often.

Q. When did you first notice it?

A. Always at the end of the week when I am home; I get it on Friday.

Q. About the first time, when did you notice it?

A. About a year and a half ago.

Q. About how often through the week did you notice it since that time?

A. There have been months when I did not smell it.

Q. How often would you smell it at other times?

A. Two and three times a week sometimes.

Q. Was it a pleasant smell?

A. No, sir.

Q. Just describe this smell, as near as you can, whether it is pleasant or otherwise.

A. It is anything but pleasant, but I am afraid I could not describe it; it is like very rotten fish getting burned up.

CROSS-EXAMINATION by Mr. McCarter:

Q. How long have you lived in this place, Miss Grey?

A. Eight years next August.

Q. Can you tell us where your house is on Undercliff Avenue?

A. Well, it is northwest from this ink place, I should think.

Q. That is, how near is it to Mrs. Mooney?

A. Well, I don't know exactly how many hundred feet, but I should think two city blocks.

Q. The same side of the street?

A. No, sir.

Q. Your house faces east?

A. Yes, sir.

Q. And do you live anywhere near Harrigan's?

A. About 250 feet from Mrs. Harrigan's.

Q. Further north?

A. No, sir, a little bit northwest from her, not directly opposite.

Q. You know her, I supose?

A. Yes, sir.

Q. Now, I judge from something you said, that you don't spend all your time in Edgewater?

A. No, sir.

Q. Where do you spend it?

A. I spend half my time in New York.

Q. At the moving pictures?

A. No, sir; I am too busy for that.

Q. You have not been compelled to attend them to recuperate your health?

A. No, sir.

Q. You work in New York?

A. Yes, sir; I am home the first of the week and the last of the week; I am home Mondays, Fridays, Saturdays and Sundays, generally, and sometimes Thursdays.

Q. Has that ben true during the past six months?

A. No, sir; I cannot say that I have smelt much of this only in the latter part of May.

Q. This practice of being in New York on Tuesdays, Wednesdays and Thursdays, was true this summer as well as last year?

A. Yes, sir.

Q. Now, when did you notice the smell this year?

A. In May, last month.

Q. Do you remember any particular date?

A. Not the date, but the latter part of May.

Q. Before or after Decoration Day?

A. It was the last week in May, and I believe the last two or three days.

Q. And since then, have you noticed it?

A. No, sir.

Q. You have been home Fridays?

A. Yes, sir.

Q. At the same time?

A. Yes, sir.

Q. Were you down here on the 10th of June?

A. Yes, sir.

Q. And you were here to testify?

A. Yes, sir.

Q. Now, there is a great big tall chimney on the main factory, which appears on photograph No. 10; that is what you call the large chimney?

A. Yes, sir.

Q. Now, smoke comes out of that, I suppose?

A. Yes, sir.

Q. Is it when smoke comes out of that, that you smell the smell you speak of?

A. I smell it many times when I don't see the smoke at all; the smoke may be there, but I am not watching it.

Q. You observe that smoke comes out of that chimney?

A. Yes, sir.

Q. Now, let us have the other photographs showing the chimney in question. (Gets it from Mr. Gourley). Now, I show you photograph No. 1, which you say also shows what you would call the smaller chimney?

A. Yes, sir.

Q. Now, where is that located—can you tell us?

A. It is almost right back here behind that; I only see about ten feet of it from my stoop.

Q. Now, sometimes you have observed the smell when you have seen no smoke from either chimney?

A. I did not go to see whether it was smoky.

Q. From the dye works there?

A. No, sir.

Q. There are sugar works there?

A. Yes, sir.

Q. And there are sugar works there?

A. Yes, sir.

Q. You have smelt the smell when you never have observed any smoke from either chimney?

A. I did not go to see?

Q. When you did not see any smoke from either chimney?

A. That is right; I never smell it unless the wind comes from the southeast.

Q. Do you have to go out to see the smoke?

A. Not if it is coming from the southeast; we can get it in the back yards, or in the house, or any other place.

Q. Can you see the chimney from your bedroom?

A. Yes, sir.

Q. Now, when you have smelt the smell, how many times have you gone to some place to look for the smoke?

A. I don't think I ever did.

Q. So that when you have smelt the smell, you don't know whether smoke has been coming from any or either of these chimneys, do you?

A. Not always, I do not.

Q. You noticed it once or twice the latter part of May this year?

A. Yes, sir.

Q. When, before that, did you notice it?

A. Well, not much all winter; we were indoors a great deal.

Q. So that, so far as you now can recall, the only time this year, that is, 1913, that you ever noticed that smell, is the one occasion the latter part of May?

A. Yes, sir.

Q. And was that in the evening or the afternoon or the morning?

A. It was in the afternoon.

Q. About how long did that last?

A. Well, I did not stay on the stoop very long; it was rather cool.

Q. Now, last summer you noticed it some?

A. Last summer it was much worse; it was very bad last summer.

MR. ORVILLE B. SWIFT, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you reside?

A. In Edgewater, on the east side of Undercliff Avenue.

Q. In what direction is that from the Sinclair and Valentine ink factory?

A. It is to the northwest.

Q. Do you know about how far?

A. I should judge about 275 feet, diagonally.

Q. I show you photograph No. 10, and ask you what that represents; do you see that from your house?

A. Yes, sir, but I don't see it quite the same; I see it across from this way, from the northwest.

Q. I show you photograph No. 11, and ask you if you see any part of the ink factory on that?

A. Yes, sir, the chimney and two little buildings

Q. Have you noticed anything about that little chimney?

A. Yes, sir.

Q. Just tell us what you have noticed.

A. I have noticed smoke issuing from that chimney at times; principally through the summer of last year; after that, it was not quite as bad.

Q. Have you noticed it recently?

A. I have noticed smoke recently.

Q. Did you notice anything else?

A. No, sir, I cannot say that I have.

Q. Have you noticed any odor?

A. Edgewater is a town of odors; I have noticed odors, yes, but I could not say it came from that chimney absolutely.

Q. Do you remember the 5th of June of this year?

A. Yes, sir, I think I do.

Q. Did you notice anything that day?

A. Yes, sir, I noticed an odor that day?

Q. Do you know where it came from?

A. I could not swear.

Q. Were you at Edgewater Place that day?

A. Yes, sir, I was on the back lot all day; there was a sort of resinous odor that day.

Q. In what direction did it come from?

A. I cannot tell; I was across the back of the lot to the south, and the odor may have come anywhere from on that side of the road.

Q. How was the wind blowing on that day?

A. I think it was blowing from the north, probably northeast.

Q. Was it a similar odor to the one you had noticed before?

A. I cannot say that it was exactly the same; there are odors from the sugar factory and the dye works, that we have gotten over there; this odor that I spoke of as coming out of the chimney in May, during the summer, was such that we had to close the window; we could not sit on the back porch.

Q. This odor of the 5th of June, was that a similar odor?

A. No, sir, I cannot say that it was; it had been a long time since I had smelt that particular odor that we had connected with the new factory.

Q. How near do you live to the factory?

A. I live about 275 feet; the rear of my lot is 150 feet from a line that could be drawn even with that chimney; the chimney is 230 feet from our line fence, and I would be about 150 feet north of that line; it is the diagonal dimension that I speak of as being about 275 feet; of course, that is a guess.

Q. Have you noticed the color of the smoke coming from this chimney recently?

A. My study window is towards the factory—towards the river; my chair is in the northeast corner of the room; I cannot turn around to look out of the room without looking across at the factry.

Q. (Question read).

A. Yes, I have noticed smoke arising.

Q. When you noticed that smoke arising, have you noticed any odors?

A. I cannot say that I have.

Q. How about when the wind blows from the east?

A. Of course, I say that we get odors over

there; there are odors, no doubt; and when the wind is from the east, we get odors, but directly east of us is the sugar factory and Nyack's moulding works, sash and door works; and I suppose they burn stuff that would give out an odor.

Q. Can you tell the difference between the smell from the sugar house, and the smell from the ink factory?

A. Yes, sir.

Q. Tell us about the smell from the ink factory?

A. The smell from the ink factory was of a nauseating odor, extremely so; the distinction between the odor from the ink factory, and the odor from the sugar factory—the smell from the ink factory was sort of an acid, oily, burning oil odor that we get.

Q. Did it affect you in any way?

A. No, sir, I don't think it was anything more than that it was nauseating.

Q. Did you ever have to leave your porch and go in the house?

A. Yes, sir, during last summer we did, because of this odor, which I imagine came from the ink factory; I was told it was.

CROSS-EXAMINATION by Mr. McCarter:

Q. You spoke of a study—what is your business?

A. I am a student; that is, a student of Divinity.

Q. Where?

A. Union Theological Seminary.

Q. Do you live in Edgewater?

A. Yes, sir.

Q. How much time are you at home so as to get these smells?

A. Beginning with October, the first of October of last year, I was home all day Monday, and I returned Tuesday, Wednesday, Thursday and Friday, the first semester, at about one o'clock.

Q. Now, during that summer, where were you?

A. During last summer I was at home the majority of the time; I went West in May, and I was gone until the first of June.

Q. And from June until the time the seminary opened, where were you?

A. At home, most of the time.

Q. And this study of yours looks out on the chimney?

A. Yes, sir.

Q. Now, I understand you to say that during the summer months that you were home last year, you did get a bad odor from the ink works?

A. We did, yes, sir.

Q. And you had that odor in mind—did it have a distinctive character?

A. Yes, sir.

Q. What was it?

A. Well, it was like burning oil or boiling oil.

Q. How much time have you been home this year since the weather warmed up?

A. I have been home practically all the time; that is, with an occasional trip to the city.

Q. But your custom is, to be home now?

A. Yes, sir.

Q. It is vacation period now?

A. Yes, sir.

Q. When did the Seminary close?

A. It closed on the 13th of May this year.

Q. Now, have you observed smoke coming from the chimney this year?

A. Yes, sir.

Q. Have you observed that smell this year?

A. I cannot say that I have observed the same smell—that is, as it was last summer.

Q. You have spoken of Edgewater being a town of odors—

A. That is simply a personal characterization.

Q. What works or manufactories are there in this vicinity that emit these odors that led you to make that description?

MR. GOURLEY.—Is that a proper question to ask?

THE COURT.—This witness has said there were other odors.

MR. McCARTER.—I want to know what other manufactories there are there?

THE WITNESS.—To the west is the sugar refinery, a large place; then, north of that, on the other side of the street, is the Nyak Sash and Door factory, and north of that is the dye works, and still further north is the ice factory.

Q. Artificial ice?

A. Yes, sir.

Q. Now, are there odors from each of those places?

A. Yes, sir, I think there are; I will say there are.

Q. How long have you lived in Edgewater, Mr. Swift?

A. About two years, a little over two years.

Q. Do you remember the building of this Sinclair and Valentine factory?

A. Yes, sir; there was nothing there; I had a clear view of the river until this ink factory went up.

Q. Is your house an isolated house?

A. No, sir; it is one of a group of houses; there are six in the group; it is a brick structure of six houses; we call it a terrace.

Q. Which of the six is your house?

A. I am the third from the north.

Q. So that there are three houses in this brick row south of you?

A. Yes, sir.

Q. And nearer the works?

A. Yes, sir.

Q. These other factories that you enumerated, were they erected before the Sinclair and Valentine factory?

A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Gourley:

Q. The other odors of which you speak were there before you went to live?

A. Yes, sir.

Q. And continued in that condition until the erection of this factory?

A. They continue now.

MR. McCARTER.—Please don't lead him, Mr. Gourley.

RECESS TO 2 P. M.

AFTER RECESS.

CHARLES VAN GELDER, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater.

Q. What part of Edgewater?

A. Corner of Garden Place and Undercliff Avenue, on the south corner, southwest.

Q. Sure it is the southwest—on the east or west side of Undercliff Avenue is it?

A. On the east side of Undercliff Avenue?

Q. How long have you lived there?

A. 16 years.

Q. Are you familiar with the location of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you what that indicates?

A. Sinclair and Valentine's building.

Q. I show you photograph No. 11, and ask you if you see any part of the factory on that?

A. Yes, sir, a chimney and part of the building.

Q. Have you noticed anything about the chimney?

A. Yes, sir.

Q. What have you noticed about it—the little chimney, I mean?

A. I noticed smoke and vapor from it.

Q. Well, how often have you noticed it?

A. Well, numerous times.

Q. When did you first notice it? About when did you first notice it?

A. When they first started.

Q. About how long was that?

A. A year and a half; somewhere along there.

Q. What have you noticed about this smoke and vapor coming out of this chimney?

A. Well, I have noticed that there was a vapor coming from there that was very offensive at various times.

Q. Did it smell?

A. Yes, sir.

Q. Just describe it as best you can.

A. Well, it smells to me like an oily vapor or grease vapor, some product of that kind.

Q. Is it a pleasant smell?

A. No, sir, it is not.

Q. Tell us about it?

A. Well, it is an offensive odor.

Q. How often have you noticed that odor?

A. Well, I have never tried to tab it any particular times; it depends, in my case, a great deal on the wind.

Q. What do you mean by that?

A. Why, if the wind is blowing from that direction, we can smell it; and other times we would not.

Q. Where would you be when you smelled it?

A. At home, and my folks have complained of the same thing.

Q. And have you noticed it at other times when the wind was not in that direction?

A. Yes, sir.

Q. When?

A. I don't know of any particular date.

Q. Have you been in the neighborhood of the chimney?

A. Yes, sir, coming from the chimney.

Q. Have you noticed it then?

A. Yes, sir.

Q. How was the smell then?

A. I would not smell it when the wind was in the opposite direction from my home.

Q. Did you notice it going to and from your home?

A. Yes, sir.

Q. How was the smell then?

A. Any time you could smell it at all it was an offensive smell.

Q. How often do you smell it, once a week, or how often about?

A. Well, to be candid with you, it is a point that I have tried to evade; I have heard so many remarks to that effect, that unless I happen to be at home I would not know anything about it except what the family said.

Q. (BY THE COURT) Do you mean you evaded it by holding your nose?

A. It would not be so strong as that at the distance that I live from that particular place; I don't know what the result would be if I went down there, but I never went down there to find out.

Q. Did you smell it as you passed up and down?

A. Yes, sir.

Q. About how far South or Southwest of this ink factory do you live?

A. In the neighborhood of 400 feet.

Q. What is your business?

A. Real estate and insurance.

Q. Have you a real estate office in Edgewater.

A. Yes, sir.

Q. Where is that located?

A. Just North of the ferry.

Q. On Undercliff Avenue?

A. No, sir, on River Road.

Q. Do you go home to your meals?

A. Yes, sir.

Q. And do you go home to your dinner at night?

A. Yes, sir.

Q. And on your way to and from home, how do you go?

A. I generally go up by the church, and then up in Undercliff Avenue and down Undercliff Avenue; I can go through Edgewater Place, but I don't go that way.

Q. Why not?

A. I have no particular reason.

Q. The times you have gone through Edgewater Place, have you noticed any odors?

A. Yes, sir, I have noticed the odors.

Q. Do you know where they came from?

A. From the chimney of the Sinclair and Valentine Company.

Q. What effect did they have upon you?

A. I don't know that it has had any particular effect on me, because I don't stop long enough to get any effect from it; it is an offensive odor.

Q. When you are in your house, does it affect you there?

A. No, sir, I don't know that it does; the family has complained about it more than I have.

THE COURT.—Strike that out.

CROSS-EXAMINATION by Mr. McCarter:

Q. Do you recall the fact that the ink works came there, as you said, one and a half years ago?

A. Yes, sir.

Q. Now, you noticed those odors shortly after they came?

A. Yes, sir, shortly after they came.

Q. Have you in mind any particular day this year, that you have noticed them?

A. No, sir, I have not—no particular day.

Q. Would you swear that you had noticed the odors to any appreciable extent at all this summer?

A. Yes, sir, I would.

Q. When?

A. I should judge three or four weeks ago.

Q. Are you able to put it any more definitely?

A. No, sir, I would not say any particular date whatever, because I was not interested enough; I knew the vapors were there; and I can smell them, and I did not want to be mixed up in it.

Q. About three or four weeks ago, you do remember noticing it?

A. Yes, sir, I came up to go to lunch. I came up Edgewater Place and turned around the church and then the wind was coming south—

Q. And that day you did notice it?

A. Yes, sir.

Q. That is the only time you recall you did notice it this year?

A. No, sir, I have smelled it other times this year.

Q. Can you tell us about when that was?

A. No, sir, I could not.

Q. Not enough to make any particular impression on you?

A. No, sir.

Q. And not as bad as last year?

A. No, sir, I don't think it was.

Q. You have been there as is customary most of

the time this year; that is, you have not been away for any particular length of time?

A. That is right.

Q. Now, at the house you, personally, have experienced no inconvenience or sickness, or anything of that kind at all, have you? You are a pretty healthy looking man.

A. I don't know that I have.

Q. Now, you have said a moment ago, that you did not want to get mixed up in it; there is rather a mix-up there, isn't there?

A. Yes, sir.

Q. The town divided against itself?

A. Yes, sir.

Q. The ink factory on one side, and Mr. McGarry and Mrs. Harrigan on the other?

A. That is another question altogether.

Q. I mean to say, there are two factions and quite a disturbance?

A. The faction business has nothing to do with the smell.

Q. I don't mean to say that there is or is not a smell; I am talking about the mix-up there.

A. I will tell you why I don't want to get mixed up in it—

Q. (BY THE COURT) Why don't you want to get mixed up in it?

A. Because I have real estate to sell in that location.

FURTHER CROSS:

Q. It is not anything particularly new to have odors in Edgewater?

A. It is new to have disagreeable odors—what kind of odors do you mean?

Q. Odors?

A. There is a good deal of difference in odors.

Q. Because you are in the real estate business, you don't want to say very much about that either?

A. No, sir.

Q. For instance, whether it was lovely as a flower garden from which my friend has plucked a flower this morning, or whether it was bad, you have smelled odors from the sugar works sometimes, haven't you?

A. Yes, sir, I have smelled odors from the sugar works.

Q. And from the dye works?

A. Yes, sir, but they were not offensive.

Q. Certainly not,—like a flower garden?

A. Yes, sir, that is the idea.

Q. But, nevertheless, you smelled them?

A. Yes, sir.

Q. And from the dye works?

A. Yes, sir.

Q. And from the ice works where they manufacture ice with sal ammoniac?

A. I never knew they used that in the ice plant; they use liquid of ammonia.

Q. Did you ever smell anything there?

A. No, sir.

MR. FRED L. ACKERSON, a witness recalled on behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Since the last hearing have you made any surveys as to elevation in the neighborhood of the Sinclair and Valentine Company's ink factory?

A. Yes, sir.

Q. Do you know the elevation of the River Road at that point above tide water?

A. Do you mean above low or high water?

Q. Above either?

A. Why, it is about seven feet above high water.

Q. How much is it above low water?

A. I think the tide is about six feet in Edgewater, the fall of the tide.

Q. Do you know how much higher the elevation is at Edgewater Place than on the River Road?

A. It is about 28½ feet higher.

Q. How do you ascertain that figure?

A. By running levels, taking elevations.

Q. Did you run that level?

A. Yes, sir.

Q. Do you know the elevation of Undercliff Avenue?

A. In reference to River Road?

Q. Yes.

A. It is about 46 feet higher than River Road.

Q. Now, what is back of Undercliff Avenue?

A. Why, there is a row of lots facing Undercliff Avenue on the West, approximately 125 feet deep, and at the rear of these lots is the beginning of the steep cliffs, you might say, where the ground starts up steep.

Q. Do you know the distance from the West side at River Road to the beginning of the steep rock—steep cliff?

A. It is about, I should say, about 750 feet.

Q. Can you tell by your map?

A. This only goes as far as Undercliff Avenue; I can tell by that other map there. (Witness looks at a map).

Q. How far is it?

A. 735 feet.

Q. What is the height of the Palisades—the elevation of the Palisades, at that point?

A. You mean the top of the Palisades?

Q. To the top of the Palisades?

A. It would be about 230 feet above River Road.

Q. You have a scale on that map?

A. Yes, sir; this map is scaled one inch equals 250 feet.

Q. Does that map show the location of Mrs. Harrigan's house?

A. It does, yes, sir.

Q. Does it also show the location of the ink factory?

A. It does.

Q. Does it show all the ink factory?

A. Yes, sir.

Q. Does it show a building in the rear?

A. Yes, sir.

Q. What part of the rear?

A. It is at the extreme Northwest corner of the lot.

Q. Have you located the distance between the Northwest corner of the lot and the Southeast corner of Mrs. Harrigan's house?

A. I have, yes, sir.

Q. What is that distance?

A. 304 feet, measured in a straight line (indicating).

CROSS-EXAMINATION by Mr. McCarter:

Q. Well, now, I suppose this map that you produced today is made in the same way, so far as your connection is concerned, as the other map was made?

A. No, sir.

Q. What was the difference?

A. That I actually located the buildings and actually ran the levels myself; that is, I ran the instrument myself, instead of superintending it.

Q. What buildings did you locate?

A. The buildings of the ink factory, and this building here;—the building of Mrs. Harrigan.

Q. But the map itself—they refer to the locations of the buildings, and the levels so prepared in the same way as the other map was?

A. No, sir.

Q. What was it?

A. It was plotted from notes.

Q. Answer the question; you did not plot it and you did not trace it?

A. I did not trace it, but I plotted it.

Q. From surveys made by yourself?

A. No, sir—that is the entire map, you understand.

Q. Now, did you take the height of the Palisades yourself?

A. Yes, sir, I did.

Q. How did you do it?

A. In my Fort Lee work; I ran those levels myself in Fort Lee.

Q. How far is that from here?

A. Fort Lee, from here?

Q. From Edgewater; what I want to know is, if you took the height of the Palisades in the rear of this particular property?

A. No, sir, not in the rear of this particular property.

Q. So that you are speaking of the height of the Palisades at what point?

A. At Palisade Avenue.

Q. How far from this point?

A. 300 feet.

Q. North or South?

A. South.

Q. When did you take those levels of the top of the Palisades, to which you have just referred?

A. About three months ago.

Q. And what was your datum?

A. The same as is used in Edgewater.

Q. What was your datum?

A. 3.02 feet below mean high water.

Q. Is that the datum that you used in getting the elevation to River Road?

A. Yes, sir.

Q. So that you say now your datum was 3.02 feet below mean high water?

A. Yes, sir.

Q. Where is the warrant that gives you that datum?

A. We have them established all over Edgewater and Fort Lee.

Q. Where is the nearest one to this property?

A. There is one up at Dempsey Avenue and River Road.

Q. Now, you say then, that the River Road is how high above the datum?

A. 11.70 feet.

Q. Above what?

A. Above our datum line.

Q. How high is the mill of the ink company?

A. I don't understand the question.

Q. You have an elevation marked 12.07, near the mill; what is that?

A. That is on the ground at that point.

Q. The ground is then 12.07 above the datum?

A. Yes, sir.

Q. And this does not mean, then, that these fig-

ures are above mean tide, but are above your datum line?

A. Yes, sir.

Q. Didn't you say on direct examination, that they were above mean tide?

A. I don't remember it.

Q. How much higher is Edgewater Place than the River Road?

A. About 28 feet.

Q. How do you make that out?

A. Average the elevation at Hillard Avenue, and Garden Place, gives an elevation of approximately ten feet opposite the ink factory.

Q. Do you give a different distance today, from the ink factory to Mrs. Harrigan's house, from what you did when you were on the witness stand before?

A. Yes, sir.

Q. You purported to give the distance the last time, didn't you?

A. Only approximately, as I remember it.

Q. Let us look at your evidence; is that map accurately scaled?

A. Yes, sir.

Q. Well, cannot you scale it as you did before?

A. I have not any scale with me; it is actually measured from this corner to that corner, 304 feet.

Q. Did you measure it yourself?

A. Yes, sir.

MR. McCARTER.—I will read this to your Honor. (Reading page 4 of the first day's testimony).

Q. Do you mean to say the distance between the factory of the defendant and the house of the complainant, the main factory—

A. I came away in a hurry, and I have no scale here.

MR. ELLIS.—I offer the map in evidence.

MRS. JULIA KEHOE, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 7 Hilliard Avenue, Edgewater, New Jersey.

Q. Is that on the North side of Hilliard Avenue?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you if you recognize that?

A. Yes, sir.

Q. Is that a picture of the Sinclair and Valentine Company's factory?

A. Yes, sir.

Q. I show you photograph No. 11, and I ask you if you recognize anything familiar on that?

A. This is the dimensions where I saw the smoke coming from.

Q. What kind of smoke came out of that chimney?

A. Dark brown, heavy smoke.

Q. Always the same?

A. I just saw it twice.

Q. What did you notice about that smoke?

A. I was walking down Edgewater Place, and I smelled a disagreeable smell, and I looked around and I saw smoke coming from this smoke stack, and, of course, I thought it was from there when I saw the smoke coming from there.

Q. Did you see the same smoke about you that was coming out of the chimney?

A. It was just coming out of the chimney, and I smelt that disagreeable odor.

Q. How often do you pass at Edgewater Place in that direction?

A. Not very often.

Q. Just describe this smell that you speak of?

A. Why, it is like as if something was decayed, rotting; it is a terrible smell. I know if I get it around meal time, I cannot eat, and if it is bedtime, I have to shut the windows down.

Q. Have you noticed the smell around your house?

A. Yes, sir.

Q. How often did you notice it?

A. Two or three times a week.

Q. When did you notice it last?

A. Last Wednesday, about 11 o'clock in the morning.

Q. Did you notice it previous to that?

A. Yes, sir, the 11th of June; it was the first day of the trial here; it was a tarry smell. The trial was on the 10th, and it was the day after; I was walking down Edgewater Place and I got the smell terrible that day.

Q. How does this smell affect you?

A. I told you if it was around meal time I cannot eat; it makes me sick at my stomach, and it chokes me.

Q. Is that the only time it bothers you?

A. It bothers me every time I smell it, but if it is around meal time, I cannot eat.

Q. How long does this odor last at a time?

A. Well, I don't sit out very long to notice it; I go in the house and shut the windows down; I never opened my parlor windows this summer, be-

cause when I opened them I got that terrible odor coming in from the South.

Q. Do you recall the color of this smoke?

A. A heavy brown.

Q. When you saw it, it was a heavy brown?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, Mrs. Kehoe, you live at Hilliard Avenue?

A. Yes, sir.

Q. How often have you been down towards the ink factory this year?

A. I was on Edgewater Place twice; I generally go on Undercliff Avenue; I have been down there twice.

Q. When was that?

A. On the morning of the 11th of June, about selling tickets for the strawberry festival.

Q. On the 11th of June you were down there?

A. Yes, sir.

Q. How far down did you go?

A. I went down as far as the ink place, and cut through the lots; I wanted to go on Undercliff Avenue.

Q. Did you see Mrs. Popp on that day?

A. No, sir.

Q. What time were you down there?

A. About 11 o'clock in the morning.

Q. And when last were you down there this year?

A. I could not tell you the date; I have no dates.

Q. You said you have been down twice this year?

A. Yes, sir, but I have no dates.

Q. Was it before then or since then?

A. I cannot swear to that.

Q. One was the 11th?

A. Yes, sir.

Q. And that is the day that you volunteered the information that you smelt the tarry smell?

A. Yes, sir, because it was different than the other.

Q. Was it before then or since then, the other time you were down there?

A. Before.

Q. You were here in Court the other day?

A. Yes, sir.

Q. It was before then?

A. Yes, sir.

Q. How long before then?

A. It was sometime in May.

Q. Very well, and those are the only times.

A. No.

Q. One moment—you don't know what I am going to ask you; are those the only times that you have been down Undercliff Avenue, so far as you recall, this year?

A. No, sir; the doctor told me to go out and take walks, and I always go on Undercliff Avenue to take the walks.

MR. McCARTER.—I move that that be struck out.

THE COURT.—Strike it out.

Q. (Question read).

A. No, sir, I always go down that way whenever I want to take a walk.

Q. On these two occasions that you refer to, one

in May and one on the 11th of June, you did smell the factory?

A. I smelled it all the time,

Q. Every day?

A. No, sir, not every day.

Q. Then, what do you mean?

A. Two or three times a week, I mean, and in the evening also.

Q. At your house?

A. No, sir.

Q. Where?

A. When I am out walking.

Q. Why did you tell us a little while ago that you had been down Undercliff Avenue twice?

A. No, sir, I said Edgewater Place twice.

Q. Have you been down Undercliff Avenue as far as Garden Place this year?

A. Yes, sir.

Q. When?

A. I don't know how often or when; I could not tell you when or how often, because when I am out walking I go there.

Q. When do you take your walk?

A. Seven o'clock in the evening.

Q. Now, when did you first notice this smell?

A. Last summer.

Q. Did you notice it pretty steadily last summer up at your house?

A. Yes, sir.

Q. And it was then that you felt sick in your house?

A. The first time I got it was in my own rooms.

Q. Answer the question. It was then that you say you felt sick?

A. When I got the smell, I got sick.

Q. Now, the 11th of June—you remember that day, don't you?

A. Yes, sir.

Q. You were selling tickets?

A. Yes, sir.

Q. You had been here all day the day before?

A. Yes, sir.

Q. Whom did you talk with concerning what you saw on the 11th of June?

A. My husband.

Q. He is the policeman that testified before?

A. Yes, sir.

Q. Do you mean to say you have not talked to anyone but your husband as to what you observed on the 11th of June?

A. I cannot swear that I did not.

Q. Now, you talked with somebody before you went on the witness stand?

A. With my husband.

Q. Did you hear Mrs. Popp testify this morning?

A. Yes, sir.

Q. You know her quite well?

A. Yes, sir.

Q. You know Mrs. Harrigan?

A. Yes, sir.

Q. You go to the same church with her?

A. Yes, sir.

Q. Now, how would the smell differ from the smell last summer?

A. It was as if someone was burning tar; it was not so disagreeable as it was before; the smell of tar was not as bad as the other smell.

Q. How near to the factory did you walk on the 11th of June?

A. About 150 feet, I should judge; there was

a lot and a half between us—about 150 feet West of the factory.

Q. That is, you were on Edgewater Place, right opposite the factory?

A. Yes, sir.

Q. Did you see any men there?

A. No, sir, I did not; I was too busy; I was going through the lot.

Q. So you were too busy cutting through the lot, that you did not see any men?

A. Yes, sir.

Q. This was at 11 o'clock?

A. Yes, sir.

Q. You were cutting through the lot to the right?

A. Yes, sir.

Q. As you came down, did you see any men climbing the stack?

A. I did not look in that direction until I got there, and I smelt the smoke, and I saw the dark brown smoke coming from the smoke stack.

Q. Did you see any men climbing the smoke stack?

A. No, sir.

Q. You were too busy to see the men, but you were not too busy to look at the stack?

A. The smoke was higher than the smoke stack?

Q. And that smoke came out of the smoke stack?

A. Yes, sir.

Q. That was when you were right opposite the place?

A. Yes, sir.

Q. Just before you turned across the vacant lot?

A. Yes, sir.

Q. Where were you when you last noticed the smell, on the 11th—that tarry smell?

A. I cut through the lot.

Q. Where were you when you last noticed it?

A. At Undercliff Avenue.

Q. Now, have you got any other day this year that you noticed it, besides the 11th of June, and last Wednesday?

A. Last Friday.

Q. You did not mention that before, did you?

A. Well, I told you I did not have any dates.

Q. You told us last Wednesday?

A. Last Wednesday of this week was the last time, and then a week ago today; it was a heavy day, and I got it fierce.

Q. What time last Wednesday was it?

A. In the morning.

Q. What time?

A. I don't know.

Q. Where were you then?

A. I think I was going to the store at Hilliard Avenue.

Q. And was this the forenoon?

A. Yes, sir.

Q. Did it make you sick?

A. Well, I am so used to it.

Q. Did it make you sick?

A. Every time I get it, it makes me sick.

Q. Did it make you sick last Wednesday?

A. Yes, sir.

Q. Did you vomit in the street?

A. No, sir.

Q. You are speaking of the day before yesterday?

A. Yes, sir.

Q. What time was this?

A. In the morning when I was going to the store.

Q. What time in the morning?

A. I could not tell you, but I generally go to the store between ten and eleven.

Q. I am asking you to remember what time the day before yesterday it was that you were made sick by this smell?

A. Between ten and eleven I go to the store.

Q. Now, you are right on that?

A. Yes, sir.

Q. And it was so bad that it made you sick?

A. Yes, sir.

Q. Now, last Friday, do you remember that?

A. Yes, sir, last Friday I smelled it terribly; I was going to the store; I have to go to the store every day.

Q. What time was that?

A. In the morning.

Q. What time?

A. The same hour, about ten or eleven; I could not exactly tell you the exact time, but that is the hour, around that time.

Q. And that store was on Hilliard Avenue?

A. Yes sir.

Q. Did you see any smoke?

A. No, sir.

Q. Was that the same kind of smell that you noticed on the 11th?

A. No, sir; the smell that I got last Friday was the same as last year and this year, with the exception of the 11th.

Q. What tickets were these that you were selling on the 11th?

A. The strawberry festival for the Holy Rosary Church; I wanted to sell my tickets; it was the only chance I had in selling the tickets.

Q. Did you sell them?

A. Yes, sir.

Q. Did you ever smell tar burning?

A. Yes, sir; I often smell tar burning.

Q. Where?

A. In the streets of New York City, when they paved the streets.

Q. Did you ever smell anything else in Edgewater?

A. No, sir.

Q. You don't think there are any smells there at all?

A. I don't find them.

Q. Are you a member of the same lodge with Mrs. Popp, of the same lodge that Mrs. Popp is a member of?

A. No, sir.

Q. Are you a member of the same club that Mrs. Harrigan is?

A. No, sir.

Q. Do you know what I refer to?

A. Yes, sir.

Q. What?

A. The Shepherds—I don't belong to the Shepherds; I think you were badly informed that time.

Q. Now, coming back to the day before yesterday, you now remember it was sometime between ten and eleven that you were going to the store, and you said you had this smell which you used to have last year; did you make any memorandum?

A. No, sir, I did not.

Q. Did you tell anybody?

A. I don't know; I won't swear that I did, or that I did not, because I don't remember.

Q. You cannot remember whether you told anybody about it?

A. No, sir, because I talked to different people when I met them.

Q. How far is the store from your house?

A. Across the street.

Q. And in going across the street, you met so many people that you cannot remember whether you talked of it or not?

A. That is right.

Q. You did talk of it, didn't you?

A. I might have, and I might not.

Q. How many people did you meet the day before yesterday crossing this street to the grocery store?

A. I could not tell you.

Q. Did you meet anyone?

A. I may have met somebody, and I may not have; when I am out walking, or when I go to the store, I do meet people.

Q. I am talking about when you went to the store across the street the day before; did you meet a soul?

A. I don't know.

JAMES DINAN, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater.

Q. What part of Edgewater?

A. Undercliffe Avenue.

Q. What part of Undercliff Avenue?

A. West side.

Q. In what direction from the Sinclair and Valentine ink factory?

A. South of the Sinclair and Valentine factory.

Q. What is your business?

A. Policeman.

Q. On the Edgewater police force?

A. Yes, sir.

Q. Are you familiar with the location of Sinclair and Valentine's ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you if you recognize that?

A. This is the factory.

Q. I show you photograph No. 11, and ask you if you see any part of the factory on that?

A. Yes, sir.

Q. What part do you see?

A. I see the tank, and where the odor comes out of.

Q. What is it the odor comes out of?

A. A little factory next to the tank.

Q. You say you can see the stack that the odor comes out of? What have you seen come out of that stack?

A. Dark smoke, and brown smoke, and blue flame.

Q. What do you mean by a blue flame; do you mean a blue flame or a blue smoke?

MR. McCARTER.—Objected to.

Q. Do you mean a fire flame?

A. It is not fire, no, sir.

Q. Describe it.

A. It is a kind of a blue smoke.

Q. What do you notice about that smoke?

A. I get an odor from it when I am going through there.

Q. Describe the odor.

A. Something like as if you were burning a her-

ring or some kind of fish; it makes me cough, and give me a dry taste in my throat; I noticed it two or three times a week.

Q. What time of day do you notice it, any particular time?

A. Between eight and nine in the morning.

Q. Is that the only time of day you notice it?

A. And between 12 and one.

Q. Any other time in the day?

A. I noticed it one night at twelve o'clock at night; I smelt it.

Q. When was that? How long ago?

A. This was the 11th of June—the day after the last day of the trial.

Q. Where were you that night at twelve o'clock?

A. I was patrolling Edgewater Place.

Q. Just describe the smell on that evening.

A. Why, I should judge it is like a tar smell.

Q. How was it?

A. Kind of a tar smell.

Q. Was it an agreeable smell?

A. No, sir, it was a very nasty smell.

Q. Did it affect you in any way?

A. It kind of made me cough a little.

Q. For how long a time have you noticed the smell from this ink factory?

A. About one and a half years ago.

Q. Ever since it was built?

A. Not ever since the factory has been built, but ever since the pot has been boiling there.

Q. Did you notice the smell last summer?

A. Yes, sir.

Q. How much of last summer?

A. Three or four times a week.

Q. Have you noticed it right along since?

A. Well, I only noticed it once or twice since the 11th.

Q. Now, what was the difference, if any, between the odor on the 11th of June and the odor previous to that, if any?

A. Well, the odor on the 11th smelt like burning tar, and after the 11th, it smelt as if they were burning fish; that is the way I would describe it.

Q. Before the 11th, what was the smell?

A. Just the same as if they were burning fish, before the 11th.

CROSS-EXAMINATION by Mr. McCarter:

Q. What day do you remember any smell before the 11th of June, of this year?

A. The week beginning June 1st; I was on day work.

Q. On the first of June—that was Monday?

A. No, sir, the first was Sunday, I think.

Q. Then you were on the day shift?

A. Yes, sir.

Q. Which day of that week did you first notice this?

A. On Sunday, the first.

Q. Did you notice it that day?

A. I noticed it between 11 and 12 o'clock on the first of June.

Q. You were down in that direction on your beat?

A. Yes, sir.

Q. That was on the first of June?

A. Yes, sir, and I smelled it on the 2nd and on the 4th of June, and on the 6th of June.

Q. Proceed.

A. And I did not smell it after then until the 11th.

Q. Were you down there on the 7th, 8th, 9th and 10th?

A. I went through there, on the 7th, 8th, 9th and 10th; I took Undercliff Avenue.

Q. So, on the 1st, 2nd, 4th and 6th, you patrolled Edgewater Place?

A. I was going to lunch, and went through Edgewater Place—in the daytime.

Q. What time of day?

A. Between twelve and one.

Q. And on each one of those four days you had this smell that you speak of?

A. Yes, sir.

Q. You seem to remember those days pretty well; did you make a memomrandum, or how do you fix it in your mind?

A. On account of my being on day work.

Q. And each day that week that you went through from Undercliff Place to Edgewater Place, near this factory, you smelt this smell?

A. Yes, sir.

Q. Are you sure about that?

A. Yes, sir.

Q. No doubt about the smell?

A. No, sir.

Q. And no doubt about your smelling it?

A. No, sir.

Q. And no doubt about where it came from?

A. No sir.

Q. You are just as sure of that as you are of anything else that you have testified to?

A. Pretty near.

Q. What?

A. Yes, sir.

Q. Which is it, pretty near or true?

A. As far as I know, it is a fact.

Q. Now, on the 7th, 8th, 9th and 10th, you did not go through Edgewater Place?

A. No, sir.

Q. Where were you?

A. I took another avenue, Undercliff Avenue.

Q. And you did not smell anything?

A. No, sir.

Q. On the 11th, you came back to Edgewater Place?

A. I was patrolling Edgewater Place at 12 o'clock on the 11th of June.

Q. And you saw smoke coming out there?

A. I saw smoke, yes, sir.

Q. The same color that you generally noticed?

A. I could not exactly say the same color, because it was kind of dark, a little darker than usual.

Q. Did you notice any men with ladders?

A. No, sir

Q. Did you know that the experts were there; you were down here on the 10th?

A. Yes, sir.

Q. And did you know that the experts for the complainant were at the factory that day?

A. No, sir, I did not know anything about it.

Q. Now, you say the smell on the 11th was very nasty?

A. Yes, sir.

Q. Just as nasty as ever?

A. No, sir.

Q. But still very nasty?

A. Yes, sir.

Q. Where were you, exactly, as far as you can recall, when you noticed it on the 11th?

A. I was about 75 feet from the stack, going along Edgewater Place, at twelve o'clock at night.

Q. At night?

A. Yes, sir.

Q. On the 11th?

A. Yes, sir; I was on night duty.

Q. Did you go over on the lots?

A. I had to turn off Edgewater Place to get on Undercliff Avenue—through a lot.

Q. And how near to Edgewater Place is the stack?

A. I should say, Judge, about, maybe, 75 or 100 feet.

Q. Could you see the stack at twelve o'clock at night?

A. Yes, sir.

Q. Could you see the smoke at 12 o'clock at night?

A. Yes, sir.

Q. From the vacant lot?

A. From the east side of the sidewalk, towards the stack, on Edgewater Place.

Q. And you observed at 12 o'clock at night on the 11th of June, that there was a dark brown smoke coming out?

A. I said I could not see the smoke—I could see a little smoke and smell the odor.

Q. Did you see any smoke?

A. I saw a little coming out.

Q. What color was it?

A. Kind of a blue smoke.

JOHN J. GOULD, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Valley Place,—Undercliff Avenue.

Q. What direction is that from the Sinclair and Valentine ink factory?

A. North.

Q. What is your business?

A. Police officer.

Q. One of the patrolmen of the Borough of Edgewater?

A. Yes, sir.

Q. Where did you live before you moved to Valley Place?

A. Undrecliff Avenue.

Q. What part of Undercliff Avenue?

A. 379.

Q. Is that on the east side or on the west side?

A. On the east side of Undercliff Avenue.

Q. Do you know how far that is from the Sinclair and Valentine factory?

A. About four or five hundred feet.

Q. I show you photograph No. 10, and ask you if you can tell what is indicated on that?

A. That is the ink factory there (pointing to a building on photograph No. 10).

Q. I also show you photograph No. 11, and ask you what is indicated on that?

A. These are the tanks of the sugar house.

Q. What else is there; what is alongside of the tanks; have you noticed anything about that ink factory

A. Yes, sir; I noticed there is a very bad smell there all the time, which caused us to move away from the factory, and I had a baby sick last November.

Q. When did you move away from there?

A. After it died in December.

Q. Have you noticed anything coming out of the chimney in the ink factory?

A. Yes, sir, black fumes came out of there, out of the chimney, which would color the clothes on the clothes line.

Q. Did you notice anything particular about the black smoke, or the smoke that came out?

A. Yes, sir.

Q. What about it?

A. It was black smoke, blue smoke, all kinds of smoke.

Q. Did it have an odor to it?

A. Yes, sir.

Q. Just describe the odor.

A. The odor was of the black fumes that came from there, and we had to close the windows down.

Q. Can you describe the odor of this; does it resemble anything that you know of?

A. Nothing more than like fumes from soft coal like.

Q. What did it smell like?

A. The smell smelled to me like stagnated water and acids and tar.

Q. Did it affect you in any way?

A. Yes, sir; it affected me so that my stomach got all out of order, and I vomited.

Q. When did you first notice this odor?

A. About June, July and August and September, a year ago.

Q. How often since?

A. Well, during my beat, I would get there every six weeks; my turn comes there every six weeks.

Q. How long is your beat on that post?

A. About one hour; it takes an hour to take that trip from Garden Place to Hilliard Avenue.

Q. How long does your post last?

A. From half-past ten until two-thirty, and other times it is six o'clock.

Q. Are you on that same beat for one week?

A. Yes, sir.

Q. While you are on your beat there, how often do you notice that smell?

A. Well, several times.

Q. How many times a week?

A. Five or ten times, mostly every month.

Q. And what time of the night?

A. Well, if I go on at night, I have two shifts from six to four in the morning, and from ten to eight.

Q. Do you know where this smoke came from?

A. Yes, sir, from the ink works.

Q. What part of the ink works?

A. From the chimney?

Q. Which one?

A. The big chimney.

Q. Which one?

A. I don't know exactly which one it is.

Q. Do you know how many there are there?

A. There is a big one and a small one, and it came from the large chimney, on the south side.

CROSS-EXAMINATION by Mr. McCarter:

Q. I show you photograph No. 10, and ask you if you recognize the ink factory; do you recognize the ink factory; do you recognize the stack that you have referred to as the big stack?

A. This one here (indicating).

Q. Now, the Court will see—my pencil is pointing to the stack to which you refer as being the stack from which the smoke comes at each time you ever noticed these smells; that is right, isn't it?

A. Yes, sir.

Q. Now, I will put, in order that there may be no mistake about that, on photograph No. 10, a cross right above the stack to which the witness has referred, the letter "X"; now, there is no mistake about that, is there?

A. No, sir.

Q. Now, where have you been when you have noticed the smoke coming out of that stack which you say creates that smell?

A. At Edgewater Place.

Q. On your beat at midnight?

A. Yes, sir.

Q. Have you had a beat along there in the daytime?

A. Yes, sir.

Q. And have you noticed the smoke coming from that stack in the daytime?

A. Yes, sir.

Q. And also noticed the smell to which you refer?

A. Yes, sir.

Q. And that was the smoke which was making the smell?

A. Yes, sir.

Q. Now, when was this, this year or last year?

A. This year.

Q. What day this year?

A. Well, that is three weeks ago.

Q. Are you able to fix the date more closely than that?

A. Every day, three weeks ago, that is, for one week.

Q. That is the week commencing what day, Chief?

A. Don't call me "Chief;" I am not the Chief.

Q. Look at the calendar for June; can you tell us what week it was you were on there?

A. It was June 1st, beginning the week Sunday, June 1st.

Q. Now, on Sunday, June the first, you went through there as truant officer?

A. Yes, sir; every seven days.

Q. What was there about your duties as truant officer that compelled you to go down Edgewater Place?

A. I had to look after the absentees.

Q. You now swear that every day in the week, commencing June 1st, 1913, you, in the performance of your duties as truant officer, went down Edgewater Place after truants?

A. Not every day, you understand, after truants; I went as policeman and truant officer both.

Q. Did you have a day service as policeman, during the first week in June?

A. Yes, sir, Saturday.

Q. That was the only day that you acted as policeman there?

A. No, sir; I am a policeman all the time; we all take a turn as truant officer.

Q. Now, were you on duty as a policeman during the daytime during the first week in June?

A. Yes, sir.

Q. No doubt about that at all?

A. No, sir.

Q. And your beat was through Edgewater Place?

A. Yes, sir.

Q. There is no doubt about that?

A. No, sir.

Q. And on Sunday, the first of June, your duties commenced?

A. Yes, sir.

Q. And you saw the smoke coming out of that chimney that you recognized, and you smelt the smell to which you have referred?

A. Yes, sir.

Q. The same thing is true of Monday, the 2d?

A. I had not been to Edgewater Place to go through it on Tuesday.

Q. Were you through it on Wednesday?

A. No, sir, but I was Thursday and Friday.

Q. Thursday and Friday you were through?

A. Yes, sir.

Q. You said your beat required you to go down Edgewater Place?

A. You don't understand the situation.

Q. I ask you again, as I asked you once before, whether or not, during the first week of June, your duties as a policeman required you to go down to Edgewater Place?

A. Yes, sir.

Q. Why didn't you go Wednesday and Thursday?

A. Because I had no time to go.

Q. Is that it?

A. Yes, sir.

Q. Now, you say you did not go through there, although that was your beat, on those two days, because you had not time?

A. Yes, sir.

Q. What kind of a smell was it on Sunday, the first?

A. The same old smell.

Q. Coming out of the same old chimney?

A. Yes, sir.

Q. Now, where was it you lived—four or five hundred feet from the factory?

A. Yes, sir.

Q. When did you move away?

A. Last December.

Q. Where did you go after that?

A. Valley Place.

Q. Where is that?

A. One-quarter of a mile away.

Q. Didn't you tell us on your direct examination, that this year the only time you had been down there was at night, and then only one week, for six weeks?

A. Yes, sir; I get there every six weeks.

Q. And I say, did not you say in answer to Mr. Ellis' inquiry, that the only time you had been down there this year to smell it, was at night, once every six weeks, for a week?

A. I did not say that.

Q. What kind of smoke comes out of that chimney that makes this smell?

A. Black smoke and brown smoke and blue smoke; and all kinds of smoke.

Q. Does it always smell?

A. Yes, sir, every time it puffs out of that chimney it smells.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. On which property is that chimney located which you have designated on this photograph No. 10?

A. It is on the west side of the River road.

Q. Are you sure of that?

A. Yes, sir.

Q. On which property is the chimney located from which this smell comes, on whose property?

A. On Sinclair and Valentine's.

Q. That is all.

MRS. SADIE CUNNINGHAM, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater.

Q. What avenue or street?

A. There is not any name to the street where I live, as yet; it has not been cut through.

Q. How far do you live from this Sinclair and Valentine factory?

A. Two and one-half city blocks, I should think.

Q. Do you know the location of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you if you recognize that photograph; what does it show?

A. That shows the factory.

Q. What factory?

A. The back part of the Sinclair and Valentine factory, there.

Q. I show you photograph No. 11, and ask you if you see anything on that familiar?

A. Yes, sir, there is the pipe, the brick chimney, and the low brick building there.

Q. Have you noticed anything about that brick chimney you speak of?

A. Yes, sir; when I pass through Edgewater Place, I see smoke coming from that chimney.

Q. What kind of smoke?

A. At times it was different.

Q. What was there about the smoke—anything about the smoke?

A. It was a bad odor from the smoke.

Q. How did it affect you at all?

A. It got down my throat and gave me a very tight feeling, and made me kind of sick.

Q. Which direction did this odor come from; from where did the odor come?

A. Why, it came from that chimney.

Q. Now, just describe this odor.

A. Well, it is hard to describe it; I really could not say; it smelled like something burning very badly, and it smelled like burning oil; it put me in mind of the smell of iodine.

Q. How does it affect you?

A. It makes me kind of hoarse and dries my throat.

Q. Have you ever noticed this at your home?

A. Yes, sir.

Q. How often?

A. Three or four times a week.

Q. How is the odor then?

A. Just the same as I described before.

Q. For how long a time have you noticed this odor?

A. Well, about fifteen or twenty minutes; perhaps it would be longer, perhaps less.

Q. For how long a period have you noticed it?

A. About that time.

Q. For how long a time; did you notice it last year?

A. Yes, sir.

Q. What part of last year?

A. During the summer months.

Q. How long did it continue?

A. It seemed to continue all the time, as far as I thought.

Q. Is it continuing now?

A. Yes, sir; I noticed it two weeks ago, this Wednesday, Thursday and Friday in particular.

Q. Describe it at that time.

A. It was the same bad odor that affected me before.

Q. Were you home at that time?

A. Yes, sir.

Q. Did you have your windows open?

A. Yes, sir, but I had to close them on the north side of the house where I was sitting sewing.

Q. Why did you close them?

A. Because I could not stand that odor.

Q. (BY THE COURT) How long have you lived there?

A. Six years.

Q. Did you own the property?

A. No, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. Will you tell me exactly where it is that you live?

A. Two and one-half blocks south; well, it is about a block south of Garden Place; that is the first street, between Edgewater and River Road; the street has not been cut through yet.

Q. You are about half-way between Edgewater and River Road?

A. River Road and Undercliff Avenue; Edgewater Place does not come up to that property.

Q. Are you about even with Edgewater Place if it were extended?

A. Yes, sir, I am.

Q. About how far south of Garden Place?

A. About a block.

Q. Now you rent that property of whom?

A. Well, I have rented it from the Columbia people.

Q. Can you see that big chimney from your house?

A. No, sir, I cannot see it.

Q. But you are compelled, of course, now and then, to go up to the town through Edgewater Place, and in passing along you have noticed the smoke and the smell?

A. Yes, sir.

Q. Now, I understood you to say that last summer you noticed it at your house frequently?

A. Yes, sir.

Q. You could not see the smoke?

A. No, sir; I could not see the smoke from my house.

Q. And it was this smell of iodine which you assumed came from the ink factory, although you did not see the smoke at the time?

A. That is right.

Q. Now, this year, I understood you to say that on Wednesday, Thursday and Friday of two weeks ago, you also noticed it—of this year?

A. Yes, sir, I did.

Q. Now, today is the 27th, and do you mean two weeks ago today, Friday?

A. Yes, sir, two weeks ago Friday, the 13th, and Thursday, the 12th, and Wednesday, the 11th.

Q. Those three days?

A. Yes, sir.

Q. You are quite sure about that?

A. Yes, sir.

Q. How did you fix those three days?

A. Well, it was the day after the trial that I had been down here to attend, and I was sitting outside on my stoop sewing, and I got that awful smell.

Q. What time was that?

A. It was about 8:30 in the morning, and it lasted about half an hour, I guess.

Q. Did you walk down that way?

A. No, sir.

Q. You noticed that awful smell that you had noticed before?

A. Yes, sir, I had noticed it before.

Q. You were down here the day of the last hearing?

A. Yes, sir.

Q. As a witness?

A. Yes, sir.

Q. And you did not testify?

A. No, sir.

Q. The very next morning was the time you noticed the same old smell?

A. Yes, sir.

Q. And that lasted for half an hour or so?

A. Yes, sir, generally at the same time.

Q. No, not "generally," that morning I want to know?

A. Yes, sir, it lasted a half an hour; I would not exactly say half an hour, but within that time, as it usually does.

Q. I am talking about that particular morning, the day after the 11th of June; how long did it last?

A. Half an hour.

Q. Now, what time was it on Thursday the 12th that you noticed it?

A. It was in the afternoon.

Q. About what time?

A. It was around three o'clock.

Q. Sitting out on the front porch again?

A. No, sir, I was sitting in the dining room, in

the wndow, facing the south, and I was sewing then.

Q. And you noticed this smell again?

A. Yes, sir.

Q. How long?

A. Well, I don't remember how long; I simply closed the window then and still sat there and did not bother any more about it.

Q. That was the south window?

A. No, sir; I was sitting facing the north; we have a window to the north and a window to the south; that is where I made a mistake; I was sitting at the north window, and the stoop is facing the north also.

Q. The stoop goes into the dining room?

A. No, sir, between the dining room and the kitchen, the stoop does.

Q. Your house fronts north and south?

A. And east and west—it faces north.

Q. The front door is on the north side?

A. Yes, sir.

Q. That is, looking up toward Garden Place?

A. Yes, sir.

Q. Now, you have a hall?

A. No, sir, we have not any hall.

Q. What do you enter when you enter the front door?

A. Just a little passage-way.

Q. The dining room is in the front of the house?

A. No, sir, it is in the center of the house.

Q. Then, I don't understand you; now, that was Thursday?

A. Yes, sir.

Q. Now, Friday where were you when you noticed it?

A. I was sitting under the tree; I was also sewing at that time.

Q. What time was this?

A. That was around one o'clock, about one o'clock.

Q. How long did that last?

A. Well, I did not take any particular notice; I went in the house then; I could not sit out there any longer without feeling distress, and I went in.

MRS. KATHARINE DINAN, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. I live at Undercliff Avenue, Edgewater.

Q. You are the wife of Officer Dinan, who just testified?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you if you know what is indicated on that photograph; do you know what that building is?

A. Yes, sir, this is the factory?

Q. I show you photograph No. 11, and ask you if you see any part of the ink factory on that?

A. Yes, sir.

Q. What?

A. There is the chimney that the smoke odor comes out of.

Q. What do you say about this smoke, Mrs. Dinan?

A. I have seen it come out very dark and heavy, and other times I have seen it light blue.

Q. And how often have you noticed it?

A. Well, I have noticed it about three times a

week, at least. I go through that street every day to Edgewater Place.

Q. How does it affect you, the smoke?

A. It makes me cough, and makes my throat very dry.

Q. Does it make you sick?

A. No, sir, but it makes me cough very much when I go through there.

Q. Where does this odor come from?

A. It comes from the chimney.

Q. Just describe that odor, as near as you can.

A. Well, it is such a bad smell, that really I could not describe it.

Q. How long have you noticed this smell?

A. For the last year and a half.

Q. Do you remember when the ink factory was erected?

A. Yes, sir.

Q. Have you noticed it since then?

A. Yes, sir.

Q. How often?

A. Two or—about twice a week.

Q. Every week since?

A. Yes, sir, every week.

Q. When did you notice it last?

A. Wednesday morning.

Q. You have not kept any memorandum of the different times, have you?

A. No, sir, but I remember Tuesday, the 11th; I came through the street about 11:30; I was coming from the fair that they had, and the smoke was coming from it, and it had a very tarry smell.

Q. How did that smell compare with the smell on previous occasions?

A. Well, it did not smell like it did the other times.

Q. Was it better or worse?

A. No, sir, it was better; it was not as bad as it was other times and since.

Q. How has it been since?

A. Well, on Wednesday it was very bad.

Q. Did it have that tarry smell on Wednesday?

A. No, sir.

Q. How many times have you noticed this tarry smell?

A. Only the one.

Q. And that was when?

A. On the 11th.

Q. What time of day was that?

A. It was at night, almost 12 o'clock.

Q. Did you ever notice this smell at your home?

A. Well, the first year I did, but this last year I did not; of course, I lived quite a little distance—

Q. How about when the wind is in your direction?

A. When the wind is coming from the north I have got it.

Q. Now, the day that you noticed this tarry smell, was it the day after the former hearing?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. Were you down here the day of the other hearing?

A. Yes, sir.

Q. Whom did you come down with?

A. I came down with some lady friends—Mrs. Cunningham and some friends of mine.

Q. Who supplied the automobile?

A. I did not come in an automobile; I came

down in the subway, across the ferry, down in the subway, through New York.

Q. Whom else did you come with?

A. There was a number of ladies; I came with Mrs. Cunningham directly from my house.

Q. And who else?

A. There were a good many from Edgewater.

Q. Who were they?

A. I could not tell you all.

Q. Try and remember somebody besides Mrs. Cunningham.

A. There was Mrs. Kessner, Mrs. Conklin, Mrs. Mooney, and a number of neighbors.

Q. Do they all go to the same church?

A. Not all of them.

Q. You go to the St. Joseph's church, whose fair was being held?

A. I go to Holy Rosary Church.

Q. And so does Mrs. Harrigan?

A. Yes, sir.

Q. And her sister who testified this morning?

A. No, sir.

Q. Are you a member of the Shepherds?

A. No, sir.

Q. Are you a member of the lodge of which one of the ladies spoke this morning?

A. I believe Mrs. Cunningham belongs to the Lady Foresters that I belong to.

Q. Well, now, I understood you to say that you live how far from Garden Place at Undercliff Avenue?

A. Well, I don't know—about two blocks south of Garden Place.

Q. And your story is, that last year, having occasion to go through Edgewater Place, you noticed the smoke coming out of that chimney?

A. I go there almost every day.

Q. You cannot see the chimney from your house?

A. No, sir.

Q. So when you talk of seeing the smoke coming out of the chimney and smelling the smell at the same time, you refer to the time you were going along Edgewater Place?

A. Yes, sir.

Q. And you noticed that very distinctly all last summer?

A. Yes, sir.

Q. This summer it has not been so bad?

A. Yes, sir, the smell is just as bad; I don't get it through my house so bad, but I get it going through the street.

Q. Didn't you say you did not get it down at your house this summer as bad as you did last summer?

A. Not so badly.

Q. I supose the wind does not blow so hard this summer as it did last?

A. I don't know.

Q. What time was it that you got through with the Fair on the 11th?

A. Around twelve o'clock.

Q. Whom were you with?

A. I was with quite a number of ladies, and I also walked home with my husband.

Q. He happened to meet you on his beat?

A. Yes, sir.

Q. So you and your husband and these other ladies all walked down together?

A. I left the other ladies when I met my husband.

Q. Did you talk about the odor that night?

A. No, sir.

Q. To your husband?

A. No, sir.

Q. You are sure your husband was on his beat that night?

A. Yes, sir.

Q. Now, could you see any smoke?

A. Yes, sir.

Q. Plainly?

A. Yes, sir.

Q. What color was it?

A. It was a sort of a light blue.

Q. Where were you when you saw the smoke?

A. I was coming through Edgewater Place.

Q. Had you crossed the lot yet?

A. No, sir; I was on the east side of the street

Q. Did you cross the lots?

A. I crossed the lots; you cannot go through Garden Place without crossing the lots.

Q. So you saw a blue smoke at 12 o'clock at night, coming out of this chimney?

A. Yes, sir, it was a very bright night.

Q. And you noticed that the smell was different that night, did you?

A. Yes, sir.

Q. You noticed it was what you call a tarry smell?

A. Yes, sir.

Q. I suppose you heard the other witness here today who testified to this tarry smell?

A. Yes, sir.

Q. But you made up your mind it was a tarry smell at once?

A. Well, I smelled it.

Q. And you called it to yourself a tarry smell?

A. Yes, sir.

Q. And you spoke to your husband about it?

A. Not at that time, but since then I have done so.

Q. Did you talk to anyone else about it besides your husband?

A. No, sir, only my husband.

Q. If that was a tarry smell, what is the regular smell?

A. I could not describe it; I never smelled anything like it; it is such a bad smell; it is an awful bad smell.

Q. (BY THE COURT) Does it resemble any other odor?

A. It is like burning oil, or something of that description.

FURTHER CROSS:

Q. Now, besides last Wednesday and Tuesday, the 11th, what other day this year have you noticed the smell?

A. Well, I have not got the dates; I did not keep any dates, but I go through that place very often—every day, in fact.

Q. What time was it last Wednesday?

A. Between 11 and 11:30 in the morning.

Q. Where were you then?

A. Going to the store—at Edgewater Place.

Q. That was what day of the month—you mean the day before yesterday?

A. Yes, sir, the 25th.

Q. What store were you going to?

A. To a store down near the ferry.

Q. What store were you going to?

A. I was going to Laber's grocery store, Dempsey Avenue.

Q. Did you meet anyone?

A. I cannot remember that.

Q What did you buy?

A. I bought groceries.

Q. Mrs. Dinan, whom did you come down with today?

A. I came down with Mrs. Campbell; I set off myself, and I met those ladies crossing the ferry boats; I came down with Mrs. Campbell and Mrs. Conklin and Mrs. Basek, and then some ladies followed in the car behind.

Q. Did you come the same way as you did before?

A. Yes, sir.

Q. Were you subpoenaed to come today?

A. Yes, sir.

MRS. ANNIE PFITZLER, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 331 Undercliff Avenue.

Q. Is that on the east or west side?

A. On the east side of Undercliff Avenue.

Q. Can you point out on this photograph No. 9 where you live?

A. Yes, sir; those are my two kitchen windows (indicating two kitchen windows on the flat, under the letters "Pal." photograph No. 9).

Q. How long have you lived there?

A. Two years last May.

Q. Do you know the location of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. Have you noticed anything on the premises in the rear?

A. Yes, sir, smoke coming out of the chimney.

Q. Out of what chimney—do you see the chimney on photograph No. 11?

A. Yes, sir, that is the one (indicating).

Q. Just describe the smoke coming out of that chimney.

A. Well, it seems to me, when they first start up, it comes out very heavy and thick, and then it dies out into a bluish fume; when it first comes out, it is between a black and a gray.

Q. How often have you noticed that?

A. Well, I have noticed the smoke two or three times a week.

Q. For how long a time?

A. About a year and a half.

Q. Ever since the ink factory has been there?

A. Yes, sir.

Q. Just describe that smoke; what was there about the smoke, if anything?

A. Well, the smell that came from it—we only get that in the house when the wind is directly east; that is the only time I smelt it in the house.

Q. Just describe that smell, the odor?

A. It smells to me like bad oil burning.

Q. Does it affect you in any way?

A. Yes, sir, it makes me sick in the stomach, and it gives me a scratchy sensation in the throat; I have noticed that several times.

Q. Do you know where this odor comes from?

A. I am sure it comes from the chimney in back of our house.

Q. And have you noticed it recently?

A. Not in the house, I have not, no, sir; but generally when you are coming from the ferry or

whichever way the wind happens to be, if you are coming from the ferry, and they are making stuff that day, you get the smell.

Q. How do you know that it comes from this chimney?

A. Well, we never had it before until those people came there; I never noticed any other odor before.

Q. Did you notice any smoke coming out of that chimney?

A. Yes, sir.

Q. Where was the odor?

A. I don't know whether it is in the smoke, but I smell it.

Q. In what direction did it come from; did it come from the direction of that chimney?

A. Generally, yes, sir.

Q. What do you mean?

A. Whenever I smelled it, it seemed to be coming from there.

CROSS-EXAMINATION by Mr. McCarter:

Q. You have not noticed it in the house this year, have you?

A. Yes, sir, several times, but only when the wind was directly east.

Q. What day did you notice it in the house when the wind was directly east this year?

A. I don't know; I did not keep any dates.

Q. Last year you used to notice it in the house even when the wind was east?

A. No, sir, only when the wind is east do I get it in the house.

Q. Point out your house on picture No. 9.

A. This is our house, and this flat (indicating).

Q. The two left-hand houses on picture 9 are your houses?

A. Yes, sir.

Q. And they have been built there quite recently?

A. This one was built first (indicating), and the second one was completed in December last.

Q. Built by your husband?

A. Yes, sir.

Q. And where were you living—which of the two houses do you now live in?

A. In the right-hand one.

Q. And how long have you lived in the right-hand one?

A. We were there two years on the 6th of May.

Q. So you have lived in the right-hand one ever since the ink factory has been there?

A. Yes, sir.

Q. When did you commence the second house?

A. I believe it was somewhere in May or June, I am not positive which month, of last year.

Q. Now, is the ink factory right in front of you?

A. No, sir, directly across from us this way; the chimney that the smoke comes from is just about even with my two kitchen windows.

Q. Can you see it from the windows?

A. Yes, sir, plainly.

Q. And this is on Undercliff Avenue?

A. Yes, sir.

Q. And about on a line with the factory?

A. Just about, yes, sir.

Q. The houses have all been full ever since?

A. Yes, sir.

Q. Both of them?

A. Yes, sir.

Q. How many families in the house?

A. Six.

Q. And six in the other one?

A. Yes, sir.

Q. And you have had no trouble to rent those rooms at all?

A. No, sir.

Q. They have been occupied ever since the house was completed?

A. Yes, sir.

Q. Who live in those houses besides you?

A. Mrs. Mooney, with her children, Mrs. Gilroy, and Mrs. Freeley, and Radowitz and myself.

Q. Now, in the other house, who lives there?

A. Mrs. Kerr and Mrs. Allen, Mrs. McKay, and then on the other side is Mrs. Stow; underneath her is Mrs. Kessner, and underneath her is Mrs. Lyons.

Q. Have any of these people any children?

A. Yes, sir.

Q. How many people live in this house?

A. There is a lot of children beside.

Q. How about the other house?

A. I have three, and Mrs. Mooney has one, and Mrs. Gilroy has a little girl, her son's child, who lives with her, and Mrs. Shoemaker, she has just got a young baby, and—

Q. Now, I have understood you to say that this year sometimes when you were coming out from the ferry, you would notice a smell which you would assume came from this factory; you could not see the chimney coming up from the ferry?

A. No, sir, not until you got to Edgewater Place.

Q. Do you remember any particular day—

A. On the 11th of June I happened to be walking down Undercliff Avenue, between seven and eight o'clock at night; I was just out for a walk, and I

noticed the smell very much, when I got about a block and a half from my house; then we walked clear down to the school, and we turned down that street and came up River Road, and when we got a little below the marble yard, we got it again; then I turned up Garden Place and I did not smell it any more.

Q. But that was the same old smell?

A. Yes, sir.

Q. And that was the day after the trial when you were here before?

A. I was not here before.

Q. Then how do you remember the 11th?

A. I just happened to be out with this friend this night.

Q. Who was the friend?

A. Mrs. Corcoran.

Q. Is she here?

A. No, sir; she lives in the city.

Q. What did you do then?

A. Between seven and eight o'clock in the evening—right after supper—

Q. How do you place that as being the 11th?

A. Because I know it was the day that my friend came to stop with me; it was the first evening we took a walk; she came to stay a week.

MRS. MARGARET RYAN, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You live on the west side of Undercliff Avenue, at 366?

A. Yes, sir.

Q. And you are a sister of Mrs. Harrigan, the complainant?

A. Yes, sir.

Q. Do you know the location of Sinclair and Valentine ink factory?

A. Yes, sir.

Q. I show you photograph No. 11, and ask you if you see any part of the ink factory on that photograph?

A. Yes, sir, I see it right here.

Q. What part is that?

A. This is the smoke stack that the smoke comes from.

Q. Just tell us what you know about that smoke.

A. From that smoke stack I see a dark smoke, brownish, kind of, and then a blue kind of a smoke coming out with an awful odor from it.

Q. Where does the odor come from?

A. From that stack, the ink factory.

Q. What kind of odor is it?

A. I should say the odor—it smells to me like burnt paint, and oil, fishy.

Q. Does it affect you in any way?

A. Yes, sir; it affects my throat; I have to go inside.

Q. Any other way?

A. It is very offensive.

Q. When did you first notice this odor?

A. About a year and a half ago.

Q. How often have you noticed it since that time?

A. I cannot just remember, but I have a few dates that I can remember.

Q. Just let us have those dates, if you will.

A. On the 13th of June—

Q. Now, just tell us what you noticed on the

11th of June—the time of day, and describe the odor.

A. On the 11th of June, I was coming home from a strawberry festival, and coming down Edgewater Place with a party of friends, and we got the odor; it smelt like tar.

Q. What time was that?

A. That was 12 o'clock at night; and after coming from church in the morning, I went over to Edgewater Place.

Q. When was this?

A. On the 11th of June, the same day, about 8:30 o'clock in the morning, I went over to Edgewater Place, and I found that odor there, tar odor; it was not the same odor that I had been getting, and I was over to Edgewater Place all morning, and that same smell kept up; it came from that stink factory.

Q. What is the next date you have there?

A. June 16th, on Monday morning.

Q. What time?

A. Well, I spent quite some of my time over there that morning; I could not say just when it was—about what hour.

Q. Describe the odor, then.

A. The same old stink.

Q. Was it like the 11th?

A. No, sir—that was the tar smell on the 11th; I smelt it all day up until 12 o'clock that night, from 8:30 in the morning; I was over at Edgewater Place, and I went to that affair in the evening, and coming home with a party of friends I walked down with them, and that same smell was there, and that old pot was boiling. On Thursday afternoon, June 19th, is the next.

Q. What was the nature of the smell then?

A. The same old stink.

Q. Where did it come from?

A. From the ink factory.

Q. Did you see anything else, besides smell?

A. The smoke and the blue fumes, they were coming from the same old stack. Then I have Friday, June 20th.

Q. Do you know what time of day it was?

A. In the afternoon, about three o'clock; I was sitting on my porch with my lady friend.

Q. What happened then?

A. The same old stink.

Q. Any other dates?

A. Monday night I was coming home from a euchre party with a party of friends at 11:30 at night.

Q. What did you notice then?

A. The same old stink.

Q. Where did it come from?

MR. McCARTER.—How does she know where it came from?

A. I should judge it came from the same old stack.

Q. (BY THE COURT) Do you know?

A. I was about 100 feet away from it; I judge it was the same.

FURTHER DIRECT:

Q. Now, any other days?

A. On Wednesday, June 24th, between 11 and 11:30, I was going out for this auto drive, and as I was getting in the car, I smelt the same old stink.

Q. Where did you get in the automobile?

A. Right in front of my brother's home at Edgewater Place.

Q. Did you notice anything coming out of this chimney at that time?

A. At that time I did not look towards the chimney.

Q. Did you notice a smell?

A. The same old smell.

Q. Have you any other date?

A. No, sir, I was out of town.

CROSS-EXAMINATION by Mr. McCarter:

Q. How did you happen to make this memorandum?

A. Well, I will tell you: I have a kind of poor memory, and I thought I would write them down as I smelt the smell.

Q. So you commenced the day after you were here in Court to write them down?

A. Yes, sir; I had some dates before that; I had one for the 6th of June.

Q. You did not give us that?

A. No, sir, but I can give it to you now; I have it in my handbag now.

Q. Let us look at these little memoranda here.

A. Yes, sir.

Q. You prepared this at the time?

A. Right away, and I would mark it right down.

Q. You carried it with you, so that whenever you noticed any smell you would put it down?

A. If I did not have it with me, I would write it when I got home.

Q. Which was it—when did you write it down?

A. When I would go home, I would write it down.

Q. Did you have a pad?

A. Yes, sir.

Q. Now, on the 11th of June, you started in at 8 A. M., and you were all day aware of that smell, were you; you were over at Edgewater Avenue during the day?

A. I went to Edgewater Place on the 11th of June.

Q. Look at me; what did you go over there for?

A. I went to visit my sisters—Mrs. Harrigan and Mrs. Popp.

Q. Oh; then you are a sister?

A. Yes, sir; I told you that before.

Q. So, on the 11th, the day after you were down here before, you went over to see Mrs. Harrigan and Mrs. Popp?

A. I go every morning to see them.

Q. And while you were there, you noticed the smell?

A. Yes, sir.

Q. And you noticed it was a tarry smell?

A. Yes, sir.

Q. Did you go out on the back porch?

A. No, sir, I was down in the yard, and I was up on the porch, and I was over at Mrs. Popp's all morning.

Q. Did you see any gentlemen over there?

A. Yes, sir.

Q. Did you see some people climbing the chimney?

A. Yes, sir.

Q How many?

A. I could not say.

Q. What time was this?

A. In the morning.

Q. You remember it was a tarry smell?

A. Yes, sir.

Q. Who first suggested it was a tarry smell?

A. My nose.

Q. And you told your sister, Mrs. Popp, that smelt like tar?

A. No, sir, I am simply telling you.

Q. Whom did you suggest it to?

A. To myself.

Q. You did not remark on it that day; did you remark it that day that it was a tarry smell?

A. Yes, sir.

Q. To whom?

A. To anyone I met.

Q. To whom did you remark it?

A. I don't remember remarking it to anybody.

Q. Then why did you say that you did?

A. Oh, yes, I met different people that day and was talking about it.

Q. Did you or didn't you, that day, remark to anybody the fact that that was a tarry smell?

A. Yes, sir.

Q. To whom?

A. To the party coming home with me.

Q. Who was that?

A. Mrs. Cunningham and Mrs. Dinan, and I think it was Mrs. Kessner.

Q. Coming home from the Fair?

A. Yes, sir, and Mrs. Scanlan.

Q. All coming home together?

A. Yes, sir.

Q. And you remarked to all these different people that that was a tarry smell?

A. Everyone said that.

Q. All at once?

A. No, sir.

Q. How?

A. One just said it after the other.

Q. What's your name?

A. Ryan.

Q. Now, did you remark it to these six or seven ladies who have been on the witness stand, or did they remark it to you?

A. No, sir, we remarked it together.

Q. Had you remarked it to Mrs. Popp or Mrs. Harrigan in the morning, that this was a tarry smell?

A. I said, "This is not the same stink; it is different."

Q. Now, on the 16th, were you over in Edgewater Place on the 25th?

A. No, sir, I don't know whether I was or not; I go out a good deal.

Q. Were you over there on the 26th?

A. I go over most every day; I don't remember being over.

Q. Do you remember being there on the 24th, between 11 and 11:30?

A. I have the 23rd.

Q. And on the 24th?

A. No, sir, the 20th.

Q. Now, one moment; didn't you tell us you were there on the 11th, the 16th, the 19th, the 20th, the 23rd, and the 24th?

A. No, sir, I was on my own stoop on Friday afternoon, on the 20th, up on Undercliff Avenue.

Q. But you smelt the thing on the 23rd, didn't you?

A. Yes, sir.

Q. And on the 24th?

A. Yes, sir, at 11 o'clock in the morning.

Q. Where were you then?

A. In front of Mr. McGarry's, going out in the automobile.

Q. That is your brother?

A. Yes, sir.

Q. And you smelt the same old stink?

A. Yes, sir.

Q. At 11 o'clock on the 24th?

A. Yes, sir.

Q. Could you see the smoke coming out of the stack?

A. No, sir.

Q. Did you see the smoke coming out of the stack on the 23rd?

A. No, sir, I did not.

Q. Did you see the smoke coming out of the stack on the 20th?

A. No, sir.

Q. Did you see the smoke coming out of the stack on the 19th?

A. Yes, sir.

Q. Where were you then?

A. I was down at my sister's.

Q. On the 19th?

A. Yes, sir.

Q. Then you did see it come out of the stack?

A. Yes, sir.

Q. You have recently sold your property?

A. Yes, sir, about three months ago.

Q. You got $4500.00 for it?

MR. ELLIS.—I object.

Q. Did you get $4500.00 for it?

A. Yes, sir.

Q. Where was this property?

A. 366 Undercliff Avenue, about 500 feet from this ink factory.

Q. 366?

A. Yes, sir.

Q. Now, near whom was that property?

A. The family next door, their name is Spatz.

Q. Near what street is this on Undercliff Avenue?

A. The next street to that would be Edgewater Place.

Q. I know that,—but going in the other direction, east and west?

A. That would be Dempsey Avenue; and the next street would be Garden Place.

Q. Does your house show on any of these pictures?

A. I meant Hilliard Avenue.

Q. Now, Mr. Kennedy bought that house?

A. Yes, sir.

Q. And they are going to live there?

A. Yes, sir, and I am still living there.

Q. And you are living there yourself?

A. Yes, sir.

Q. It is between Hilliard and Garden Place, on Undercliff?

A. Yes, sir.

Q. Which side on Undercliff Avenue?

A. The West side.

Adjourned sine die.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on the twenty-first day of April, 1914, and the three following days, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances as heretofore noted.

MR. GEORGE HARLEM, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?
A. Undercliff Avenue, Edgewater.
Q. On which side.
A. On the East side.
Q. How long have you lived there?
A. In that house—about six months, off and on.
Q. Where did you live previous to that?

A. About two or three hundred feet further North.

Q. And previous to that?

A. In the Morrell house.

Q. Where is that located with reference to the Sinclair and Valentine Company's plant?

A. South—about two or three hundred feet—I cannot be positive about that.

Q. I show you photograph marked "No. 10," and ask you if you can tell what that represents?

A. Part of the sugar house and part of the Sinclair and Valentine Company's, I think.

Q. I show you photograph No. 11, and ask you if you can tell what that indicates?

A. This is Sinclair and Valentine's,—the rear of it—and the sugar house tanks; that is Mr. Popp's house, I think.

Q. What part of the Sinclair and Valentine Company's factory do you notice on that photograph?

A. The West part, the rear.

Q. Any part of the building?

A. I notice here a chimney and a brick building there.

Q. Have you noticed anything in particular about that chimney?

A. What do you mean—in regard to the smell?

Q. Just tell us what you have noticed about the chimney in regard to smell or what not?

A. I have noticed fumes coming out of it, and smells.

Q. What do you mean by "fumes coming out of it?"

A. One day I saw some fumes coming out of there looking like acid fumes; they were very yellow; that is some time ago.

Q. What was the color of it?

A. A yellowish color.

Q. Always yellow?

A. No, sir, that was only on one occasion.

Q. What have you seen on other occasions?

A. Sort of a dun color, I should call it.

Q. Did you notice anything about the fumes or the smoke that comes out of that chimney; anything about the odors?

A. They smell pretty strong.

Q. Just describe the smell as best you can.

A. When first I noticed it, I thought somebody had started a saw factory there; it smelt like hardening oil.

Q. How did you get that impression?

A. Because, when I was a boy I worked at that trade.

Q. Just describe the smell, as near as you can; whether or not it was offensive.

A. (No answer).

Q. (BY THE COURT) Did it have any effect on you at all?

A. No, sir; I did not stay there long enough; I got away from it as soon as I could; I am back and forth there almost every day.

FURTHER DIRECT:

Q. Did it have any effect on you?

A. When we lived in the house above the church, it used to come in our windows there, and it was quite objectionable.

Q. What was?

A. The smell, principally.

Q. You say it smelled like the odor from hardening oil, which is used in a saw factory?

A. Yes, sir.

Q. Do you know what they do with this ink factory?

A. I have got no idea.

Q. Do you know what causes this smell?

A. No, sir; I should say it is the same as we had over there from the heating of oil, when fumes come from the heat.

Q. Where was this that you were employed?

A. In Edward Holden's saw works, in Davouz Street, Brooklyn, near Lorimer.

Q. (BY THE COURT) How long were you employed there?

A. Two years, but that is 30 years ago, probably.

Q. Are there many men there?

A. It is closed down.

Q. And you say this smell is practically the same as it was there?

A. Yes, sir.

FURTHER DIRECT:

Q. Have you noticed the smell from this chimney recently?

A. Well, I noticed it along the latter part of January, I think it was, or the first part of February of this year, and then around Good Friday; either the day before Good Friday, or Good Friday itself.

Q. What was the difference between the smell in February and the smell on Good Friday?

A. I don't know that I can answer that question.

Q. Was it the same smell or a different smell?

A. Very much the same, I should think.

Q. How long a time have you noticed the smells, on and off, from this ink factory?

A. I should say—I have nod ates to go by—from the time they started there, over two years ago, I should think.

Q. Have you noticed it ever since?

A. Off and on.

Q. (BY THE COURT) You say you lived in the neighborhood of the factory one time?

A. Yes, sir, I have lived in that upper section there for seven or eight years.

FURTHER DIRECT:

Q. What time of the day have you noticed this smell?

A. I cannot fix the time exactly, because I made no note of it.

Q. Have you noticed it at different times of the day?

A. It was along in the afternoon, I think.

Q. Have you ever noticed it in the evenings or nights?

A. Yes, sir.

Q. For how long a time does it continue, or has it continued, at the time you have noticed it?

A. I could not say about that.

Q. Does it just come out for an instant and then stop?

A. No, sir, it is continuous for some time.

Q. (BY THE COURT) For how long a period, about?

A. I have noticed it for an hour or so; but I cannot give you any exact time on it.

FURTHER DIRECT:

Q. Is this odor a pleasant or an offensive odor?

A. It is offensive, I should think.

CROSS-EXAMINATION by Mr. McCarter:

Q. For whom do you work?

A. At present?

Q. Yes.

A. For Concrete and Foundation Company of New York.

Q. You work in New York City?

A. Edgewater.

Q. Where is their plant connected in relation to the defendant's plant?

A. They have no plant in Jersey; they are general contractors; at present, they are doing a lot of concrete work on school buildings.

Q. They have no plant in New Jersey?

A. No, sir.

Q. And are you a permanent resident of Edgewater, and just happen to be working for them while they are working on this school building?

A. For the last 16 or 17 years I have been in Edgewater.

Q. How long have you been working on the school building?

A. A month.

Q. What were you doing before that?

A. Nothing for a time.

Q. And how long were you doing nothing?

A. Let me see—two months.

Q. Then, whom did you work for?

A. Myself.

Q. What business?

A. I was buying up produce in Virginia, shipping it up here.

Q. So you were down in Virginia?

A. Yes, sir.

Q. How long were you in Virginia?

A. Somewhere about two months all together

Q. And that was about three months ago?

A. I came back here before Christmas.

Q. So that you have been in Edgewater steadily since about Christmas time?

A. Yes, sir.

Q. And you were down there for three months or so before that?

A. About two months.

Q. And previous to that, what were you doing; that would take you back now to the first of November or latter part of October of last year?

A. Nothing.

Q. Nothing, eh?

A. No, sir.

Q. Living in Edgewater?

A. Yes, sir.

Q. And how long were you doing nothing at that period?

A. The first of last June, wasn't it, I sold out, Bill? (Addressing Mr. Ellis).

Q. You are on the witness stand; state as nearly as you can.

A. About June to October.

Q. Were you loafing there in Edgewater?

A. Excuse me, I don't loaf.

Q. What business were you engaged in?

A. I told you—nothing.

Q. Now, previous to that, what were you doing —previous to June of last year?

A. I was in the saloon business in Edgewater.

Q. Where was your saloon?

A. At the ferry.

Q. Did you live over the saloon?

A. Yes, sir.

Q. When did you move away from the saloon—in June?

A. As near as I can tell you, it was in June.

Q. Where did you go to live then?

A. Undercliff Avenue, where I am now.

Q. And that is where, on Undercliff Avenue?

A. East side of Undercliff Avenue—West of the ink works.

Q. Right directly West?

A. Pretty nearly.

Q. In what house is that?

A. I am about six houses below the church.

Q. South of the church?

A. Yes, sir.

Q. Nearer the ink works?

A. Yes, sir.

Q. Do you know the name of the owner of the house?

A. No, sir.

Q. Who is your landlord?

A. Mrs. Sutherland.

Q. How much of a family have you?

A. Two—son and daughter.

Q. Do they both live with you?

A. No, sir.

Q. You live there alone?

A. I am boarding.

Q. And Mr. Ellis is the "Bill" to whom you appealed a moment ago?

A. That is the gentleman.

Q. He is your friend and counsel?

A. He has been my friend for the last 17 years.

Q. Now, do you go by the ink works every day?

A. Not every day; I did when I lived in the other house.

Q. What other house?

A. The first house North of the church—at that time.

Q. And when was it you lived there?

A. That is a year and a half ago.

Q. Well, now, are you giving your testimony more with reference to that time, or more with reference to the time where you live at present?

A. I am giving it in reference to the question you asked—

Q. I mean the testimony you gave in answer to Mr. Ellis' question?

A. What testimony do you mean? Tell me, and then I can answer you plainly.

Q. About the smells?

A. Those smells extended over all the period that the ink works have been there.

Q. No doubt about that?

A. No, sir.

Q. Well, did you ever make any note of the dates of the smell?

A. I kept no dates, no, sir.

Q. You said something about Good Friday?

A. I recollect that.

Q. Were you at work on Good Friday?

A. No, sir.

Q. Where were you when you noticed the smell on Good Friday?

A. Coming home, around the Borough Hall.

Q. About what time?

A. I think about noon time.

Q. And coming home from where?

A. From the ferry.

Q. On Undercliff Avenue?

A. No, sir, on Hilliard Avenue.

Q. Now, there are quite a number of smells in Edgewater, are there not?

A. None that will compare with that.

THE COURT.—Strike that out.

Q. There is quite a number of smells in Edgewater, is there not?

A. Not that I have noticed.

Q. You never noticed any?

A. None in particular.

Q. How about the Valvoline Oil Works; does that ever smell?

A. No, sir, there are some odors there, but nothing objectionable.

Q. You do have some odors from the Valvoline Oil Works, don't you?

A. Not to spread.

Q. (Question read).

A. I don't understand you; what do you want me to answer? What are you after?

Q. I want the truth.

A. No, sir.

Q. Where do you get any odors from besides the ink works? You say there are no other odors in any other place in Edgewater, eh?

A. That is a hard question to answer; you get odors from other places, even in a city, and it is difficult for me to answer that.

Q. Do you want the Vice-Chancellor to think that the atmosphere in Edgewater is as pure as the atmosphere on Fifth Avenue, New York City; or, is it not a fact that there are a good many manufactories there from which there are a good many smells?

A. I don't understand that.

Q. (Questoin read).

A. That is a wide comparison to make.

Q. Answer it the best you can.

A. Well, comparatively speaking, I should say Edgewater was just as clean as Fifth Avenue.

Q. I did not ask you that—I asked you about the smells from factories?

A. I took them into consideration, too.

Q. Were you in Edgewater last Saturday night?

A. I was, late.

Q. Did you notice any smell from the Midland Oil Works?

A. No, sir, I was quite a ways South.

Q. Did you ever notice any smells from that?

A. I don't get down in that section very often.

Q. Have you ever noticed any smells from that?

A. No, sir.

Q. So that, until the ink works came there, you never noticed any smell in Edgewater—I mean from factories?

A. No, sir, I never did.

Q. Now, you noticed it right immediately?

A. What do you mean?

Q. As soon as they commenced to work?

A. I noticed it before they commenced to work —before they built the factory.

Q. And that same smell has continued ever since?

A. As near as my nose would tell me—it is the same smell.

Q. How far is the public school from the factory —a couple of blocks?

A. Further than that, a distance of about four or five blocks, I should say, South.

Q. Do you mean the old school or the new school?

A. The new school is not as far.

Q. Which one are you working on?

A. The new one.

Q. So that you are only about two blocks away?

A. Oh, no; as blocks go in Edgewater we cannot tell, because they are hardly laid out yet.

Q. Well, how far is it; would it be two or three blocks?

A. Let me see—say three or four blocks.

Q. You have been there working steadily for a month?

A. About that. t

Q. What work do you do?

A. Engineer.

Q. And you have given us your evidence with regard to the smells; do you go by the ink works going to the public school?

A. No, sir.

Q. How do you get from the Catholic Church from your home to the public school; you pass right behind the ink works?

A. No, sir, there is a block in between me.

Q. But still, you pass by?

A. No sir.

Q. The ink works lie between the public school and the Catholic Church?

A. I am living directly West of the ink works.

Q. Now, what color of vapor have you seen coming out of the chimney, and when have you seen it?

A. I can give you no dates; one time I saw a lot of yellowish fumes coming out of there; that is some time ago.

Q. A year or so ago?

A. No, sir, it is within a year.

Q. How do you fix it?

A. I cannot fix it.

Q. Nine months?

A. Well, we will say about nine months.

Q. Have you any way of fixing it for less than ten months?

A. No, sir.

Q. It might have been in April or in May?

A. It was last year sometime.

Q. That you noticed once?

A. Yes, sir.

Q. Where were you at the time?

A. There is a passageway by the church, and I cut down to Edgewater Place.

Q. And as you walked along you observed this yellow smoke coming out of the chimney?

A. Yes, sir.

Q. What other time have you ever noticed any yellow?

A. That was the only time I noticed yellow smoke.

Q. Did you notice any smell that day?

A. Plenty of it.

Q. Has it always been yollow smoke when you have noticed the smell?

A. No, sir.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. You stated that you noticed smells before the factory was built; what did mean by that?

MR. McCARTER.—I object to that; that is plain English.

THE COURT.—The objection is overruled.

A. I was coming along the River Road one day along in the evening, along late in the afternoon, at least; and they were boiling something in what appeared to me to be a chowder pot, and I smelt this same smell coming out of there.

Q. Was it on the same property where the Sin-

clair and Valentine Company's factory is at present?

A. Yes; it set in the rear of it.

Q. Do you hold any official position in the Borough of Edgewater?

A. Yes, sir.

Q. What is it?

A. Board of Education.

Q. You are a member of the board?

A. Yes, sir.

Q. Are you president of the board?

A. Yes, sir.

Q. When were you elected?

A. First Monday in April—do you mean to the chair?

Q. Yes.

A. Yes, sir.

Q. Do the ink factory fumes affect your eyes in any way?

A. No, I don't stay there long enough to get it.

Q. Has it ever affected your eyes?

A. No, sir.

RE-CROSS EXAMINATION by Mr. McCarter:

Q. As president, did you have a vote in locating this new public school?

A. Yes.

Q. Now, you say you found some people boiling something in a pot; who were the people?

A. I could not tell you; I just saw them, passing by.

Q. Now, you say that public school is three or four blocks away?

A. About four blocks below, South.

Q. Have you ever measured the distance?

A. Never.
Q. Can you give us any idea of the distance?
A. Not without reference to a map.

MR. McCARTER.—Have you got that map, gentlemen? (Addressing counsel of the other side).

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. You said you had a vote in locating the new school; how did you vote on that proposition?
A. "No."
Q. That is, you were against the location?
A. Yes, sir.

GEORGE W. ALLISON, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you reside?
A. Edgewater, New Jersey.
Q. How long have you lived there?
A. 47 years.
Q. Where do you reside at the present time?
A. 26 Hilliard Avenue.
Q. Is that on the corner of Hilliard Avenue and Edgewater Place?
A. Yes, sir.
Q. How long have you lived in that vicinity?
A. Thirteen months.
Q. Previous to that, where did you live?
A. At the upper end of the borough.
Q. About how far away from your present location?
A. One mile.

Q. Do you hold any official position in the Borough of Edgewater?

A. I do; I am on the Board of Health.

Q. For how long a time have you been a member of the Board of Health?

A. Between ten and thirteen years.

Q. I show you photograph No. 10, and ask you if you can tell what that indicates?

A. It indicates a plant known as the Sinclair Works.

Q. Is it a front view.

A. No, sir, it is a rear view.

Q. Are you familiar with the location of the property?

A. Very well.

Q. I show you photograph No. 11, and ask you what that indicates?

A. That indicates the tank at the rear of the Sinclair works.

Q. What else?

A. I don't know whether they belong to the Sinclair people or the Sugar Refining Company.

Q. Do you see any part of the Sinclair and Valentine Company's factory on that picture?

A. Yes, sir, I see a small little brick house in the rear of these tanks.

Q. With the chimney attached to it?

A. Yes, sir.

Q. Do you notice anything in particular about that chimney?

A. Nothing particular, only a small stack.

Q. Have you noticed anything coming forth from it or out of it?

A. Yes, sir, I have at times.

Q. What have you noticed?

A. That there was gas and fumes.

Q. Smoke?

A. Yes, sir.

Q. Can you describe it?

A. There were different colors, sometimes bluish and yellowish.

Q. Any other color?

A. And smoke color?

Q. Greyish white?

A. Yes, sir.

Q. What can you say as to the odor of that smoke?

A. It was very bad.

Q. (BY THE COURT) Describe the odor as near as you can.

A. How it affected me, do you mean—

Q. Does it affect you at your home?

A. No, sir.

Q. How far is that from the factory?

A. About 600 feet.

Q. In the rear?

A. Well, it is Northwest.

Q. How does it affect you in your home?

A. It affects me; it makes me feel as if I want to vomit.

Q. Does it affect your eyes?

A. It does when you are close to it.

Q. From your house, does it?

A. No, sir, not where I am.

Q. It affects you in the house so that you want to vomit?

A. Yes, sir.

Q. Has it ever caused you to vomit, that you know of?

A. No, sir, it never has.

FURTHER DIRECT:

Q. Have you ever visited the factory when these odors were coming out?

A. Yes, sir.

Q. Can you fix any dates as to when?

A. Yes, sir, it was in November of 1913.

Q. What time in November?

A. That was the 22nd.

Q. Have you any memorandum or anything that you made at the time?

A. Different dates.

Q. Have you any memorandum that you made?

A. Yes, sir.

Q. Produce it.

A. It is there.

Q. Now, have you any date marked in your diary?

A. Yes, sir.

Q. What date have you marked—the first date—the first date that you visited?

A. I could not say that.

Q. Well, recently?

A. (No answer).

Q. When was the last time you visited the factory?

A. That was November 22nd, 1913.

Q. Have you smelt the odor since then?

A. Yes, sir.

Q. But you have not been to the factory?

A. Well, close to it.

Q. How near did you go to the factory in November, 1913?

A. I stood on the wall right by where they were boiling.

Q. What did you notice while you were watching them boil?

A. I noticed there were some gentlemen there with some handkerchiefs over their mouths, and they said there was some trouble there that caused the fumes to be so bad that day.

Q. How did you happen to go there—as an official of the Board of Health?

A. Yes, sir, as an official of the Board of Health.

Q. How did you come to go?

A. On account of the smell.

Q. At that time had the Board of Health received any complaints?

A. Yes, sir.

Q. That was your reason for going there?

A. Yes, sir.

Q. How long did you stay there?

A. Probably ten minutes or so.

Q. Did you have to put up a handkerchief over your mouth?

A. No, sir, but it was pretty bad; it made me feel like vomitting, and my eyes smarted. I was standing on the wall.

Q. Of their property?

A. I daresay it was their property.

Q. When was the next time you visited or went down near the factory?

A. I have the dates down here in the book.

Q. Then, give us those dates.

A. Tuesday, January 6, between nine and ten o'clock P. M.

Q. This year?

A. Yes, sir.

Q. January 6th?

A. Yes, sir.

Q. In the night?

A. Yes, sir.

Q. What did you find at that time; did you notice any odors?

A. Yes, sir, very bad odors.

Q. Did it affect you?

A. Yes, sir, very sickening.

Q. When was your next?

A. I was there January 19th; that was the same time in the evening, between nine and ten P. M.

Q. What was the trouble then?

A. Very bad smell.

Q. Have you any other dates?

A. Yes, sir, I have February 12th.

Q. That was late in the evening?

A. Yes, sir, bad smell.

Q. About what time?

A. About 11 or 12 o'clock.

Q. Did you notice anything at that time?

A. I noticed a bad smell.

Q. How near did you get to the factory that night?

A. About 600 feet.

Q. You went to your home?

A. Yes, sir.

Q. And you noticed it at your home?

A. I noticed it before I went in.

Q. Did you notice it at your home?

A. Yes, sir.

Q. How did it affect you that night?

A. It was a sickening smell; that is the way it always affected me; I was on my way home at that time.

Q. You did not go down to the ink factory plant?

A. No, sir.

Q. When was your next date?

A. Wednesday, February 25.

Q. Where were you at that time?

A. That was early in the evening; I was home, out in the yard.

Q. In your rear yard?

A. Yes, sir.

Q. What was the smell at that time?

A. The same as I always have it.

Q. What was your next date?

A. March 9th.

Q. What time of day was that?

A. That was in the morning, in the forenoon.

Q. Where were you at that time?

A. Working on the flats.

Q. Do you know what time in the morning it was?

A. Well, it was between dinner time—just before dinner.

Q. Before 12 o'clock?

A. Yes, sir.

Q. Was the smell the same that day?

A. The same smell.

Q. Have you any other dates?

A. Yes, sir, March 14th.

Q. Where were you that day?

A. That was in the evening, when I was coming from the ferry; that was between nine and ten P. M.

Q. What did you smell that night?

A. The same smell.

Q. (BY THE COURT) Did it have the same effect on you?

A. Yes, sir.

FURTHER DIRECT:

Q. Have you any other dates?

A. March 27th.

Q. Beginning when?

A. When I came out around 11 o'clock in the morning.

Q. It lasted how long, if you recall?

A. Until I went in around five or six o'clock in the evening I could smell it.

Q. What did it smell of that day?

A. The same kind of a smell.

Q. Did it affect you in the same way?

A. Yes, sir.

Q. Have you any other dates?

A. Yes, sir, Wednesday, April 1st.

Q. What kind of day was that?

A. That was off and on all day, that is, from 11 o'clock, I would say.

Q. Where were you when you noticed it?

A. Working in the flat.

Q. Was it the same smell?

A. Yes, sir, it smelt just the same to me.

Q. What other dates have you?

A. I have April 10th, and that was the last that I took any account of it.

Q. What time of the day did you notice it on April 10th?

A. That was in the afternoon, I think.

Q. Where were you then?

A. Then I was up the road in the morning as far as Mr. Massey's.

Q. That is about a mile or a mile and a quarter up the road?

A. Yes, sir.

Q. Then you came down from there?

A. Yes, sir.

Q. Where did you go on your way down?

A. In the house.

Q. And you noticed it when?

A. I noticed it going in; that was right after dinner.

Q. Did you attend a meeting of the Board of Health of the Borough of Edgewater in the latter part of January or the first part of February of this year?

A. Yes, sir.

Q. Do you remember of any accident—

MR. McCARTER.—I object to that.

THE COURT.—He may tell what he did.

MR. ELLIS.—I will say that they have received notice of it, and that they acknowledged receipt of notice.

THE COURT.—This is the latter part of January of this year.

MR. ELLIS.—I call upon the defence to produce a letter, dated January 12th, 1914, directed to "Sinclair and Valentine Company, Edgewater, New Jersey," from the Board of Health of the Borough of Edgewater; have you such a letter?

MR. McCARTER.—There is a letter dated January 12, 1914; is that it?

MR. ELLIS.—Yes.

MR. McCARTER.—We admit receiving this letter; there is the letter, if you want it (handing it to Mr. Ellis).

MR. ELLIS.—I will offer the letter.

Marked "Exhibit C. A. J. 1."

MR. ELLIS.—I also offer the reply to the letter of January 12th, dated January 16, 1914.

MR. McCARTER.—That is all right.

Marked "Exhibit C. A. J. 2."

THE COURT.—Just read that to me.

(Mr. Ellis then reads the letter dated January 12th, and the reply, dated January 16th, 1914).

Q. Was there any action taken by the Board of Health subsequent to the receipt?

MR. McCARTER.—The records will show, I suppose.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mr. Allison, what is your business?

A. I am a builder.

Q. You have lived in Edgewater some time?

A. All my life.

Q. Well, as a matter of fact, there are a good many maufacturers in Edgewater?

A. Yes, sir, quite a number.

Q. It owes its prosperity to manufactories?

A. Well, yes.

Q. The fact is, that it is quite unique in its position—that is to say, there is land there right on the water— a good waterway, and suitable for manufactories?

A. Yes, sir.

Q. And a great many manufactories are there?

A. Quite a number.

Q. For a place of its size, there are probably quite as many as you ever saw?

A. I have seen more.

Q. Take away the manufactories and the bank and everything else would go?

A. The little town always prospered before they came.

Q. Hasn't it grown any since the manufactories came?

A. Oh, yes, it has.

Q. Now, your house has been—ever since the ink works has been there—down on Hilliard Avenue?

A. No, sir, I have just moved there; it is my wife's building, but I lived, prior to that, up at the upper end of the borrough, one mile from the ferry.

Q. You lived a mile and more away from the ink works?

A. Yes, sir.

Q. How far is it from the ferry to the ink works, South?

A. I should say it is probably 800 feet.

Q. When did you move to Hilliard Avenue?

A. That was in February, 1913.

Q. And you have lived there ever since?

A. Yes, sir.

Q. Well, now, some new tenemants have gone up back of the ink works recently?

A. Yes, sir.

Q. How recently was that big wooden apartment house been built, that looks brand new up there?

A. Probably a year and a half; I am not just sure of the date.

Q. Probably more recent than that, isn't it?

A. One of them might have been; there are two of them, built close together.

Q. How many families do they accommodate?

A. Some of them accommodate six families.

Q. They are right behind the ink works?
A. Yes, sir.
Q. One block away?
A. About that.
Q. (BY THE COURT) How many feet away?
A. 300 feet.

FURTHER CROSS:

Q. Did you work any of those buildings?
A. No, sir.
Q. How many new buildings have been put up there in the course of the last year and a half?
A. There might have been a dozen.
Q. There is a new fine public school going up just below?
A. Yes, sir.
Q. Did you work on that?
A. No, sir.
Q. Where did you come in as a contractor?
A. I do work all over; I do fine work; that is the kind I am looking for.
Q. Well, you seem to have kept a little memorandum in your book of your visits down to the ink works?
A. Yes, sir.
Q. Each one of these dates that you have given us you were down to the works?
A. No, sir; I said some of these days I was.
Q. And some of the days you noted a smell when you were not there?
A. Yes, sir.
Q. On each one of those days you noticed a smell?
A. Yes, sir.
Q. Can you describe that smell?

A. I can, yes, sir—the way it affects me.

Q. I did not ask you that; what does it smell like?

A. Like old fat oil burning.

Q. Did you ever smell anything from the Valvoline Oil Works?

A. Yes, sir.

Q. Does the sugar factory ever smell?

A. No, sir.

Q. What other places have you ever smelt anything from?

A. None that I know of.

Q. The Higgins Dye Works—did you ever smell anything from that?

A. Yes, sir.

Q. The Midland Oil Works?

A. The Linseed Oil Works, do you mean?

Q. The Midland.

A. I don't know what you mean.

Q. Well, the Linseed Oil—

A. I have not smelt anything from the Linseed Oil place.

Q. Now, these memoranda that were made by you, you were careful to note the date and the time?

A. Yes, sir.

Q. And you are sure they are right?

A. Yes, sir.

Q. No question about that?

A. No, sir.

Q. And on each one of the dates you gave us, you noticed this particular odor that you say comes from our plant?

A. Yes, sir.

Q. And it was sickening?

A. Yes, sir.

Q. There is no mistake about that at all?

A. Not a bit of it, no mistake.

Q. Were you ever up in the plant?

A. No, sir.

Q. Did you ever ask permission to go in the plant?

A. No, sir.

Q. Have you any idea how the plant is arranged inside?

A. No, sir.

Q. You never had the curiosity to go in to see?

A. No, sir.

Q. You have stood behind on the elevated, higher land, near the chimney, sometimes?

A. Yes, sir.

Q. Do you remember having a conversation about this time last year with Mr. Eldridge, this gentleman sitting here now, at your wife's house?

A. I remember it very well, but I don't remember the date.

Q. Do you remember telling him, substantially, on that occasion, after you had closed the door so that your wife could not hear you,—that you did not think there was anything bad to that smell at all, but that the women folks were making a row abou it;d id you say that?

A. No, sir.

Q. You said absolutely nothing of the kind?

A. No, sir.

Q. You remember that he was there?

A. Yes, sir.

Q. How long have you been a member of the Board of Health?

A. Between 12 and 13 years.

Q. How many members has the board?

A. Five.

Q. Who was present at this conversation in your wife's house, between Mr. Eldridge and yourself, besides you and himself?

A. I am not sure whether Mr. Glassey was there or not.

Q. Didn't you talk to Mr. Eldridge about him too?

A. He was talking about Mr. Glassey.

Q. Don't you recall, therefore, that he was not there?

A. I think he was not.

Q. And your wife was not present, either?

A. No, sir, I don't think so.

Q. And the door was shut?

A. Yes, sir.

Q. Who shut it?

A. I could not tell you.

Q. Did Mr. Eldridge shut the door?

A. I might have.

Q. What room were you in?

A. In the front room, on the north side of the house.

Q. You say no such conversation as I have related occurred?

A. Not of that kind, no, sir.

Q. Now, will you let me look at your memorandum book that you have been using?

A. I will; you may look at those dates if you care to—and nothing else.

Q. (BY THE COURT) Between November and April of this year, November of 1913, and April of this year, see if you can separate—

A. (No answer).

FURTHER CROSS:

Q. I don't want to look at anything except the

memorandum that you referred to. You spoke of having been down there one day recently, when there had been some trouble?

A. That was in November.

Q. Wasn't it April—last April?

A. No, sir, I did not say I had been down there in April at all.

Q. You were down there one day when there was trouble, when there had been a fire?

A. They said there was trouble.

Q. When was that?

A. That was in November.

Q. November, 1913?

A. Yes, sir.

Q. (BY THE COURT) Is that the day you stood on the wall?

A. Yes, sir.

FURTHER CROSS:

Q. Have you got that mentioned in this diary?

A. No, sir.

Q. How do you fix it as November?

A. I was supposed to remember that date.

Q. What day in November was it?

A. It was on a Wednesday.

Q. What date?

A. The 22nd of November.

Q. Whom did you see there?

A. This gentleman.

Q. Mr. Barrett, that gentleman there (indicating)?

A. Yes, sir.

Q. And he told you they had some trouble?

A. Yes, sir.

Q. Did you doubt him?

A. Well, about the house—

Q. Why didn't you go in and see?

A. Because I was close enough, on top of the wall.

Q. You doubted it; he told you they had had trouble, and yet you did not make the effort to go down and look?

A. Nobody else asked me.

Q. Did you ask?

A. No, sir.

Q. What did he say the trouble was?

A. He said they had a fire.

Q. So he claimed that they had had some trouble there, and that that was creating the smell that day?

A. That is what he said, and I looked from the top of the wall, where they were boiling this; I could see all the vats outside boiling.

Q. The vats were boiling outside, were they?

A. There were three of them.

Q. They do not ordinarily boil outside, do they?

A. I don't know.

Q. (BY THE COURT) You visited the factory several times?

A. Not inside.

Q. Outside?

A. Yes, sir.

Q. Have you ever seen them boiling outside before?

A. No, sir.

FURTHER CROSS:

Q. These dates that you gave us on here, January 6, February 12, March 9 and April 1, were they all 1913 or 1914?

A. 1914, this year.

Q. Well, this diary you are handing me is 1913?

A. No, there is no 1913 on there; these are all the dates; this is the diary of 1913, but I put the dates in there.

Q. Oh, you used an old diary?

A. Yes, sir.

Q. Where are the dates?

A. What dates do you wish?

Q. I want some of the earlier dates you have enclosed there; by whose suggestion did you make these memoranda?

A. I made them for the Board of Health; I took these dates for the Board of Health—for evidence.

Q. At whose suggestion?

A. Nobody's.

Q. (BY THE COURT) Not at the suggestion of the board?

A. I was Health Inspector there, and I took these dates.

Q. You were Health Inspector as well as being a member of the board?

A. Yes, sir.

FURTHER CROSS:

Q. Now, you are talking about—the day when you were down by the works, and you say that Mr. Barrett said there had been trouble there—that there had been a fire—that was previous to this letter of the Board of Health that has been produced?

A. I don't know what the date is.

Q. January 12, 1914?

A. Yes, sir, it was before that.

Q. Was it the experience you had on that day, that led to the writing of this letter?

A. No, sir not just that day.

Q. You have no memorandum fixing Saturday, November 22nd, as the day you were down there, when they were said to have trouble?

A. You said "Saturday;" it was not Saturday.

Q. I am asking you if you have any memorandum of your November 22nd visit?

A. No, sir.

Q. You are sure it was November 22nd?

A. Yes, sir.

Q. Were any fumes coming out of the chimney that day?

A. It was coming out all over—out of the doors and bulidings and everything else.

Q. Fumes?

A. Yes, sir.

Q. That seemed perfectly natural and normal to you, did it?

A. Yes, sir.

Q. Now, that date is implanted on your memory?

A. As near as I can get it; it was the 22nd.

Q. I suppose you have had some discussions with Mr. Ellis about this matter?

A. I never did until I received notice to come down here.

Q. Who is the borough attorney?

A. Mr. Wakelee was at that time.

MR. ELLIS.—He is now.

Q. Who is the attorney of the Board of Health?

A. Mr. Carleton.

Q. Has been during the year and a half?

A. After January 1, 1914.

Q. Who was, prior to that time?

A. Mr. Wakelee.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. What was the conversation that was had at your house with Mr. Eldridge?

MR. McCARTER.—One moment; he has said now that he did not have any such conversation; I asked him if he did not say so and so, and he said he did not; I don't think that opens the conversation; we can try to contradict him, and then you may go on and meet that.

THE COURT.—Yes, I think that is the proper procedure. For the present, I will overrule that.

Q. Mr. Carleton also is secretary of the Board of Health?

A. Yes, sir.

Q. And how long has he been secretary of the Board of Health?

A. Ever since he has been a member of the board; that is four or five years.

MRS. EDITH JULIA PETERSON, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 63 Edgewater Place, sir.

Q. Is that on the east side or the west side?

A. On the east side.

Q. How near is it to the Sinclair and Valentine Company's factory?

A. I know it is the North of the ink factory.

Q. (BY THE COURT) How far, about?

A. I could not judge the feet, sir.

Q. How many blocks?

A. It is about half a block from the ink factory

FURTHER DIRECT:

Q. You lived in the house North of Mrs. Harrigan?

A. Yes, sir.

Q. And how far from Mrs. Harrigan's house?

A. There is about two lots, I should think, between us.

Q. How long have you lived there?

A. Since July 31st.

Q. Is that the house that was formerly occupied by Mrs. Burns?

A. Yes, sir.

Q. Where did you live previous to living in this present house?

A. In Hinner's Flats, Undercliff Avenue.

Q. In what direction is that from the ink factory?

A. That is North, also.

Q. Is it further away?

A. Yes, sir.

Q. How did you come to move into the house that you live in now?

A. We were looking for a larger place, and my husband took this house.

Q. Is he employed near there?

A. Yes, sir.

Q. Where is he employed?

A. In the Hygeia Ice Company; my house is in the back of the ice plant.

Q. I show you photograph No. 10, and ask you whether or not you can tell what it represents?

A. That is the ink factory, and this here is the Warner's Sugar Refinery tanks.

Q. I show you photograph No. 11, and ask you what that represents?

A. This is Edgewater Place, sir, and this is the Warner's Sugar Refining tanks, and this is the chimney where the smell comes from.

Q. What do you notice from that chimney?

A. Like a foggy smoke, and like a gas.

Q. What is the color of it?

A. Sometimes it is like a blue, and sometimes it is just the blue gas comes out.

Q. Does it have any other color at any time?

A. No, sir, only just that smoke.

Q. Have you noticed anything in or about its fumes?

A. All I know is, that it has a very bad smell to it.

Q. Just describe the smell and how it affects you?

A. It is like a rotten fish—excuse the expression—but that is just how it is.

Q. State how it affects you?

A. Right after I smell it, I feel like vomiting, and my throat has like a heavy coat in my throat, sir.

Q. When did you first notice this smell?

A. The first of August, sir.

Q. How do you fix that?

A. I moved in the 31st of July, and the first of August I could not imagine where the smell came from, and I walked down Edgewater Place, and I saw the smoke coming out, and then I knew it came from that chimney.

Q. And it came from the little chimney which you indicated on photograph No. 11?

A. Yes, sir.

Q. How does it affect you?

A. I feel like throwing up; I have to close my kitchen windows for that smell.

Q. Do you know of any days when you have noticed it in particular?

A. Yes, sir, I kept a few, because there were people in Edgewater talking about this case, and I said, "There is a smell;" so I kept a few dates.

Q. Have you anything on which you marked those dates?

A. Yes, sir.

Q. What have you?

A. I only kept from January, sir, because there was a gentleman came to look for a furnished room in my house, and he spoke about the smells, so I thought it was best to keep—the 8th of January and the 9th of January, at night.

Q. Describe the smell, as nearly as you can; was the smell the same during this period?

A. On Sundays it was not quite as bad as other times, but the odor was about the same; the first is the 8th of January; the 9th of January, at night, the 12th of January, the 15th of January, the 16th of January.

Q. Have you fixed any time of the day on your calendar when you noticed this smell?

A. No, sir, it was just at night, when I came home from the meeting at Fort Lee, about 11 o'clock at night.

Q. On these dates?

A. Yes, sir.

Q. Always at that hour?

A. On the 19th of January I got it at night, as I say, as I was coming from the meeting, and on the 23rd and the 30th of January.

Q. All about the same time at night?

A. Yes, sir.

Q. And what about February?

A. I got it on the 2nd of February—another meeting night; and I got it on the 4th, in the daytime.

Q. What time in the day?

A. Well, in the morning, sir, about 8:30 A. M.

Q. How long did it continue?

A. I cannot remember that day, sir.

Q. Proceed.

A. And the 12th of February, that was in the day; sometimes when I smelt it, I would go right in and mark it down on my calendar.

Q. Was it in the day on the 12th?

A. Yes, sir.

Q. Do you remember what time of the day?

A. No, sir, I cannot remember what time.

Q. All right. Proceed.

A. The 18th and the 19th.

Q. What about the 18th?

A. That was in the daytime; and the 23rd and the 25th, at noon; and on March 2nd, at night—that was another meeting night.

Q. Proceed.

A. And on the 14th of March—that was at night; March 2nd, March 14th and March 18th, and March the 25th; and on the 31st is the night they had the fire.

Q. How many times in April have you a memoranda of?

A. I got it on the 1st of April—all day, very bad; I vomited that day from it; and we got it again on Friday, very bad; that was on the 3rd; and the 7th of April, the 8th, the 9th and the 10th—that is Good Friday; and the 11th of April and

the 14th of April, and on the 18th, at night. The 19th, yesterday, we got it all day, sir, and that is the end.

Q. Now, when you have mentioned about the date, without giving the time—just the date—you mean the smell was in the daytime?

A. Yes, sir, when I would be sweeping the porch, and I would just go and mark it down.

Q. Just describe how that smell or odor affects you?

A. It makes me feel sick at my stomach, and makes me feel as if I want to vomit, and I did vomit at times.

Q. Have you noticed the color?

A. Sometimes it is like a cloud of smoke, coming out yellow sometimes, and then again blue, and then it is a clear gas; yesterday, all day, it was a clear gas.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, Mrs. Peterson, whose flats were they that you lived in before you moved to Mrs. Burns' house?

A. Higgins' Flats.

Q. Can you tell us where they were located?

A. Between Dempsey and Columbia Terrace, right on the corner of Dempsey Avenue.

Q. Now, that is north of Mr. Burns' house?

A. Yes, sir.

Q. How far north of his house?

A. About a block.

Q. And you moved from there into Mrs. Burns' house on the 31st of last July?

A. Yes, sir.

Q. You had heard of this trouble, then, before?

A. Yes, sir.

Q. And had you been down here before then as a witness?

A. No, sir.

Q. But you knew there was a lawsuit going on?

A. I heard the people talking about it in town.

Q. And yet you moved right next to Mrs. Harrigan's house?

A. Yes, sir.

Q. The very next house to Mrs. Harrigan's house is the house you moved into last July, after you had heard the people talk about it?

A. No, sir, I did not hear about it until I got into the house.

Q. Didn't you just tell us you had heard of this before?

A. I had read it in the papers; the people did not tell me.

Q. Now, Mrs. Burns' house is about 250 feet away from this factory, isn't it?

A. The house is not owned by Mrs. Burns, it is owned by Mr. Higgins.

Q. It is where Mrs. Burns lived?

A. Yes, sir.

Q. That is about 250 feet away?

A. I should judge so.

Q. Have you a family?

A. Yes, sir.

Q. What meeting is this you go to at Fort Lee?

A. The Companions of the Foresters.

Q. And coming home from that meeting is when yau have noticed these smells?

A. Yes, sir.

Q. What time did you get home?

A. Between ten and eleven o'clock.

Q. Who comes with you?

A. One of my friends in Edgewater—Mrs Krobash; she lives down near the oil works.

Q. Now, you commenced to keep a memorandum how soon after you moved into Mrs. Burns' house—the very next day, didn't you?

A. No, sir, the 1st of August I could not imagine where that smell came from.

Q. You remember distinctly the 1st of August having the smell?

A. Yes, sir.

Q. How soon did you begin to keep a memorandum?

A. As soon as this gentleman that I spoke of came for a furnished room; that was December 30th when he came to my house.

Q. Let me look at your memorandum; this is the calendar that you produce, and these dates that are surrounded by a lead pencil mark are the dates that you have given us?

A. Yes, sir.

Q. Would you make these circles around these dates on the very day that you noticed?

A. Yes, sir.

Q. Then, coming in at 11 o'clock at night from your lodge, you would notice the smell and you would mark it down?

A. Yes, sir.

Q. Where would you be when you would note the smell?

A. I would get off the Fort Lee car at Dempsey Avenue.

Q. This would be at 11 o'clock at night?

A. Yes, sir.

Q. You could not see the smell then?

A. No, sir, but I could smell it.

Q. Other factories smell in Edgewater, don't they?

A. I get a sulphur smell from Mr. Higgins' once in a while.

Q. Did you ever get any smell from the Valvoline Oil Works?

A. No, sir.

Q. Do you know where that is?

A. Yes, sir.

Q. You never smelt anything from there?

A. No, sir.

Q. How did you know that at 11 o'clock at night, down on the thoroughfare leading from the ferry, that the smell you smelt came from this Sinclair and Valentine Company's plant, which is eight or nine hundred feet away?

A. Because I have seen it in the daytime, and I know it is the same smell.

Q. You have seen what in the daytime?

A. This here fume.

Q. How far off when you have seen the clear gas?

A. At my kitchen window.

Q. Does it smell then?

A. Yes, sir.

Q. Does it smell when it is yellow?

A. When the wind blows South, I get it bad.

Q. Does it smell when it is blue?

A. Not so bad then.

Q. When it is clear gas you get it bad when the wind is blowing South?

Q. Now, you said you have heard a good deal of talk in the neighborhood about it; whom did you hear talk about it?

A. I have heard a few people in Edgewater talk about it.

Q. Who was it told you where it came from?

A. The people in Henner's Flats told me; Kramers told me.

Q. When?

A. I could not tell you when it was.

Q. How soon after you moved in?

A. I lived there a long while then.

Q. So that, up to that time, you did not know where it came from?

A. I saw it a few days after that; that is about three years ago.

Q. That is when you were living where?

A. In Henner's Flats.

Q. Can you fix it any earlier than three years ago?

A. No, sir, it is nearly three years ago.

Q. Was it winter, spring or summer?

A. I think maybe it was in the fall; I think it was in the fall of the year.

Q. It was pretty bad then?

A. Yes, sir.

Q. Worse than you have known it to be since?

A. Yes, sir.

Q. Did you go down when you lived in Henner's Flats to look at it?

A. One day I was walking down with my children, and I saw this fume coming out of the chimney.

Q. That is about three years ago?

A. Yes, sir.

Q. See if I understand your testimony rightly, Mrs. Peterson: if the wind is in the right way, that is, blowing towards your house, it always smells?

A. Yes, sir, always.

Q. You fail to get a smell at your house from the ink works when the wind is in the other direction?

A. Yes, sir; right in the kitchen it comes always when the wind is South; I get it in the kitchen.

Q. Never any mistake about that?

A. No, sir.

Q. How did it happen that you marked these particular dates; did the wind happen to be in thatd irection?

A. Yes, sir—a man came for a furnished room, and the first thing he talked about—

Q. I am asking you about these dates that you have the memorandum of; I say, did the wind happen to be from the South?

A. Yes, sir.

Q. Now, you are sure of those dates?

A. Yes, sir.

Q. No mistake about any of them?

A. No, sir.

Q. You went right in and put them down on your calendar?

A. Yes, sir.

Q. Who suggested your doing that?

A. Nobody.

Q. Did you talk with any woman about it?

A. No, sir; no one knew I had the dates.

Q. Nobody knew you had the dates until you came on the witness stand?

A. No, sir, not until Mr. Ellis came into my house yesterday morning.

Q. You have a memorandum of August 1st, the day that you moved?

A. No, sir.

Q. What time did you notice it?

A. In the morning, at 7:30, the first of August, after I got up.

Q. Who was talking about it?

A. The people on Undercliff Avenue were talking.

Q. What people?

A. I could not recall their names.

Q. Not a single one?

A. No, sir.

Q. What time was this that you noticed it?

A. On the 1st of August. I could smell it for myself.

Q. That was at 7:30?

A. Yes, sir.

Q. Didn't you say on direct examination that people were talking, and so you noticed it that day?

A. No, sir, not that day.

MRS. KATE CAMPBELL, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. No. 10 Hilliard Avenue, on the south side of the street.

Q. How long did you live there?

A. Seven years this June.

Q. That is a flat or a tenement house?

A. It is an apartment house.

Q. Where do you live?

A. I live on the west side—one floor up.

Q. On the west side of the flat?

A. Yes, sir, in the front.

Q. Your front windows face on what?

A. Edgewater Place.

Q. Do you face Hilliard Avenue?

A. The parlor does.

Q. I show you photograph No. 10, and ask you whether or not you could tell what is shown on that photograph?

A. That is the sugar house (indicating).

Q. What else do you see on that photograph?

A. That is the Valentine and Sinclair Company's place, (indicating).

Q. And I show you photograph No. 11, and ask you what is indicated on that?

A. That is Mrs. Popp's house, and Mrs. Harrigan's.

Q. And what else?

A. And that is the end of Mr. McGarry's barn, right there (indicating); and that is the sugar house tanks; and that chimney belongs to Sinclair and Valentine Company.

Q. Is it all their property?

A. Yes, sir.

Q. What can you say about that chimney; did you notice anything come out of it?

A. Yes, sir, I have noticed a dark brown smoke, and a blue, and then an acid color, regular acid.

Q. What can you say about the fume that comes out of this chimney?

A. What do you mean?

Q. What can you say about it?

A. It is very offensive.

Q. Have you smelt it?

A. Yes, sir.

Q. How does it affect you?

A. It takes my breath away; it makes me cough, and it affects my eyes.

Q. Does it affect you in any other way?

A. It makes me cough.

Q. How often have you noticed this smell?

A. I have made some dates, too.

Q. Why did you make the dates?

A. When I was down here before on the trial, I saw it was necessary to have dates, so I marked it down as I felt it.

Q. Kindly produce your dates?

A. (No answer).

Q. (BY THE COURT) What time of the day did you generally smell it?

A. Principally in the morning.

Q. And your dates relate to the morning, except where you specify that they relate to another part of the day?

A. I can specify in the morning, and sometimes in the evening, but I do not really remember the dates, but it was in the morning generally.

FURTHER DIRECT:

Q. Give us your dates—when you began to take dates.

A. I began on the 11th of June; that was a different odor that morning; that was in the morning; that was a tar odor.

Q. Proceed.

A. Then, on the 30th of June; then on the 9th of July, and on the 23rd of July and on the 28th of July; then on August 1st; then August 9th; then August 12th and the 15th; then on September 4th —the 8th of September, the 26th of September, the 29th of September; then on October 13th, the 23rd, the 29th; then on November 3rd and on November 10th and November 20th; that was a terrible day, I remember that—all day long; I was up on the roof that day, and it was something terrible; then on the 25th; then December 12th, then December 16th, the 19th and the 26th; then on

January 7th, 1914; then on January 8th, the 15th of January—that was a terrible morning; I distinctly remember that morning; and the 16th and the 21st and the 30th; then on February 17th and the 25th; then March 23rd, the 25th and the 27th; then on April 1st, the 3rd, the 10th and the 20th.

Q. Now, Mrs. Campbell, what can you say in reference to this odor on these different days; was it the same odor?

A. Yes, sir, the same odor, but very heavy, very bad.

THE COURT.—Strike out the latter part of that.

Q. What can you say about the odor on June 11th?

A. Well, that was a tar odor.

Q. Was that a different odor?

A. Oh, yes, a different odor altogether.

Q. And where did that tar odor come from?

A. From a factory.

Q. Did you see anything come from the chimney?

A. I went down to Edgewater Place, and I smelt it, and when I came home that very same smell was in my rooms. I never can have my windows open at night or any time—even yesterday, it was something terrible.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, the smells that you have noticed and given us the dates for, Mrs. Campbell—those were smelt down at your house?

A. Yes, sir.

Q. On Hilliard Avenue?

A. Yes, sir.

Q. You were down here before—last year?

A. Yes, sir.

Q. You did not testify?

A. No, sir.

Q. Do you know Mrs. Harrigan?

A. Yes, sir, I know Mrs. Harrigan.

Q. Do you go to the same church with her?

A. Yes, sir.

Q. By the way, how did you get down here today—did you come by ferry?

A. I got across the ferry, and I came down on the elevated road.

Q. Now, was it at Mrs. Harrigan's suggestion, or at whose suggestion was it that you took a note of the dates?

A. At my own suggestion.

Q. You knew you would be a witness later?

A. Well, I took them for my own benefit.

Q. Are these the notes?

A. Yes, sir.

Q. And on each day that you would notice them, you would put a little circle around the date on your calendar?

A. Yes, sir.

Q. Now, there is no mistake about any of those dates?

A. No, sir, no mistake whatever.

Q. Did you get any nearer to the ink works besides on August 1st, when you noticed the tar smell; how often did you get nearer the ink works than your house down at Hilliard Avenue?

A. When I would take a walk down that way.

Q. On these dates that you have given us, were you always at your house?

A. Sometimes in my own room, and sometimes

downstairs, and sometimes on the roof—according to where I was.

Q. Did you go on the roof to hang your clothes?

A. Yes, sir, and my clothes retained the smell when I took them off the line.

Q. How far can you see from the roof?

A. I can see down to way above that plant.

Q. Can you see the chimney from your apartment?

A. No, sir, not very well.

Q. Can you see the chimney from the road?

A. No, sir.

Q. So that, on none of these dates that you testified about, could you see the chimney?

A. No, sir.

Q. Now, do you mean to say that the ink works is the only place where there are any smells in Edgewater?

A. Yes, sir, the only place I ever smell any from.

Q. There are other oil works there?

A. Yes, sir.

Q. For instance, the Valvoline Oil Works and the Linseed Oil Works?

A. Yes, sir.

Q. But you never smelt any smell from them?

A. No, sir, I never did.

Q. Now, on the 11th of June you were walking down towards this place, and you noticed a kind of tarry smell?

A. Yes, sir.

Q. That is a year ago last June?

A. Yes, sir.

Q. What time was this?

A. This was in the morning around 10:30.

Q. How long have you lived in this apartment?

A. Seven years this coming June.

Q. (BY THE COURT) You have stated in your direct examination, that when you have this smoke it affects your eyes, your throat, and also causes you to become nauseated?

A. Yes, sir.

Q. Is this so every time you have smelt it?

A. Not every time; if I am out in the street and smell it, it affects me that way; but in the house, of course, I keep my windows down, and you don't get it so strong.

Q. It is when you are passing through the street that you get it the worst?

A. Yes, sir.

Q. It has never made you sick in your house?

A. It has made me faint, but nothing like what you get in the street.

FURTHER CROSS:

Q. How early in the morning have you noticed these smells?

A. Around 8:30 or 9 o'clock.

Q. What is the earliest you ever noticed it?

A. At half-past eight.

Q. You never get it any earlier than that?

A. No, sir.

Q. 8:30?

A. Yes, sir.

Q. Frequently?

A. Yes, sir.

Q. Now, do you want the Vice-Chancellor to understand from your testimony that that place always smells, and that you get it whenever the wind is from that direction?

A. Yes, sir.

Q. And if the wind always blew from the south up your way, you would always get it?

A. Yes, sir.

Q. So that there is a constant smell from that place?

A. Yes, sir.

Q. So that the only reason you don't get it always, is because the wind is not always that way?

A. That is my testimony.

Q. Up there today it would be the same way?

A. It was yesterday up there.

Q. It was very bad yesterday?

A. Yes, sir.

Q. Did it make you sick at your stomach yesterday morning?

A. Yes, sir; I went and put a window down at half-past eleven.

Q. That was the 20th?

A. Yes, sir.

Q. The wind was from the southwest yesterday?

A. South, from that direction; even if it is a little southeast, I will get it, or if it s a little southwest, I will get it, but directly south is bad.

MR. JACOB BROCK, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. Edgewater Place, Edgewater.

Q. How long have you lived there?

A. On Edgewater Place?

Q. Yes?

A. Six years or more.

Q. Are you familiar with the location of the Sinclair and Valentine ink factory?

A. Yes, sir.

Q. I show you photograph No. 10, and ask you whether or not you can tell what that indicates?

A. This is the rear part of the ink factory.

Q. I show you photograph No. 11, and ask you if you can tell what that indicates?

A. This is the rear part of their place, too.

Q. What part?

A. The rear part of the factory; these tanks here look to me as if they were on the Warner property—

Q. What is immediately south of the tanks—anything on the picture south of the tanks—what is it?

A. It is a chimney.

Q. On whose property is that chimney located?

A. That chimney is located on the ink factory, the Valentine and Sinclair ink factory.

Q. What have you noticed about that chimney, if anything?

A. I was down there and noticed the smoke that came out of the chimney.

Q. What color was it?

A. The color varied; one time it was kind of bluish, and another time very smoky, very heavy; then it looked as if it was a vapor.

Q. How near were you to it?

A. I have been right close to the plant.

Q. How far from the chimney?

A. Maybe ten feet away.

Q. What effect has it had on you?

A. I have felt a headache sickness from it.

Q. Right away?

A. As long as I was there—as long as I got a good breath of it.

Q. When were you there?

A. The last time I was there—I had the date—I have a memorandum.

Q. Just produce your memorandum; when did you begin to make your memorandum?

A. On January 16th of this year; on January 16th, I was standing at my store, and I smelt the odor.

Q. Where is your store?

A. On the corner of Hilliard Avenue and a lane; this was a kind of a dull day, and I walked down towards this factory—through Edgewater Place, and stood there and watched two men boiling something in pots.

Q. Do you know who the men were?

A. The two men that were boiling in the pots, I spoke to, and I said, "What do you want to do; do you want to stink us out?"

MR.McCARTER.—I object to the conversation.

A. (Continued) They did not give me any answer at all, but they called something—

Q. What happened after they called?

A. This gentleman sitting right there, Mr. Barrett, came out of a brick house, and then he went back in the house, and I walked straight away.

Q. How long did it consume that you were there?

A. I should think I stood there maybe three or four or five minutes.

Q. And they were boiling something in a vat?

A. In two round pots there; these two pots were under a shed, but the house that this gentleman was in was just a little distance from those pots.

Q. Did you make any complaint at that time?

A. I asked these men—I asked them if they were trying to stink us out.

Q. Have you any other date?

A. Yes, sir, on January 29th.

Q. What happened on that date, where were you?

A. January 29th I was between my store and the house, I presume about 12 o'clock; and this particular time I met one of their employees on the street when I was going from my house, and I asked him in regard to it; I mentioned to this employee about the smell.

Q. Did you hold any conversation with him?

A. I did not.

Q. Have you any other dates?

A. Yes, sir, February 17, about half-past ten.

Q. Is that daytime or nightime?

A. Daytime.

Q. Where were you at that time?

A. Between the store and the house.

Q. And what did you notice?

A. I noticed the smell.

Q. What kind of a smell was it?

A. A kind of smell I cannot explain—it stunk like rotten fat.

Q. Was it the same smell you had noticed on previous occasions?

A. I did not notice any difference in the smell; I have always thought it was about the same.

Q. What other dates have you?

A. March 9th.

Q. When is the next date?

A. March 25th; all day after six P. M., terrible; that must have been pretty rotten.

Q. Proceed.

A. April 1st; that was about half-past six in the

evening; April 3rd at 8 A. M.; that was the day it made me sick in the head, and dizzy—

Q. What time in the day was it?

A. About 8 A. M.; of course, these times I give you may vary—

Q. Proceed.

A. Saturday, the 11th of April.

Q. What time in the day?

A. About 4 P. M. April 14th, about half-past three; April 20th at 7:45 in the morning.

Q. How long did it continue on April 20th?

A. I think that was pretty nearly all day; I was not home all day, but I was out in my back yard, and I got it good and plenty.

Q. You are in business in Edgewater?

A. Yes, sir.

Q. What is your business?

A. Merchant tailor and gentlemen's furnishings.

Q. How long have you been in the business in Edgewater?

A. I opened on the first of July; before that, I was in business in New York with different concerns.

Q. Prior to July 1st, 1913, did you notice the odors from the ink factory?

A. Prior to that time, I was home very little. I have been a resident there for 12 or 13 years, but I have only been in this particular house for five or six years.

CROSS-EXAMINATION by Mr. McCarter:

Q. Let us see, Mr. Brock, where you live—it is the first house on Edgewater Place, north of where Mrs. Burns used to live, isn't it?

A. Yes, sir.

Q. And where is your store?

A. Around the corner of Hilliard Avenue and a lane.

Q. Now, how many times during this period that you have lived in the first house, north of the Burns house, have you been down to the plant?

A. I cannot tell you how many times in a year, but I made it my business to down there on the date that I gave you.

Q. The 16th of January, 1914?

A. Yes, sir.

Q. Now, that was the day that some men were boiling something or other in some pots out in the yard?

A. Yes, sir.

Q. And did the smell come from what they were doing?

A. It came from where they were working.

Q. How far were they from that little house?

A. The distance from me to you, I should think.

Q. Is that the only time you have been down there?

A. No, sir, I have been down before.

Q. Have you ever seen men boiling stuff in pots, except on that occasion?

A. Yes, sir.

Q. Do you know what they were boiling?

A. No, sir.

Q. You cannot say whether the smell came from that or not?

A. I can say the smell came out of that chimney.

Q. These pots did not enter into the chimney, did they?

A. I don't know about that.

Q. The pots were out of doors?

A. Yes, sir, but there might have been a connection with the chimney for all I know.

Q. Where were you that day?

A. I was near a stone wall; there is a brick wall between the two properties.

Q. Between which two properties?

A. I presume one of them is Warner's.

Q. You stood on the stone wall between the two properties?

A. Yes, sir.

Q. Was any smoke coming out of the chimney at that particular time?

A. That I cannot answer as to that particular minute.

Q. How high was the chimney above you?

A. Twice my height.

Q. You cannot say whether any smoke was coming out at that particular minute?

A. I did not notice.

Q. Now, you made a memorandum of the dates that you noticed the smell?

A. Not of all dates in particular, but I made some memorandums of some dates.

Q. How did you happen to do that; how did you happen to make the memoranda?

A. I had a reason for doing so; I figured that, as our health—living round that plant—that we should have some account taken, and when I knew Mrs. Harrigan was taking care of it, I thought it was my duty to take dates to help her along with the case.

Q. You have had business relations with Mrs. Harrigan's brother?

A. Yes, sir.

Q. Hasn't he a mortgage on your place?

A. No, sir.

Q. Didn't he have one?

A. No, sir.

Q. He never did?

A. No, sir.

Q. You are quite a friend of Mr. McGarry?

A. I am friendly with everybody that I can be.

Q. Are you thinking of starting suit for yourself, for your health?

A. I have not got the price.

Q. You said you smelt the smell on April 3rd—just the other day; were you down there?

A. On April 3rd I smelt it; I was not down—

Q. Was it the same smell?

A. The smell always seemed to me to be about the same.

Q. Was it the same character of odor?

A. I should think so; it was a sickening smell, I know that; it must have been a sickening smell when it made me sick in the head and dizzy.

Q. There are other smells in this town, are there not?

A. There might be, but not to me.

Q. You never smelled any other smells?

A. No, sir.

Q. From the Valvoline Works or the Linseed Works?

A. No, sir.

Q. Or Higgins' Dye works?

A. I have not smelt anything from Higgins' Dye Works, never in my life, with the exception of night time, when I have smelt a kind of sulphury smell.

Q. When did you move into this house on Edgewater Place?

A. Some six years ago, when it was built.

Q. There has been a good deal of building done in this neighborhood lately?

A. Not to my knowledge.

Q. Do you remember a flat house that has gone up just North of the Catholic Church on Undercliff Avenue?

A. Yes, sir.

Q. A big, double flat?

A. I think so.

Q. You look right out on it, don't you?

A. I have been round and seen it.

Q. Does not the back come out on your place?

A. No, sir.

Q. Look at this map—that is your house, isn't it? Here is Mrs. Harrigan's, and there is where that Mrs. Burns used to live; there is your place, is that right?

A. I know I am North of where Mrs. Burns lived.

Q. There is the Catholic Church?

A. Yes, sir.

Q. Now, has not that flat been built right in there?

A. I think it is over that way; I think it is somewhere over there, and I don't look out on it because there are things in between us—buildings.

Q. That is a big double apartment house, isn't it?

A. It might be so.

Q. It has gone up since this map was prepared?

A. I don't know.

Q. Have any other buildings gone up around there?

A. I don't know of any.

Q. Cannot you recall of any?

A. No, sir.

Q. Now, do you know of the public school going up down here?

A. Yes, sir, but I don't know the lines of it.

Q. Can you see the chimney that you refer to, from your house?

A. No, sir.

Q. So that times when you have smelt this smell at your house, or when you were at Edgewater Place, going from your house around to your business. you could not see the chimney at all?

A. No, sir.

Q. Where were you when you saw the atmospheric stuff coming out of the chimney?

A. I was between Mrs. Popp's house—there is a big space of ground in there, South of Mrs. Harrigan's house, and I was in between that and the factory and this chimney when I saw the smoke coming out.

Q. When you get that near you can see the chimney?

A. Yes, sir.

Q. When was that?

A. The date I cannot give you; I have seen it more than once.

Q. Well, let me look at your memorandum. (Counsel examines it). Now, no one suggested your making these?

A. I made those, as I explained to you before.

Q. I want to know if anyone suggested your making this memorandum?

A. No, sir.

Q. Now, I notice that you have a memorandum under date of April 11th; will you look at that, please?

A. Yes, sir.

Q. What is your memorandum that day?

A. 4 P. M., about all day; I made it in brief.

Q. You think, then, that it smelt all day on the 11th of April?

A. Yes, sir.

Q. No doubt about that?

A. I think it smelled all day that day.

Q. You would make these entries as you noticed the smell?

A. If I happened to be going home I would have to make it when I went back to the store, and if I went out into the street, I would have to go back in the store, but I made it on that day, and they are all correct.

Q. Now, the last date you gave is yesterday morning, April 20th?

A. Yes, sir.

Q. 7:45?

A. About that.

Q. Just as bad as ever?

A. It was the same kind of a smell.

Q. I mean, was it bad, or only—

A. I cannot explain how, the smell would vary; some days it would be a little stronger than others.

Q. Where were you when you smelled it yesterday?

A. In the rear of the house, digging up a piece of ground.

Q. You could not see the chimney?

A. No, sir.

Q. It was not quite as bad yesterday morning as other times you have noticed it?

A. I cannot say that; some days it would be lighter than others; sometimes if the weather was heavier than at other times, or if the wind blew up our way, we got it a little different.

Q. Did you notice your watch, 7:45 yesterday morning?

A. I have not got a watch, but I looked at the clock.

Q. Where was it you looked at the clock?

A. I had just left the store a few minutes, and it was a quarter to eight when I left the store.

MRS. ELLEN E. HARRIGAN recalled in her own behalf, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Have you kept dates when you have noticed the smell, since the last hearing? Since the hearing of June 10th, have you kept the dates?

A. Yes, sir.

Q. Will you produce them, please?

A. June 11th, tar, 1913.

Q. Just describe the smell on June 11th, as to whether or not it was the same smell or a different smell?

A. It smelled tarry from 11:30 until twenty minutes to two the next morning, still burning when I went to bed.

Q. Did you look at the chimney?

A. Yes, sir, I could hear it roar up the chimney from my house.

Q. Go on with the dates.

A. On Monday, the 30th of June.

Q. What smell was it then?

A. The genuine.

Q. Was it a tarry smell?

A. No, sir, that was only one day a tarry smell, the 11th of June.

Q. Proceed.

A. Tuesday, July 1st—3rd, 7th, 8th, 9th, 10th, 14th, 17th, 18th, 22nd, 23rd, 24th, 28th, 29th of

July; August 1st, Friday, 1913—the 4th, 5th, 6th, 9th, 12th, 13th, 14th, 15th, 19th; out of town from the 20th.

Q. Give us the dates you smelled it.

A. September 3rd, on Wednesday; the 4th, 8th, 13th, 16th, 18th, 22nd, 25th, 26th, 29th. October 2nd, 10th, 11th, 13th, 18th, 20th, 21st, 23rd, 27th, 28th, 29th. November 3rd, 6th, 10th, 11th, 12th, 13th, 14th, 15th, 17th, 18th, 19th, 20th, 21st, 24th, 25th, 26th. December 3rd, 4th, 5th, 8th, 9th, 10th, 11th, 12th, 13th, 15th, 16th, 17th, 18th, 19th, 29th, 30th. January, 1914, 6th, 7th, 8th, 9th, 10th, 12th, 13th, 14th, 15th, 16th, 19th, 21st, 22nd, 23rd and 30th. February 2nd, 3rd, 4th, 7th, 9th, 10th, 12th, 17th, 25th. March 4th, 5th, 7th, 9th, 10th, 13th, 14th, 18th, 19th, 21st, 23rd, 24th, 25th, 26th, 27th, 31st. April 1st, 2nd, 3rd, 4th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, Sunday; 13th, 14th, 16th, 18th, 19th, Sunday; 20th, that is yesterday, all day.

Q. Mrs. Harrigan, what do you say about the smell from the 11th of June on until the present time?

A. Just about the same. Saturday nights I got an acid.

Q. Did you see where the acid smell came from?

A. It came from there; I do not get any smells from the South but from there.

Q. How do you know it comes from there?

A. Because there is no other factory to the South of me that smells; it is not Mrs. Smith's boarding house.

Q. What have you there, Mrs. Harrigan?

A. What do you want me to tell—

Q. What different odors have you smelt after that June?

A. I got tar on the 11th of June, the day after

the first trial, from 11:30 in the morning until 20 minutes to 2 the next morning; it was still roaring out of the chimney when I lay down.

Q. What other kind of smell have you noticed?

A. I have here on the 18th of April, this month, an acid at 9:10 at night; I have on the 11th, Saturday night, at 9:15, acid, Saturday night; I have another acid here on the 14th of March, Saturday, at night, 9:15; (this is March I am talking about now). Then they gave me a change of smell or stink on the 9th of March, Monday.

Q. What was that like?

A. It was a bad stink, but it was different from the other odor.

Q. Did you see anything come out of the chimney?

A. I also get it from back of the tanks down there on Valentine and Sinclair's property.

Q. What can you see from their property?

A. I can see it fuming up from that little shed where they have those little pots; there are blue fumes back of the tank.

Q. Is it the same as it has been, the odor?

A. Yes, sir, I got the stink in as bad a form as I got it when they first started there.

Q. Does it affect you in the same way?

A. Yes, sir; I suffered from 5:20 last night until 4 o'clock this morning—all hours of the night and all hours of the day.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, turn to your memorandum, please, Mrs. Harrigan, and look at April 13th of this year, that is Monday—wasn't it?

A. On a Monday; I got that going in an automo-

bile at 7:50, on the River Road, in front of the marble yard—not in my house.

Q. You took a ride in your automobile?

A. Yes, sir.

Q. As you went past the marble yard—

A. I got that at 7:50 in the morning.

Q. How long did it last?

A. When I passed there.

Q. That is your experience on the 13th?

A. Yes, sir, Monday morning.

Q. Did you come back in the automobile?

A. Yes, sir.

Q. Did you smell it then?

A. No, sir, I did not.

Q. Well, now, you smelt it on the 12th, Easter Sunday?

A. Yes, sir.

Q. What time on Easter Sunday did you have it?

A. From ten o'clock in the morning until two o'clock in the afternoon.

Q. Same old smell?

A. A little different, an oil; not as fierce as we got it at times.

Q. But still there was a smell?

A. Yes, sir.

Q. Smoke coming out of the chimney?

A. Yes, sir.

Q. On Easter Sunday?

A. Yes, sir.

Q. No doubt about that?

A. Do I look as if I didn't have my eyesight; yes, sir, I saw it come out of the chimney Easter Sunday.

Q. Now, on the 19th of April—that is the day before yesterday?

A. That was on a Sunday; I got it in the morn-

ing, an oil smell; I saw the smoke coming out of that little chimney that day.

Q. The one that has been shown on this photograph?

A. Yes, sir.

Q. You saw it with your own eyes on Sunday?

A. I have not got anybody else's eyes.

Q. Now, there is no doubt about that either, is there, no doubt about that?

A. I answered your question once before; I told you positively yes.

Q. Now, turn to March the 14th?

A. Tuesday, all day, and back of the tanks—from the chimney and at the back of the tanks.

Q. Now, you say Tuesday—that is Saturday, isn't it? Just be a little careful; put on those specs and look again.

A. I am looking at April.

Q. I asked you to be careful. Now, look at March 14th?

A. I will look—just a minute, now; I will tell you about it; I use those specs but very little; wait a minute, and I will tell you. March 14th was on a Saturday.

Q. What did you notice that day—would you like to borrow my glasses?

A. No, sir, I think they would be a little too old for me; now, what is the date you wanted?

Q. Saturday, March 14th.

A. Back of the tanks at Cowper's at night, at 9:15, an acid; back of the house, down at Cowper's.

Q. This was not the smell from the chimney?

A. No, sir, that was back of the tanks, and the same stink.

Q. Could you see it?

A. No, sir, I did not see the pots, but I got the stink on the River Road.

Q. Whereabouts?

A. North of the stink factory.

Q. You could not see the pots?

A. No, sir.

Q. You did not see the stink pots?

A. No, sir, but I got the smell from them, though, and plenty of it.

Q. Is that the same smell that you smell every day?

A. Yes, sir.

Q. Is that the smell that you are talking about now, the smell that you say you got from the stink pots?

A. I told you I got it in the morning, down at Cowper's—

Q. I ask you if the smell that you got when you were at Cowper's is the smell that you had every day?

A. Yes, sir, the same stink.

Q. Then, the smell you get every day is from the stink pots and not from the chimney?

A. I got that that morning back of the tanks, ordering feed for my chickens, down at Cowper's, and they were not open; it came out at the side of the tanks towards Cowper's; I did not smell it in my house that day.

Q. Is that the same smell that comes from the chimney?

A. Yes, sir.

Q. So sometimes it comes from what you call the stink pots, out of doors, and sometimes it comes from the chimney?

A. Yes, sir.

Q. Can you see the tanks?

A. I can see the blue fumes, and smell it good and plenty.

Q. Now, look at your memorandum and get your glasses on—March 27th?

A. Friday.

Q. What is your history of that day?

A. All day; came home from the wake in Grand View at one o'clock at night; Friday all day, commencing in the morning; coming home from Grand View in the automobile, and I got out at Edgewater Place and Hilliard Avenue; that was at night, and there was a stink; that was the 27th, Friday, all day.

Q. Now, Friday the 27, that smell lasted all day?

A. Yes, sir.

Q. It was not very bad that day, was it?

A. I got it all day; I got the stink all day.

Q. Coming out of the chimney?

A. I did not notice, but I got the stink in my house all that day.

Q. Just as bad as ever?

A. Yes, sir.

Q. No difference?

A. No, sir.

Q. Same old stink?

A. Yes, sir, and more of it that morning when I came home.

Q. But it lasted all that day?

A. Yes, sir.

Q. Did you look over there at all?

A. I don't need to look—I get it into my house.

Q. Did you look over there?

A. Probably I did, but I don't remember.

Q. Did you see those two gentlemen there that day (indicating)?

A. No, sir.

Q. Didn't you look and see those two gentlemen there that day?

A. No, sir.

Q. Do you know that they were there?

A. No, sir.

Q. Would you be surprised to know that they were there making an examination all day that day?

A. No, sir.

Q. You still say that that day it stunk as bad as ever?

A. Yes, sir.

Q. Well, now, I judge, then, Mrs. Harrigan, that your claim is, that since you were on the witness stand the last time, and commencing with July 1st, whenever the wind blows your way you get the smell?

A. Yes, sir, and I often get it when the wind does not blow my way.

Q. So your contention is, that whenever that factory is operating, it smells?

A. When the wind blows towards Mrs. Smith, she gets all the stink.

Q. Your contention is, that whenever the factory operates it smells, and if the wind comes your way you get the smell?

A. There are days that the factory runs that I do not get the smell.

Q. (Question read).

MR. GOURLEY.—I object to that.

Q Whenever the wind blows your way, the smell comes your way?

A. No, sir, not at all times; there are days that I never get a smell from it.

Q. (BY THE COURT) Even with the wind blowing your way?

A. Yes, sir, I can give you one date when they closed down at 12:50 in the morning, when there was no smell.

FURTHER CROSS:

Q. Did you ever have to sit up all night?

A. I sat up all night with a good sick stomach.

RECESS TO 2 P. M

AFTER RECESS.

DR. SAMUEL T. HUBBARD, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you reside?

A. I reside at Hackensack, New Jersey.

Q Previous to residing there, where did you live?

A. Edgewater, New Jersey; I lived in Edgewater until the first of October, 1913.

Q. You are a practicing physician and surgeon?

A. Yes, sir.

Q. And you have been practicing in Edgewater how long?

A. Since November, 1907.

Q. You are acquainted with Mrs. Harrigan, the complainant in this suit?

A. Yes, sir.

Q Have you attended her professionaly, recently?

A. Yes, sir.

Q. State when.

A. In 1908, on the 21st of December, and in 1909 on the 7th of February; and on the 28th of August and the 8th of December; on the 29th of July, 1912, and on the 30th of July, 1912. In 1913, on June 29th, and July 8th and July 9th; August 3rd and September 13th; those are all the records I believe that I have in my books.

Q. What did you attend her for in July, 1912?

A. In July, 1912—I would rather not read off all my record; it appertains to her personal self.

THE COURT.—I will allow it to be withdrawn.

MR. McCARTER.—I do not object to its being withdrawn.

Q. Did you ever treat Mrs. Harrigan for nervousness or vomiting?

A. Yes, sir.

Q. When was that?

A. On the 30th of July, 1912, and on the 29th of July, 1912.

Q. Later than that—since then?

A. On the 9th of July, 1913.

Q. What was Mrs. Harrigan's condition?

A. And on the 13th of September, 1913.

Q. (BY THE COURT) All of those times you have treated her for vomiting?

A. Yes, sir, nausea.

FURTHER DIRECT:

Q. Do you know what the cause of that was.

MR. McCARTER.—I object; it must be hearsay.

Q. Can you tell why it was brought on, what the cause of it was?

A. In my opinion, the cause of that was the odor from the ink factory there in Edgewater.

Q. Did you notice the odor from the ink factory?

A. I did.

Q. How often have you noticed it?

A. On the 13th of September, 1913; on the 9th of July, 1913; on the 30th of June, 1913, or the 1st of July—I don't just remember that date—it was the 30th of June.

Q. Did you know where it came from?

A. On the 30th of June, when I noticed this odor, I was going to a patient's house, another patient, there on Edgewater Place, on the East side of Edgewater Place, directly back of the Sinclair and Valentine Works, and I noticed the odor there particularly—that is, more there than I had at other places on my trip from my office to this person's house.

Q. Could you see any smoke coming from the chimney?

A. No, sir, but I saw heat waves coming out of the chimney of the Sinclair and Valentine Works.

Q. Did you approach the works?

A. No nearer than on the East side of the sidewalk.

Q. About how far is that from this chimney?

A. I don't know; I am not a judge of distance; there is a vacant lot between the point where I was and the works—I imagine the depths of those building lots—that was the distance that I was away—

Q. Were you within a stone's throw of the place?

A. Yes, sir.

Q. What can you say as to the odor at the time you visited Mrs. Harrigan—at any of the times?

A. I have a note here on the 9th of July, 1913; this is as to the effect on me personally; that is on the 9th of July, 1913; I noticed the odor on the corner of Dempsey Avenue and River Road—it nauseated me slightly on Edgewater Place; and

while sitting in Mrs. Harrigan's, my head began to ache and my eyes smart; I made that under date of the 9th of July, 1913.

Q. How long did this nausea continue to Mrs. Harrigan?

A. How long it had existed before I called, I don't know, but it was present while I was there; how long it continued afterwards, I don't know.

Q. Did you prescribe for her.

A. At my last visit, September 13th, I prescribed a change of residence.

Q. What evidence was there of nausea in Mrs. Harrigan; how did she act; just describe it fully.

A. On the 9th of July, 1913, Mrs. Harrigan excused herself and I went into another room, and I heard her retching while I was there; she was crying, and had an irritation of her eyes, and those are all the notes I have made under the evidence symptoms.

Q. Do you know how long that continued on that particular day?

A. I don't know.

Q. At the different times you have treated Mrs. Harrigan, did you treat her for the same effects?

A. No, sir, not always—not for the same symptoms, I understand you to mean; not always; not on all of my visits.

Q. How many of your visits?

A. On the 9th of July, 1913, for nausea and vomiting; on the 13th of September, 1913, for nausea and vomiting; on the 30th of July, 1912—

Q. When you visited her, did you make a physical examination of her?

A. In 1912, July 30th, I found her pulse was 84 to 90, and irregular; I did not take the temperature.

Q. What would you say about her general condition of health?

A. I always had considered Mrs. Harrigan's general condition of health to be good.

Q. What was it when you first commenced to treat her for nausea, from that time on as long as you treated her?

A. When I saw her she was in a very nervous condition at those times.

Q. You say you treated her for vomiting; did she vomit in your presence?

A. As I say, on one occasion, on the 9th of July, 1913, she excused herself, and I heard her retching

CROSS-EXAMINATION by Mr. McCarter:

Q. Then, as I understand you, doctor, the only occasions out of the dates that you name, since 1908, that you visited Mrs. Harrigan professionally for nausea and vomiting, were on July 9th and September 13th, 1913, and on July 30th, 1912?

A. I believe I stated July 29th, 1912.

Q. Which of these several occasions that you have testified to, extending back to 1908, on which of these occasions did you visit her for nausea and vomiting?

A. July 29, 1912; on July 30, 1912; on July 9, 1913; September 13, 1913.

Q. Now, on July 29, 1912, and so on, which are the dates which you have just given as the occasions which you visited her for vomiting and nausea, you made some record in your book; what is the record you made that you did not want to read?

A. I thought I was allowed not to read that.

Q. State it, doctor?

A. I found that her pulse was from 84 to 90, and

irregular; she was nervous and could not sleep, and was worried, and had incontinence of urine during these attacks—

Q. Nervous attacks?

A. Yes, sir.

Q. Is that all?

A. Nausea and vomiting; I did not mention those.

Q. Have you stated all from your records?

A. At that one visit.

Q. Did you see any of these symptoms objectively, or is this what she told you?

A. She was visibly nervous.

Q. How did that manifest itself?

A. By her anxiety to make her statements, and by her general actions.

Q. Now, we will take them up in the order you name; her anxiety to make her statements, her anxiety to tell you that this odor from this factory was making her sick; is that what her anxiety was?

A. Her anxiety to state her symptoms to me.

Q. So that was one objective symptom; what else?

A. Her symptoms.

Q. What were they?

A. Her pulse, which was irregular, 84 to 90; she could not sleep.

Q. I am asking for objective symptoms.

A. She had no further objective symptoms.

Q. Only the fact that her pulse varied from 84 to 90?

A. Yes, sir.

Q. Do you know what her normal pulse is?

A. I don't recall now.

Q. And the fect that she seemed to be very anxious to tell you about her troubles?

A. Yes, sir.

Q. Now, is that all that you have on that record that you were anxious not to disclose; haven't you got something more there?

A. Under that date?

Q. Yes, under that date?

A. The only other thing I have here is the word "menopause."

Q. Does that mean an arrest in her menstrual organs?

A. So-called change of life.

Q. I don't suppose the change of life is due to any smells; that comes to every female in nature at a certain time of life?

A. I believe it does.

Q. Don't you know that?

A. I have never seen it stated to the contrary.

Q. So, isn't it true that women who are undergoing change of life are more nervous than before that period reaches them?

A. Probably all of them are.

Q. In fact, women undergoing that period of life, where life changes, are subject to all sorts of nervous variations, are they not?

A. Yes, sir.

Q. Sometimes they get melancholy?

A. Yes, sir.

Q. Who, before and after, are perfectly normal?

A. I don't know about that.

Q. Sometimes they have severe headaches?

A. Yes, sir.

Q. Or pains elsewhere, is that right—pain anywhere else in the body?

A. I don't know that it could be attributed directly to that period of life; pain in the eyes might not come from that.

Q. Sometimes they are nauseated, are they not, from change of life?

A. Yes, sir.

Q. Now, did you learn when she first experienced the early symptoms of change of life?

A. No, sir, I have no note of that.

Q. The first time you discussed it was on this July 29, 1912?

A. No—

Q. Well, my memorandum, doctor, discloses that you had not visited her between December 21, 1909, and July 29, 1912; is my memorandum wrong?

A. No.

Q. Well, had you noticed this change of life as early as December 21, 1909?

A. I find that as I recall the cause of my visit in 1908, on December 21st, that was due to a cardiac condition.

Q. I only asked you whether or not, previous to July 29, you had ever observed that Mrs. Harrigan was suffering change of life?

A. As I was going to say, undoubtedly in 1908, on December 21, her symptoms were, at that time, aggravated, or partially caused by the same condition.

Q. Well, how long does the trouble or state, which is known among us laymen as change of life, continue?

A. Over a period of years.

Q. How many years?

A. Varying in different patients—five years, perhaps longer, perhaps less.

Q. Well, at any rate, you noticed it more conspicuously on July 29, 1912, than you did in 1908 or 1909?

A. I had a note in 1912, but I did not make a note in the others.

Q. And, therefore, your answer is "Yes" to my question?

A. No, sir.

Q. Have you a distinct recollection of observing the symptoms of change of life previous to July 29, 1912?

A. Yes,

Q. You have?

A. Yes,

Q. Now, I suppose you continued to observe those symptoms when you visited her later than July 29, 1912?

A. Well, with the knowledge that those symptoms were present, and undoubtedly continuing, I had to attribute a certain amount of it to that.

Q. Now, where did you live down until last October, when you moved away from Edgewater; whereabouts in Edgewater did you live?

A. In the corner of Dempsey Avenue and River Road.

Q. And that is where with reference to the ink works?

A. That is North—on River Road—North—about directly opposite the ferry.

Q. Now, of course, you were aware that there were a great many factories and manufacturing plants in Edgewater?

A. Yes, sir.

Q. For instance, you knew the Valvoline Oil Works?

A. Yes, sir.

Q. And the Linseed Oil Works?

A. Yes, sir.

Q. And Higgins' Dye Works, and the sugar refinery?

A. Yes, sir.

Q. Now, you have, on occasions, noticed smells coming from some of those plants?

A. Yes, sir.

Q. In fact, that town is distinctively a manufacturing town, large plants of the character that I have named being there?

A. Yes and no; the Southern part of it is mainly manufacturing; from the ferry on is mainly residential.

Q. What is the name of the avenue, that goes up right from the ferry, goes right up the hill?

A. Dempsey Avenue.

Q. Now, South of that Dempsey Avenue is the manufacturing part, and North of that avenue is the dwelling part—

A. South of that is both residential and manufacturing.

Q. Do you know that the chemical works are down South, too?

A. No, sir.

Q. And some other large works down there?

A. Until you get in Shady Side.

Q. Now, Mrs. Harrigan lives in this Southern part?

A. Below Dempsey Avenue.

Q. And had there been any new buildings go up along by the Catholic Church within the past year, before you left?

A. Before I left, within the past year or two years, there were several new places on Undercliff Avenue, in the neighborhood of the Catholic Church.

Q. Can you recall what they are?

A. There were some places erected by a man named Fitchner.

Q. Where are they?

A. They are South of the Catholic Church.

Q. About opposite the ink works?

A. Yes, sir, about opposite; perhaps a little South from the ink works.

Q. And anything else?

A. There was one North of the Catholic Church.

Q. Right next to it?

A. Not right next to it; there is one being erected there now right next to it.

MR. GOURLEY.—Objected to as not cross-examination.

THE COURT.—I do not think it is cross-examination.

Q. (BY THE COURT) Are there any factories North of Dempsey Avenue?

A. No factories, no, sir.

FURTHER CROSS:

Q. Now, does your memorandum show at what time it was on July 9, 1913, that you visited her and were slightly nauseated yourself?

A. No, sir.

Q. Have you no recollection?

A. No, sir, I don't remember the time.

Q. You mean, by being slightly nauseated, that you actually vomited?

A. Nauseate and vomit are two distinct terms; they would not be considered the same.

Q. I ask you whether, when you said you were slightly nauseated, whether you vomited?

A. I said I was slightly nauseated.

Q. I ask you, not knowing anything about it, whether that means that you vomited?

A. No, sir, it does not.

Q. It means what, that you were sick at your stomach?

A. Yes, sir.

Q. Was that the only time you ever felt sick at your stomach from any cause; have you ever felt sick at your stomach on any other occasion?

A. Yes, sir.

Q. It is not an uncommon complaint—sickness of the stomach?

A. It is very uncommon with me.

Q. (BY THE COURT) How did you feel when you went to that house that 9th of July; were you well?

A. Yes, sir.

FURTHER CROSS:

Q. Doctor, when you were in Mrs. Harrigan's house, did you see the chimney on the ink works plant?

A. No, sir.

Q. I suppose she told you that the smell or odor that you experienced that day, came from the ink works?

A. She said so, yes, sir.

Q. And that was the reason you designated it as coming from the ink works?

A. No, sir.

Q. What information did you have about it yourself, other than what she had told you?

A. The fact that I had only noticed that odor, that same odor, when in the vicinity of the ink

works; and the fact that I had noticed that odor when on Edgewater Place, I believe the day before, which is the day that I remember as distinctly connecting the odor with the ink works; that was on the 30th of June, 1913.

Q. Well, I am asking you now; so that, on the 30th of June, 1913, was the first time you ever personally experienced, or saw with your eyes, or smelt with your nose, the fact that this odor came from the ink works?

A. That was the day that I satisfied myself that the odor came from the ink works.

Q. Now, you had been in Edgewater for how long previous to June 30, 1913?

A. Since November, 1907.

Q. You were there, then, sometime before the ink works came there?

A. Yes, sir.

Q. And you had smelt smells during the intervening period from the time you went there until the time you left?

A. Yes, sir.

Q. Now, you used to go by there every day, I suppose, or near by?

A. Yes, sir.

Q. Would your professional calls take you South towards this ink works every day?

A. On days I had calls I would go down that way, and if I did not have any calls, of course, I would not go.

Q. I was wondering whether that would be as often as once a day?

A. They varied considerably; I might not go down for two weeks, or a week, and then I might go down every day for several days.

Q. Now, on this particular day, the 30th of June,

when you were going along Undercliff Avenue, I understood you noticed no smoke coming out of the ink works at all?

A. I believe I stated I was going down Edgewater Place—I saw no smoke.

Q. This was in the daytime?

A. I believe it was around noon.

Q. You spoke of heat waves?

A. Yes, sir.

Q. You could discern some heat waves coming out of the chimney?

A. Yes, sir.

Q. It is true, isn't it, doctor, that one of the symptoms of change of life is incontinence of urine?

A. Not one of the universal symptoms.

Q. Isn't it a fact, that sometimes, and frequently, even, that one of the attendants or consequences of change of life is trouble with the urinary system?

A. I would be inclined to think it was not.

Q. And sometimes incontinence of urine will accompany?

A. It may accompany, yes.

Q. I suppose Mrs. Harrigan might be called a lady who is somewhat excitable by nature, isn't she?

A. I never had considered Mrs. Harrigan, from my first knowledge of her, to be a woman who was excitable.

Q. You thought she was mild and pleasant?

A. Yes, sir, I thought she was a very common-sense woman.

Q. Well, people that are sometimes excitable, are common-sense people, are they not; I am speaking now of excitability?

A. I did not consider her to be an excitable person.

Q. You had never visited her in all your life but about ten times?

A. I visited her the times I have stated; that is my professional acquaintance.

Q. Have you ever visited her house at any other time?

A. Yes, sir.

Q. For what purpose?

A. That is, the building she lives in—why, to treat families in that house where she lives.

DR. CHARLES FREDERICK BUCKLEY, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You are a practicing physician?

A. Yes, sir.

Q. Practicing at the present time in Edgewater?

A. Yes, sir.

Q. Previous to that, where did you practice?

A. In Brooklyn, N. Y.

Q. How long have you been practicing medicine?

A. Since January 1, 1899.

Q. Are you acquainted with Mrs. Harrigan, the complainant in this suit?

A. I am.

Q. Have you treated her recently at her home?

A. I have been to see her, but I never prescribed for her until yesrterday.

Q. What did you prescribe for her yesterday?

A. I prescribed for her for a very severe headache.

Q. What was her condition yesterday?

A. Her condition yesterday—her face was extremely flushed; her voice was very, very hoarse, and on one occasion she excused herself and retired to the adjoining room, and I heard her retching as if she was making an effort to vomit, and she said her head was ready to split—as she put it—that she had not slept any, and had not been able to take any food all day.

Q. On your previous visits—have you a record of the visits that you have made?

A. The first visit I made was on the 20th of November last year, 1913, in the forenoon, around between ten and noon.

Q. That was shortly after you began to practice in Edgewater; what was Mrs. Harrigan's condition on the 20th of November?

A. Before she complained to me of nausea—I had never seen her before, and, therefore, I cannot tell you whether she was acting any differently from her normal condition or not, but she was walking the floor and showing me how gray her hair had been turned by this trouble that she was in, and she complained of being very much nauseated.

Q. Your next visit?

A. That was on the 16th of December, and the same conditions obtained. The same things on the 20th of December, in the forenoon; on January 7, 1914, in the forenoon; and January 9, 1914, at ten o'clock in the evening.

Q. Now, doctor, on January 9, at ten o'clock in the evening, where were you at the time you received word to call at Mrs. Harrigan's house?

A. I was in my home, which is half a mile North of the entrance to the Fort Lee Ferry—on the River Road.

Q. What happened?

A. As I came down the road on my bicycle and turned the corner where the Casino Inn is—it is on the River Road about, maybe, 200 feet North of the ferry—I smelt a very distinct odor of burning oil, which continued to smell until I reached the patient's house, and on her porch—back porch.

Q. What was her condition at that time?

A. Practically the same as it had been on the previous visit—nervous, complaining of nausea.

Q. Did you call again after that to see Mrs. Harrigan?

A. On the 25th of March I was there.

Q. What was her condition on the 25th of March?

A. Just the same as she has always been when I saw her professionally.

Q. What time of day was it?

A. Shortly after one, possibly near two o'clock in the afternoon.

Q. Did you notice any odors at that time, doctor?

A. Yes, sir.

Q. What did you notice?

A. Well, I noticed then coming out from the chimney—which Mrs. Harrigan said belonged to the ink works—I noticed waves of heat; there was no distinct smoke to be seen, but it was as though a thin veil was being waved, heat waves, I presume they are called; and I smelt a distinct odor of burning oil.

Q. Can you describe that odor; what kind of odor is it?

A. It is to me a very irritating odor; I cannot say any more about it.

Q. What effect did it have on you?

A. I was only there five minutes; it did not affect me at all, because my stomach is not sensitive to odors.

Q. What would it irritate?

A. It would irritate my throat; if I had to breathe it for any length of time.

CROSS-EXAMINATION by Mr. McCarter:

Q. May I ask where you were graduated from?

A. From the New York College of Physicians and Surgeons, 59th Street, New York.

Q. Now, you moved to Edgewater, when?

A. The 27th of June, last year.

Q. And you live where?

A. I live at 1148 River Road—that is North of the ferry, about five-eighths of a mile.

Q. Does your practice carry you down South of Dempsey Avenue?

A. Yes, sir, sometimes.

Q. Now, there are several plants down there from which smells emanate at certain times?

A. Possibly.

Q. And you had not known Mrs. Harrigan until the 20th of November, which was your first visit?

A. Yes, sir.

Q. What objective symptoms did you observe in her on that first visit?

A. She would get up and walk around, and throw her hands, and show me her gray hair; her face would be red, and she would say—

Q. Never mind that. That is about all?

A. Yes, sir, that is about all I could see on the first visit.

Q. Now, let us take any of your other visits, and

tell us any other objective symptoms other than what she told you?

A. On January 7—I understand that the 'phone in her house is in the bath room; I heard someone dry retching over the telephone; I was not in the house; on the 20th of April, she excused herself and went into the adjoining room, and I heard her retching in an effort to vomit; I did not follow her to the bath room.

Q. So that now you have given us a full description of your objective symptoms at any time from her?

A. Yes, sir, as far as she is concerned, excepting the hoarseness of voice, which I mentioned in my direct testimony.

Q. You think, ordinarily, she has rather a mild voice?

A. I have never seen Mrs. Harrigan excepting when she was in one of those attacks of nausea and hoarseness, except on the street one day when I met her, and then her voice was not hoarse.

Q. Do you know the fact that the Valvoline Oil Works burn oil?

A. No, sir, I don't know anything about the manufacture of oils.

Q. I ask you if you know, as a matter of fact, that they do burn oil?

A. I do not.

Q. Do you know that they burn oil at the Linseed Oil Works?

A. No, sir.

Q. Do you know that the Linseed Oil Works is just a little South of the Ink Works?

A. It is South; how far I cannot say.

Q. And the Valvoline the same?

A. That is South of the ink works.

Q. What have you ever prescribed for Mrs. Harrigan?

A. Yesterday was my first prescription, which I gave her for the relief of a splitting headache, as she called it, consisting of phenacetine, 2½ grains, 1 grain of citrate of caffeine, in a capsule, to be taken one every two hours, with ice bag to her head and a mustard foot-bath.

Q. Have you prescribed for her today?

A. No, sir.

Q. Have you seen her here?

A. I have seen her in the court room, yes, sir.

DR. JOHN C. OLSEN, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Gourley:

Q. How old are you?

A. 45; I was born in 1869.

Q. What is your profession?

A. I am a chemist.

Q. Where were you educated?

A. I was educated—I had my college education at Knox College, Illinois.

Q. What degree have you taken?

A. I obtained the degree of A. B. at Knox College, and also the degree of A. M., three years later, and I took university work at the Johns Hopkins University, and at Chicago University, and received the degree of Ph. D. at the John Hopkins University in 1900.

Q. What line of professional work have you taken up?

A. I have held the position of Professor of Analytical Chemistry at the Polytechnic Institute of Brooklyn since getting my degree at the Johns Hopkins University.

Q. Are you Professor of Analytical Chemistry there now?

A. Yes, sir.

Q. And are you a chemical consulting chemist?

A. Yes, sir.

Q. And what is called Chemical Engineer?

A. Yes, sir.

Q. What line of work does that cover?

A. That covers particularly chemical processes, manufacturing processes of various kinds.

Q. Are you the author of any books on chemistry?

A. Yes, sir, I am the author of a text-book on Quantitative Chemical Analyses; I am also editor of Der Van Ostrand's Chemical Annual; and I also edit the transactions of the American Institute of Chemical Engineers.

Q. Are you a writer for magazines?

A. Yes, sir, I have published, from time to time, the results of chemical research in the various technical chemical journals.

Q. Do your studies embrace examination into linseed oils and the result of boiling linseed oil?

A. Yes, I have carried out investigations on the oxidation of linseed oil, and also the boiling of the oil and related topics.

Q. State what examination you have made, and what experiments you have made, and what information you have obtained about it in reference to linseed oil.

A. I, of course, have heated linseed oil to as-

certain the character of the fumes which are produced when the oil is heated, and I have carried out these experiments both in my laboratory, and I also carried out one experiment in my home, where I heated a little linseed oil in the laundry, and was surprised to find that the odor had passed entirely through the house, so there was a good deal of complaint made with reference to the odor which had penetrated through the various rooms of the house, and was very persistent and very disagreeable.

Q. Did you, at the request of the complainant in this case, examine the works of the defendant at Edgewater?

A. I did.

Q. There were two chemists selected by us by agreement of counsel, and you were one of the two gentlemen?

A. Yes, sir.

Q. When did you make your visit there?

A. On June 11th, 1913.

Q. Have you any memorandum made at the time to freshen your memory?

A. Yes, sir, I made a note at the time of the various observations which I made.

Q. Who was with you?

A. Dr. Charles F. McKenna.

Q. He was the other chemical expert who was to go with you?

A. Yes, sir.

Q. What time did you get there?

A. I arrived at about 10:40 in the morning.

Q. Was Dr. McKenna there at that time?

A. Yes, sir.

Q. State what you saw about the works?

A. When I reached the works I found that the kettles in the small brick building had been charged with linseed oil; that is, two of them had been filled, and that the fires had been started under these kettles; and the temperature recorded, at the time I reached the works, was 400 degrees in one kettle, and 370 degrees in the other kettle.

Q. Were these tests made for you especially?

A. As I understood the matter, this oil was being heated in the ordinary way, for the purpose of showing us how the process was carried out.

Q. Who were there at that time?

A. There were several gentlemen from the ink company; some four or five were there; I do not recall the names of the men who were there.

Q. Was Mr. Barrett, the superintendent, there?

A. I suppose I saw Mr. Barrett.

Q. Proceed.

A. I found also that an oil fire had been lighted and was burning; this oil fire projected into a brick chamber; this brick chamber was built up against the chimney; the small square chimney which has been so frequently referred to in this case.

Q. (Showing witness the small chimney near the tank) Is that the chimney to which you refer?

A. Yes, sir.

Q. Proceed.

A. This brick chamber was built against this chimney, above the kettles; and there was a galvanized iron cover over each of the kettles; and a flue extended and connected this cover with the brick chamber, into which the oil flame was burning—

Q. How many kettles were there?

A. Four.

Q. How many were in operation when you were there?

A. Two of them.

Q. Were they all the same size?

A. So fas as I could observe, yes.

Q. What was over the top of the kettles?

A. There was a galvanized iron cover.

Q. How near to the top of the kettle?

A. Of course, the edge of the cover came down so as to make a fairly tight fit with the kettle; there was no open space between the cover and the kettle; there was a small door; I could not tell you how the kettles were filled.

Q. Was the cover of the kettle raised and lowered?

A. I don't know; there was a door in the front which could be opened; in this cover above was a door which could readily be opened for observation of the oil within the kettle. The kettle was built in with brick, and a fire could be built underneath the kettle for heating the oil.

Q. How was it heated the day you were there?

A. It was heated with an ordinary coal fire; I could not say whether it was coke or coal; it might have been one or the other.

Q. What did you observe in reference to the operation of it?

A. The temperature of the oil rose gradually, and when it reached a maximum temperature, the fire was drawn so as to allow the oil to cool.

Q. What do you mean?

A. I presume it was the standard temperature, standard recognized by them. I had nothing to do with the regulation of this temperature or the fire

—that was carried out by the men who were present.

Q. When this so-called standard was attained, the fire was drawn?

A. Yes, sir.

Q. When was it withdrawn?

A. The highest temperature reached in one kettle was 560 degrees; and in the other kettle 565 degrees; there was a thermometer which projected into the oil through this metallic cover, so it was a simple matter to read the temperature on the scale of the thermometer.

Q. Then, from the top of the kettle, the fumes and gases and other things were taken into brick chambers?

A. Yes, sir.

Q. How far is the brick chamber from the kettle?

A. Two of the kettles were on one side of the chimney and two on the other side, and one of these kettles was very close to the brick chamber—perhaps, almost immediately adjoining it; and the second one was further off.

Q. How was that brick chamber sloped; was it on a slant?

A. It was a rectangular chamber.

Q. And running into the smoke stack?

A. Yes, sir, connected with the smoke stack, so far as I could see.

Q. How long was that?

A. Four and a half feet by five feet.

Q. In other words, the kettles were about four and a half feet to five feet from the chimney?

A. I should judge so.

Q. Now, then, what was there for the consump-

tion of the gases, if anything, between the kettle and the chimney?

A. This oil flame; the idea apparently was to have the fumes coming from the oil pass through this chamber; and apparently the idea was to have the fumes burn out in the chamber, being heated by the oil flame; the fumes are composed of carbon and hydrogen, which are combustible elements, and which may be oxidized, if they are raised to a suitable temperature, to carbon dioxide and water. The carbon dioxide and the water are not objectionable, and produce no difficulty in the way of breathing.

Q. Can these fumes and odors be consumed in the chamber, so that when they go into the atmosphere there is no noxious effect?

A. Do you ask that question with reference to this particular installation?

Q. No, generally.

A. It is entirely possible to oxidize or consume fumes of this kind.

Q. Did you observe when you were there what hour it was when the fire was withdrawn?

A. The fire was raked out at 11:40.

Q. That was about an hour after you arrived?

A. Yes, sir, but the temperature of the oil arose after that, because it would take some time for the brick work and the kettle and the oil to begin to cool, so that it kept rising in temperature for some time after that, until it began to cool off, and the temperature drop.

Q. Was the flame lit in the chamber when you arrived?

A. It was.

Q. What kind of flame was it?

A. It was an oil flame, a rather long flame, and burned quite vigorously.

Q. What kind of oil?

A. Crude petroleum oil, I imagine.

Q. What kind of flame?

A. It burns like a gas flame, and I should judge it might be 15 or 18 inches long.

Q. Was it from one single jet?

A. Yes, one single large jet; I could not tell you what draft was used; there was some pressure behind the flame.

Q. How wide was it across?

A. I should judge three inches in the widest part.

Q. Was it a thin sheet-like flame?

A. No, sir, it was circular.

Q. Just describe it.

Q. I think you have gotten the entire idea; it was a flame some 15 or 18 inches long and like a cone, about 3 inches in diameter.

Q. Did this project into the chamber?

A. Yes, sir.

Q. Did it go all the way across the chamber?

A. Very nearly.

Q. What was the diameter of the chamber?

A. It was difficult to measure from the inside, of course, because the chamber was closed; but it was 4½ feet on the outside; there would be the thickness of the brick work to deduct from that.

Q. What observation did you make as to offensive vapors and gases and fumes, while you were there?

A. When I reached the plant, I did not notice very much vapor, the temperature of the oil being somewhat low, but later, there developed a rather strong odor in the yard; I noticed that particularly

at about ten minutes past eleven, and a few minutes later this odor became quite irritating so that it affected the throat, and it apparently affected Dr. McKenna, as he sneezed and complained of irritation in the nose and in the throat.

MR. McCARTER.—I object to what he complained of.

THE COURT.—Strike that out.

A. (Continued) I noticed the dry feeling in the throat at 11:40.

Q. You noticed it yourself?

A. Yes, sir, I noticed this effect.

Q. Were you there at that time, when that last note was made—near the kettles?

A. The odor was noticed not only near the kettles, but also in the yard; perhaps more in the yard than inside the room where the kettles were.

Q. In the yard of the plant you mean?

A. Yes, sir.

Q. And how far away from the kettles?

A. 25 feet.

Q. You say that it was more noticeable away from the kettles than by the kettles; explain that.

A. I assumed that the draft, which was considerable, in the chimney, would draw the fumes up the chimney, but that the fumes would be blown from the chimney down into the yard; we noticed it when there was a gust of wind, for instance, that the fumes would be blown down into the yard—

Q. Were you called upon by any of the persons there, representing the complainant company, to make special note of certain conditions?

A. There was a ladder set up against the chimney, and I was invited to go up this ladder and ob-

serve for myself whether there was any odor coming out of the chimney. I accepted this invitation and climbed up this ladder, but found when I came up, that the ladder was too short, and the best I could do would be to get up about level with the top of the chimney, and I could notice no odor there; I noticed the draft of air which was passing up around the chimney, but I could get no effect whatever of any odor coming out of the chimney; I complained that the ladder was too short—that if I was to make note of the odor coming out of the chimney, I must have a bigger ladder. After awhile, a longer ladder was procured, and I succeeded in getting to the top of the chimney, so that I could hold my head over in the fumes.

Q. How high by the chimney?

A. I should judge about 30 feet.

Q. I mean how high were you above the top of the chimney?

A. I might have been—my head might have been a foot or two above the top of the chimney.

Q. Did you look down?

A. I did.

Q. Were you high enough to look down the chimney?

A. Yes, sir, and I was high enough, too, to smell the gases which came out.

Q. State what you observed?

A. There were no odors from this gas that were noticeable; they were hot gases, and they smelt no different from the gases which come from the ordinary chimney; there was a very slight odor of smoke, but no distinct or irritating odor such as I had noticed in the yard.

Q. How do you account for that?

A. When I went down from the chimney, went back into the yard, I did not notice any odors there, either, and then I went into the room where the oil was being boiled, and discussed the condition of the brick work in the box where the flame was burning; and I noticed for the first time that this brick work was red hot. I had observed it before, and the brick had not been red up to this time, but at this time the entire interior of the box was red hot, so that all the brick surfaces which I could observe were red hot; I should conclude that at that time, the temperature in this box was such that all fumes which came through the box, would be completely oxidized, and for that reason, that there would be no gases coming out of the stack, except carbon dioxide of water, which would have no irritating effects, or only very slight irritating effects.

Q. What effect would it have upon the consumption of the gases if, at the early stages of the boiling of the oil, the chamber was not heated to the degree at which you found it at that time?

A. I should conclude that if the chamber were cold or not raised to a sufficiently high temperature, that some of these gases would escape un, burnt, and the result would be that the odors would be noticed.

Q. How long would it take to heat up that chamber from the flame that you saw, to the degree of heat that existed when you were on top of the ladder?

A. I should say it would require from one to two hours to heat it up.

Q. If, then, during those one or two hours, the oil was boiling, beginning to boil, what effect would that have on the gases?

A. They would probably pass through unburned.

Q. And if they pass through unburned, would they or not be noticeable in the atmosphere?

A. They certainly would be noticeable.

Q. I think you said when you noticed the fumes in the yard, the chamber was not heated to that degree of heat when you formerly examined it?

A. Yes, sir.

Q. What method, so far as you noticed, was there used, to light the flame in the heating chamber; in other words, was it done automatically with the beginning of the fire under the kilns, or was it depending upon the workmen?

A. I did not see the lighting of this flame, and I saw no automatic device for lighting it, and to the best of my knowledge, it would have to be lighted by the operator.

MR. McCARTER.—Objected to; we cannot speculate about it.

THE COURT.—Strike that out.

Q. Speaking of the gases that escape from the burning oil, you have mentioned how many?

A. You mean from the oil that is being heated in this manner?

Q. Yes.

A. The most common gas is acrolein.

Q. Is there another gas?

A. There may be acid gases.

Q. What about carbon monoxide; it that deleterious in any way?

A. Yes, sir, very deleterious; it produces headache, and if it is inhaled in any quantity it produces death; it is a fatal gas.

Q. Is there any way of determining relatively

the proportion of carbon monoxide in burnt oil, in the fumes of burnt oil?

A. The gases can be analyzed and the amount determined.

Q. Is there any standard formula that you chemists would agree on?

A. It depends on the temperature, and other conditions, to which the oil is heated.

Q. Assuming there was no chamber used for its consumption at all, but that you analyzed the fumes or gases arising from burning oil itself?

A. I don't happen to know how much would be produced.

Q. But acrolein seems to be the special gas or vapor or fume that arises from the decomposition of oil?

A. Yes, sir.

Q. What effect has acrolein, if inhaled?

A. It has a very irritating effect, especially on the throat.

Q. How does it affect the throat?

A. It produces a dry effect in the throat.

Q. Does it affect the mucous membrane of the throat?

A. Yes, sir, it irritates it and makes it inflamed.

Q. Produces coughs?

A. Yes, sir.

Q. Would it, if inhaled in a considerable quantity, have a worse effect than that?

A. Yes, it might; the effect of acrolein and other fumes is quite variable; it depends a great deal on the individuals and on their condition; under some conditions the effect might be quite serious; while on other individuals who are not susceptible, there might be little or no effect produced.

Q. What have you to say about it being an agreeable or a disagreeable odor?

A. It is always disagreeable.

Q. Can you particularize how offensive it is—the kind of odor it is—so that the Court will have some precise knowledge of it?

A. It is a sharp pungent odor; it is difficult to describe odors; the effect is always disagreeable and always irritating, and one always wishes to get away from an odor of that kind.

Q. Can you liken it to any odor?

A. It is an odor which is noticeable whenever oils are heated in frying operations; if an oil burns on the stove, for instance, you get something similar to this odor, and acrolein is produced under those conditions.

Q. Is it offensive or not?

A. It certainly is offensive.

Q. Does it affect the health or not?

A. It surely would if one breathes it continually.

Q. Does it or not add to the comfort or discomfort of the home?

A. Well, when I performed this experiment in my own laundry, that I mentioned awhile ago in my testimony, my wife wanted to drive me out of my home for producing it.

Q. Speaking of that experiment, as long as you have mentioned it now, when was the experiment made, and how was it made?

A. It was made last summer along in June, sometime in June; it was made in the evening, about eight o'clock.

Q. And how—

A. Something like a spoonful of oil was put in a small dish, about three inches in diameter.

Q. What kind of oil was it?

A. It was linseed oil, and this dish was placed on an ordinary gas stove and heated with the gas flame, and the white fumes, or smoke, arose from the oil within a few minutes; and then, in that particular experiment, as I recall it, it caught fire because the dish was not covered.

Q. Was that noticeable at the time you were doing it, or was it later that you discovered the effect?

A. I did not notice it particularly while I was doing it, although, somewhat later I did not notice that the laundry was full of fumes, and then, when I went upstairs, I found that it had penetrated throughout the house, and that it was very persistent all the evening, and it seemed impossible to ventilate and get it out of the house.

Q. Then, if the gases are scattered in small quantities, they are more or less offensive than in volume?

A. The odor is so pronounced that they may be diluted with a great deal of air and still be obnoxious; there would have to be a very great dilution of air, in order to render them entirely free from noxious qualities.

Q. Have you had any experience to ascertain what distance in the atmosphere the odor would carry?

A. No, sir.

Q. You have spoken about the color, I think, of the fumes; what color do you find in consuming linseed oil?

MR. McCARTER.—Objected to; I don't think he has ever consumed it, so far as the evidence shows, except on this domestic occasion in his own kitchen, and the day he was

up there; now, I suppose those are the two times he has talked about; I understand those are the only two experiences he has had with it.

A. There are other occasions when I have made the fumes in the laboratory. They are a whitish fume.

Q. And if they pass through any heated atmosphere, does that change the color of the fumes, do you know?

A. It naturally would, if the temperature was high enough; it would destroy the color, and we would merely have the appearance of the heated vapors of gas, such as carbon dioxide or water.

Q. And if not heated high enough?

A. Then you would have the whitish smoke—an appearance like white smoke, if they were not passed through a heated chamber and burned.

Q. Have you found by your experience in any way, that they take on a yellow color at any time?

A. No, sir, I have not.

Q. Will you give us the degrees of heat; I think you made some memorandum at the time you made the observations on the 11th of June?

A. The temperature of the oil, at the first observation, was 400 degrees; that was at 10:40. The temperature rose until it was 547, then the fire was raked.

Q. When did you make the observation yourself—

A. This is what I am giving you—my own observation, not Dr. McKenna's.

Q. Proceed.

A. The temperature rose after the fire was raked, until it reached 560; that was at 12:45. In

the other kettle, the temperature started at 370 at 10:40, and at 1:18, it was 565.

Q. What was it at 11 o'clock?

A. Do you want all these temperatures?

Q. Yes, if you have them.

A. I have them all; I will start over again. At 10:40 the first kettle was 400; the second kettle was 370. At 10:47 the first kettle was 440, the second, 370. At 10:54, the first kettle was 460. No observation on the second kettle. At 11 o'clock, 460 degrees and 415 degrees. At 11:10, 490 degrees and 440. At 11:35—

Q. What happened, if anything, between 11:10 and 11:15?

A. There was black smoke, which was given off from the chimney—putting fresh coke on the fire.

Q. Was there any odor at that time?

A. I have no record of odor at that time. Then at 11:35, 537 degrees and 500 degrees. At 11:40, 547 degrees and 512. The first was raked out at that point.

Q. Under both kettles, or only under one?

A. Under the first kettle.

Q. Was there any odor at that time?

A. Yes, sir, there was an odor noticed in the yard—a distinct odor in the yard.

Q. What effect had that odor?

A. Dryness of the throat. Then at 11:46, 550 degrees and 525. At 11:51, 553 degrees and 536. At 12:05, 555 in each kettle. The bricks were then red hot. At 12:23, 557 degrees and 560. At 12:45, 560 degrees and 562. At 1:18, 558 degrees and 565.

Q. Did you notice immediately over the kettle, whether there was any effect or not during this examination?

A. One of the workmen put his head in this opening above the kettle and held it there for, I believe, some 45 seconds, and I was told that this was evidence—I was told that this showed that the odor, or the fumes, were not very bad. I expressed a desire to repeat this experiment, and I did so, and I put my head in this opening; apparently directly in the fumes coming from the boiling oil; I found that it was not a particularly uncomfortable experience; I did not smell any particular odors, but I noticed that immediately under my face, that there was a current of fresh air being drawn in; so that, while I was apparently holding my nose in the odors, I was really, more or less, holding my nose in this current of fresh air which was being drawn in by the suction in the chimney which was aided by the fire, the oil flame which was burning in the box. When I had held my head there long enough to make this observation, I took it out, and then I noticed that a little of the fumes tended occasionally to come out of the opening in the door, and I smelt those—the white smoke that was coming out; and I found that exceedingly irritating and disagreeable; so that I convinced myself that the fumes, which actually came from the boiling oil, were disagreeable and irritating.

Q. Doctor, what is carbon dioxide?

A. It is a gas composed of two elements, carbon and oxygen, and the proportions of carbon and oxygen are 12 to 32.

Q. In some destructor plants they have a register of the carbon dioxide in the chimney?

A. Yes, sir.

Q. Is there any practical way that you know of, by which these particular gases can be registered, whether consumed or not?

A. I think the nose is by far the best test of these particular gases; if you cannot detect them by he odor or by the throat, then they would not be there in quantities sufficient to be obnoxious; and I should not use any other test except that.

Q. Do you know that in destructor plants they use the heat from 1,500 to 2,000 degrees Fahrenheit?

A. Yes, sir, I have seen such plants.

Q. Are you familiar with the Heenan destructor?

A. I don't recall that particular name, but the plants which I have seen operated had a high temperature, and in that way garbage is completely burned.

Q. (BY THE COURT) When you were standing in the yard, did it have any effect on you other than to irritate your throat?

A. It affected my throat more than anything else; it was more noticeable in my case in my throat; of course, chemists are used to odors and we don't notice them as much as laymen would.

CROSS-EXAMINATION by Mr. McCarter:

Q. Doctor Olsen, have you ever had any practical work in your consultations, or other chemical experience, in the treatment of linseed oil—practically?

A. I cannot recall that I have, no.

Q. And as a matter of fact, have you ever, except on the occasion of the visit to the factory on June 11th of last year, and on the two occasions where you had your laboratory in your own residence, have you ever undertook to make an ex-

periment in burning linseed oil, have you ever had any personal experience with it?

A. With linseed oil?

Q. Yes, burning.

A. I don't consider either of those cases as burning.

Q. Well, whatever your language was?

A. No, I cannot say that I have.

Q. When did the two experiments, the one in your laboratory, and in your residence, respectively, take place, with regard to June 11th?

A. Both afterwards.

Q. In other words, having visited the plant, and having had the experience that you have detailed, you then thought you would try your hand in boiling linseed oil, and you did so once in the laboratory, and once in your house?

A. I did not say I did so once in the laboratory.

Q. Well, how many times in the laboratory?

A. I boiled it several times in the laboratory.

Q. On more than one day?

A. Yes, sir.

Q. How did you boil it in the laboratory?

A. In an open dish, and in a retort.

Q. But both of those occasions were after your visit to the plant?

A. Yes, sir.

Q. You had never been in a manufacturing plant before, where linseed oil was, in fact, boiled?

A. I have been in varnish factories.

Q. You are not answering my question. (Question read).

A. Yes, sir.

Q. Where?

A. In Brooklyn.

Q. And disagreeable odor there?

A. Not that I noticed.

Q. Did you observe what arrangements they had in that Brooklyn plant to dispose of the disagreeable odor that would naturally come from boiling in linseed oil?

A. They had a hood over the kettle—passed out through the roof; I did not notice whether there was any method of destroying the fumes or not.

Q. You found no artificial arrangement such as was found in this plant?

A. I did not notice any.

Q. Did you notice any disagreeable odor in the Brooklyn plant?

A. I cannot recall.

Q. When was this visit?

A. Five or six years ago.

Q. You cannot say now, whether they had any artificial arrangement otherwise than a hood connecting with the stack?

A. I noticed a hood connecting with a stack.

Q. You have no recollection of any disagreeable odor at all coming from it?

A. It would not make any impression on me.

Q. Now, in order to make the product that is made in the factory or ink works at Edgewater, it is necessary to boil linseed oil, isn't it?

A. Undoubtedly.

Q. And I understand you to say, that the conclusion you reached was, after your ascent to the top of the chimney, that the situation was such at that time that there was no perceptible odor, with your nose right in the top of the chimney?

A. Yes, sir, at that time.

Q. So, if there had been any acrolein escaping from the top of the chimney at that time, you would, of course, have noticed it?

A. I think so.

Q. So that something had happened to the acrolein, which is vaporized when linseed oil is boiled, between the place of boiling and the top of the chimney?

A. I should think so.

Q. Now, normally, when linseed oil is boiled, the only vapor that goes off that is offensive, is this acrolein, isn't it?

A. I would not say so; I have not investigated that part of it.

Q. Do you know of any other thing now that normally goes off from burning linseed oil, except acrolein, that is offensive?

A. It loses about 16 per cent. of weight—

Q. Now, doctor, answer my questions as well as you can; what other offensive vapor of effluvium goes off, to your knowledge, from the boiling of linseed oil, besides this acrolein?

A. Besides this acrolein—I cannot name any other.

Q. So that if the acrolein is disposed of by oxidation, then at the present time you can name no other offensive or deleterious vapor that goes from the boiling of linseed oil?

A. No, sir, but there may be others.

Q. You don't know of any, with all your learning?

A. No, sir; if I thought it worth while I would look into it.

Q. (BY THE COURT) You don't know of any others?

A. No, sir, but I think, probably, there are others.

FURTHER CROSS:

Q. At what temperature will acrolein pulverize from the boiling of linseed oil?

A. I could not give you that temperature.

Q. That is a very important element in this question, isn't it, doctor?

A. I don't know that it makes much difference what you call the offensive stuff, as long as it comes off.

Q. What temperature does it come off?

A. I don't know.

Q. I ask you if the temperature at which it does come off is an important fact?

A. No, sir, I don't think so.

Q. Why do you say that?

A. I think the important thing here is, that odors do come off in the boiling of that oil; it does not make any difference what they are.

Q. But if the temperature, if the acrolein won't come off until a certain degree of temperature is reached, which degree of temperature will itself be sufficient to ignite and take care of the acrolein, then why isn't it important?

A. That is too theoretical, absolutely; I will stick to the facts that I have observed.

Q. Now, your observation is limited to those three times?

A. Yes. sir.

Q. Now, at the time that you came back into the yard, at least then there was a complete destruction or oxidation of the air, wasn't there?

A. At what time do you speak of?

Q. When you come back from the chimney?

A. I came back twice.

Q. The second time?

A. After the second time I did not notice odors in the yard when I came back.

Q. That meant, then, that the oxidation of the air was complete?

A. Yes, sir.

Q. So that the plan for disposing was evidently successfully working?

A. Yes, sir, just then.

Q. How long were you in the plant, all told?

A. From 10:40 to 1:18; that is the last observation.

Q. How much of that time did you notice any smell from acrolein?

A. My first observation was ten minutes after eleven.

Q. Your first observation of an odor in the yard?

A. Of an odor in the yard.

Q. The first one you have spoken of, according to my notes, on your direct examination, was at 11:40?

A. Well, there was an observation at 11:10: "Strong odor in the yard."

Q. Odor of what?

A. I am not identifying this odor.

Q. You don't pretend to say that that odor that you noticed in the yard was the odor of acrolein?

A. I say it resembled acrolein.

Q. Resembled what you afterwards found in your house?

A. Oh, yes.

Q. That is your reason for saying it?

A. That is one reason.

Q. Had you ever smelled it before?

A. Smelled acrolein?

Q. Yes.

A. Oh, yes.

Q. Then you knew it, didn't you?

A. To absolutely identify a substance by the odor and positively say that is what it is, is a little difficult.

Q. Now, you say you noticed an odor which resembled acrolein at 11:10?

A. Yes, sir.

Q. How long did that persist, that odor?

A. I did not keep a record how long—not as to the length of its duration. I have an observation again at 11:45—irritating odor in the air.

Q. Proceed.

A. I have another observation at 11:40.

Q. Yes.

A. I have an observation at 12:05: "No odor," on returning from the chimney.

Q. Now, those are all your observations, are they not?

A. Yes, sir.

Q. And you were in the plant continuously from 10:40 to 1:18?

A. I was in the yard and in the building, and around the surrounding section, here and there and everywhere; I was sometimes to windward and sometimes on the leeward side.

Q. How was the wind that day?

A. I don't know directions very well in that section.

Q. Now, please tell us at what temperature acrolein will take fire?

A. No, sir, I have not that figure in my mind.

Q. Has it occurred to you that that was an important figure to learn?

A. I don't think it is important, no, sir.

Q. If it does take fire, then it is oxidized, isn't it?

A. It probably would be, yes.

Q. Why not say so; that is what consumption means?

A. It might not be completely oxidized.

Q. But under normal conditions, when acrolein takes fire, it becomes oxidized and disappears into some other chemical substance?

A. That depends on conditions. In order to have complete combustion, you have to have a definite mixture of acrolein with the air; if you dilute it too much, the acrolein won't burn.

Q. I am asking you the question, at what temperature will acrolein take fire?

A. I told you I don't know.

Q. Well, will it take fire at 400 degrees?

A. I could not tell you.

Q. Will it take fire at 390 degrees?

A. I don't know.

Q. 547 degrees?

A. I don't know.

Q. It never occurred to you?

A. No, sir.

Q. And yet the fact is, that it does take fire, and it disappears into some other chemical substance?

A. If conditions are quite right.

Q. Then the stench would disappear?

A. If you burn it completely, yes, sir.

Q. Doctor, there are methods, are not there, by which the air or vapors coming out of that chimney, could have been caught and analyzed?

A. Yes, sir.

Q. You did not do that?

A. No, sir.

Q. Now, suppose you had done that and had made an analyses and had found 2 per cent. of carbon dioxide, 18½ per cent. of oxygen, and no

carbon monoxide, would you say that the combustion had been fairly complete?

A. It might and it might not.

Q. Do you think that is an answer?

A. That is an absolutely correct answer.

Q. How near did your nose get to this boiling linseed oil at the time you put it near the little door?

A. In through the door.

Q. And when you had it inside the door, you were right over the boiling oil?

A. Probably, I was within a foot of the boiling oil itself.

Q. Well, this gentleman who sits on my right, Doctor Rogers, was there that day?

A. Yes, sir.

Q. Do you know Dr. Rogers?

A. Yes, sir, we are good friends.

Q. Did you notice any varnish smell that day?

A. I don't recall any.

RE-DIRECT EXAMINATION by Mr. Gourley:

Q. Doctor Olsen, if the acrolein arising from the decomposition of linseed oil was imperfect—if the combustion in the chamber was imperfect, would there be another gas created?

A. There might be.

Q. Would not the acrolein itself escape if the combustion in the chamber was imperfect?

A. Yes, sir, it would be very likely to.

Q. Would you find in such case, or not, carbon monoxide?

MR. McCARTER.—Objected to as leading.

A. In the case of incomplete combustion, carbon monoxide is very likely to form.

Q. If there was not sufficient oxygen draft in the chamber, would that or not affect that combustion?

A. There are two causes which affect combustion; if you wish complete combustion, you must not only have a sufficient amount of oxygen, but you must also have a suitable temperature; if the temperature is too low on any portion of the burning mixture, there may be incomplete combustion, even though there is a sufficient or an insufficient amount of oxygen.

Q. Could there be a very high temperature without oxygen?

A. Yes, sir, there could.

Adjourned to April 22, 1914.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on Wednesday, the twenty-second day of April, 1914, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances as heretofore noted.

DR. CHARLES F. McKENNA, sworn in behalf of the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Gourley:

Q. Doctor, what is your profession?

A. That of a chemical and chemical engineer. I studied at the School of Mines of Columbia College, New York City; I was graduated in 1883.

Q. And from there, what course did you follow?

A. I served as chemist to various corporations in the course of years. I received my doctor's degree at Columbia in 1894—Doctor of Philosophy, —and after a number of years' practice as a chemist,

in various branches of technology, I entered the business of consulting chemist and chemist's chemical engineer, which I have practiced for twenty years past; my place of business is 50 Church Street, New York City.

Q. Have you had occasion as chemist to have any experience with white lead or zinc white—

A. Yes, sir.

Q. In what way?

A. I was chemist to the Bradley White Company, Brooklyn, and also to the Passaic Zinc Company, manufacturing zinc oxide.

Q. Have you had any occasion to experiment with linseed oil?

A. Yes, sir, as material for varnish making.

Q. Have you made analyses of those oils?

A. Tests and analyses of them.

Q. What form of linseed oil; in what way, I mean, for what purpose?

A. For the suitability as paint, oils and purity.

Q. Are you connected with the American Chemical Society?

A. I am a member of the society.

Q. Have you been other than that?

A. I was an officer for many years; I was chairman of the New York section of that society.

Q. Have you had anything to do with the State Factory department?

A. I was retained by them to make an investigation of the conditions surrounding chemical works and technical establishments, as regards the health of the workmen, and, incidentally, the nuisance to neighborhoods.

Q. What time did you spend at that?

A. About six or eight months.

Q. Were you requested, at the suggestion of

counsel for the complainant in this case, to visit the factory of the defendant?

A. Yes, sir.

Q. You were one of the two chemists that were agreed upon by counsel to visit the place and make an investigation?

A. Yes, sir.

Q. Did you do that?

A. Yes, sir.

Q. With whom?

A. With Dr. John C. Olsen, of the Brooklyn Polytechnic.

Q. When?

A. On June 11th last, 1913.

Q. At their place at Edgewater?

A. At and surrounding the factory of the defendant at Edgewater, New Jersey.

Q. That date was agreed upon between you and the officers of the company?

A. Yes, sir.

Q. When did you arrive there, and what observations did you make?

A. I arrived there at a little after 8:30 on that morning, and was courteously received by Mr. Barrett, I think, representing the company; I was shown the oil boiling shed, and all the conditions as regards the fires they use; the disposition of the tanks of oil over the fire; the attempt to dispose of the fumes, and the relations of the stack to the fire and kettle apparatus.

Q. Was this pointed out to you, or is this the result of your observation?

A. Most of the surroundings were pointed out to me, and my observations were fairly complete, I think, in the details.

Q. In what kind of shed or cover were the kettles?

A. It is partly a brick walled structure, not over 15 feet in height, and having very large glass doors in the front, and an iron roof; the building is 35 feet long and 22 feet from front to rear wall.

Q. How many kettles were in that building?

A. Four kettles.

Q. The remainder part of the room is used for what?

A. There is very little use for anything in the major part of the room.

Q. What were these kettles made of?

A. I presume they were made of cast iron.

Q. Were they fixed in their brick work?

A. Yes, sir.

Q. And at the time you were there, was any fire applied to the kettles?

A. The fire was started at my request, being ready for it.

Q. The fire was not burning when you arrived?

A. No, sir, it was started under two kettles.

Q. You mean before you arrived?

A. No, sir, after I arrived.

Q. What covering had the kettles?

A. There is a sheet metal hood, about 25 to 30 inches high, erected over each one of the pots, and connected by a large sheet metal conduit, which runs to a brick chamber erected over the main furnaces; this brick chamber was closed. Its exact interior construction was not observable; it was about five feet over all on the outside in one direction, and about four feet square in the base.

Q. How high was it?

A. It was about 4½ feet high.

Q. Where did it enter the stack?

A. It was at the base of the stack and connected obviously directly with it; these conduit tubes running from the kettle covers, ran into this brick chamber; in the face of the brick chamber was an iron plate, perforated with a small hole, through which a pipe entered, connected with valves, and said and believed by me to be operated by compressed air passing through the pipe at the same time that a fuel oil was fed to it; when this was lighted, I could see the flame, and could see its intensity; the valve was opened and shut by the operator.

Q. How was the top of the hood connected with the conduit?

A. By a conduit pipe of large dimensions, about 12 inches or more.

Q. Was that set permanently on the kettle lid?

A. It could be raised from the kettle.

Q. What was the maximum?

A. I have forgotten that.

Q. Was it an important or unimportant part of this problem?

A. The arrangement, if it was to be perfect, was certainly very important that it should be controlled.

Q. What charge of oil was in the kettle; did you see it?

A. It appeared to be and was said to be about 300 gallons; something like six barrels.

Q. How many barrels of oil would the kettle hold?

A. That is what it would hold, six barrels.

Q. How was the oil put in the kettle; was that done while you were there?

A. No, sir.

Q. What method was observed for that purpose?

A. I think it was filled by a passage through a pipe opening into the kettle. It may be filled by merely dumping the oil into the top of the kettle, but I think it was done by pipe.

Q. How near to the top of the kettle was the charge when the fire was ignited?

A. I think it was something like twelve inches.

Q. Was that so of the other kettle?

A. Yes, sir.

Q. Later, were the four boilers going?

A. No, sir.

Q. Only two while you were there?

A. Yes, sir.

Q. Was there any evidence of the other two being operated at all?

A. No, sir.

Q. You mean while you were there?

A. Yes, sir.

Q. Very well, then, you may go on and state the progress of the fire after the fire was ignited.

A. May I refer to my notes?

Q. Yes, if they were made at the time.

A. Yes, they were made at the time. At 54 minutes after 8, these two fires were started with kindling, and naturally, the smoke was heavy and black from the chimney. Three minutes later, a charge of coke was put on the fire, and the smoke still showed quite black.

Q. What was the fire originally, coal or coke?

A. This is a coke fire they are starting.

Q. Did it have any wood?

A. No, sir.

Q. How did they light the fire?

A. I think it was oiled rigs, if my memory serves

me. At 8:58 the smoke from the chimney began to be light grey. At 9 o'clock it was very voluminous, heavy and grey. At 9:10, not so voluminous. At 9:15 the smoke was very thin, and both fires were good. At 9:20 the smoke was almost invisible—the heat waves, of course, showing the passage of gases. At 9:56, the first odor, suggestive of hot linseed oil, was observed by me.

Q. How and where?

A. In and about the top of the building, but at the base of the stack, outside; by walking up the retaining wall at the side, we could reach the level of the terrace, which was about the level of the roof of the building we are speaking of; and from that roof level this stack, about 25 or 35 feet high, arose, and at the base of that stack, in walking all about there, there was an odor; at that stage it was offensive.

Q. Proceed.

A. At 10 o'clock the temperature showed on the thermometer in the kettle 265 degrees; in the case of the temperatures I give here, they are within one or two or three degrees for each observation of the two kettles; I walked from one to the other, and the temperature was rising, and when I set down 265 degrees Fahrenheit, that means within from one to five degrees, observable at one or the other of the kettles.

Q. Were these your thermometers or theirs?

A. Their thermometers.

Q. You are giving what was registered by their thermometers?

A. Yes, sir; I smelled traces of oil. At 10:12 the temperature being 295 degrees Fahrenheit, the oil flame was started by this compressed air and oil

admission, in what I would call the disposal chamber.

Q. Where was that?

A. This is the square brick erection entirely enclosed—erected upon the furnaces at the central line; and having admission by the 10 inch middle pipe from the hood over the tops of the kettles; and having its exit into the stack at the base.

Q. Where does the oil flame attack it?

A. It is 10 or 12 inches long from the immediate face of this iron plate, and consequently, the oil flame can project about one-third, I should say, into the line of the depth of the brick chamber. Of course, the entire area of the flame could be noticed.

Q. How many feet was that flame from the kettle?

A. About eight feet.

Q. Now, then, what was the length of the flame, did you say?

A. 10 or 12 inches.

Q. Was it a sheet of flame?

A. It was a cone of flame; it had a circular cross-section, at any rate, and conical at its extreme end.

Q. The interior of the chamber was how wide, do you say?

A. It probably was 28 or 30 inches.

Q. Square, do you mean?

A. Yes, sir, it was almost cubical. At 10:20 the temperature was 325 degrees Fahrenheit. At 10:30 the fires were recoked, but the change in smoke appearances at the top of the chimney was not visible. At 10:35 the temperature was 385 degrees Fahrenheit; there were odors in the boiling house. At 10:45 I went out and up to the top; I detected odors and had a suggestion of headache.

Q. Where were you at that time?

A. In and about the base of the stack and down at the yard; moving about. At 11 o'clock, I climbed to the top of the terrace, back of the building, and returned.

Q. What did you discover there?

A. I have no note. At 11:02 the temperature in the kettles was 425 degrees. At 11:05 my eyes were smarting.

Q. Where were you at 11:05 when your eyes were smarting?

A. I don't recollect that.

Q. You were on the property?

A. Yes. At 11:07 I detected a fish oil odor.

Q. What consequence had that?

A. The heating of linseed oil, the heating of some oil. At 11:10 the fires were recoked and there was some smoke. At 11:15, at a corner of the storeroom in the yard, to the Southeast of the boiling room, I felt smarting of my eyes quite decidedly, and I sneezed.

Q. Did you take any further observations with a watch?

A. No; for the remainder of the time that I was there, I moved in and about the premises above and below.

Q. Did you go over to Mrs. Harrigan's house—as far as that—or in that neighborhood?

A. Only about 50 yards away.

Q. Did you go down to the River Road?

A. Yes, sir.

Q. How did you come back?

A. I went to the River Road on my way back to the ferry.

Q. Did you find any effect of the fumes in the stack?

A. I was suffering from a headache such as is caused by such effluvia, and did detect, close to the River Road, just before merging from the factory gate, decided odors of heated oil.

Q. Were they offensive or inoffensive; were they unpleasant odors or pleasant?

A. They were unpleasant.

Q. You spoke about a headache; how long did that continue?

A. That continued for an hour or thereabouts.

Q. What time did you leave the place?

A. About 12:15, I think.

Q. Was Dr. Olsen with you each step you made?

A. I was there before him, and after his arrival we were at times together, and at times we were independently moving about, separately.

Q. Did you take at any time, the different temperatures of the two kettles?

A. Yes, sir.

Q. Did they vary?

A. The temperatures were constantly varying; an observation made one minute would have to be supplemented the next minute.

Q. Dr. Olsen gave us the temperatures of both kettles?

A. They varied in that respect; I only took the average.

Q. Now, is there a place outside this boiling room, where movable kettles are used?

A. Yes, there are varnish fires in the yard, open.

Q. Tell the Court what you mean by varnish fires in the yard?

A. Those are low open fires, started below kettles containing oil or varnish gums, or oil and varnish gums.

Q. What is the effect of that?

A. If they were operated, you would have a free passage, into the air, of the fumes.

Q. In other words, if they were operated, would there be acrolein rise in the air?

A. If the temperatures were high enough, decidedly so.

Q. What temperature would you say would be high enough in those open pots to cause discharge of acrolein—approximately?

MR. McCARTER.—This bill is not based on any theory except the emissions of odors from the chimney, from the plant that leads to this chimney; now, I take it, therefore, as a fact, that if there are varnish vats or pots in the yard which may or may not be used, is outside this case.

THE COURT.—Is not the bill broad enough—

MR. McCARTER.—No, sir, the fact that they maintain in this place and emit from the chimney and the building—

THE COURT.—No charge that they maintain it upon the premises?

MR. McCARTER.—No.

THE COURT.—Of course, you should be apprised. Of course, a great deal of proof has already been taken on the point that there were vats—outside the bill—from which the odors were emitted; and there is cross-examination based on it, and this is only cumulative, I suppose, practically; if the bill does not cover it sufficiently, I suppose we can entertain an application, so that you may be apprised.

MR. McCARTER.—I want to know whether the bill is based on the permanent purpose of it, that is, in this brick building, which is designed to dispose of and boil linseed oil, which they complain of in the bill; or whether the fact, that on one occasion varnish has been boiled in the yard; or whether the fact that a dog went in there and created a nuisance; or whether the fact that this place now and then smells from any cause—if we are here to meet that, let us know it. My point is this, that your bill is framed entirely upon the theory that coming out of this chimney are soot and vapors, and smoke, and a vile stench that settles down on this community and creates a smell; now, I thought it was important to show, that on one of the days that she had the smell, it was from some open vats that were burning in the yard. We think that this bill, if they are going to make a claim that the nuisance is not confined to the apparatus for disposing of the boiling linseed oil, if they are going to claim that, then they should amend their bill and we should have a chance to meet that issue. I don't think this bill is broad enough in its present form to base an injunction upon any kind of a smell that might emanate from this place; that the bill has to be amended, if they say that on general principles this mill of the defendant company is a smelly place. The gravamen of the bill is, that the stench that they complain of, comes from the chimney. Now, we are prepared to meet that.

MR. GOURLEY.—(Reading the bill).

MR. McCARTER.—It is one thing to come

here prepared to meet the question that Professor Olsen spoke of yesterday, of the proper disposition of acrolein that goes off from burning linseed oil, and another thing to meet a case arising from the burning or boiling of varnish in the yard; there is not a suggestion in the bill, from beginning to end about the yard. Now, they are trying to show what would happen—not what did happen, when this gentleman was there—what would happen if, under certain conditions, varnish were boiled in open vats in the yard; and whether acrolein, under certain circumstances, would go off from that.

THE COURT.—I do not assume, Mr. McCarter, that the complainant relies entirely upon the fact of the emission of the fumes from these outside operations at all; I think the testimony here indicates that they are dwelling largely upon the fact that these fumes come from the chimney, and this is merely incidental proof that they are offering here, and I think you are quite sufficiently apprised of the fact now, and, of course, the Court will deal with it later, in case it is necessary to reform—

MR. McCARTER.—I think we are entitled to take the complaint as it is finally to be made out in black and white.

THE COURT.—I will allow the question.

Q (Question read).

A. At 330 degrees Fahrenheit.

Q. Now, what did you observe there as to these open pots; how many places were there?

A. There were at least two.

Q. What was there under the pot?

A. A substantial concrete construction for a fireplace.

Q. Do you mean in the base?

A. Yes, sir.

Q. Were these portable pots?

A. Yes, sir.

Q. What did the pots rest on?

A. On trucks.

Q. So they could be wheeled backwards and forwards?

A. Yes, sir.

Q. Was there any cover over this place?

A. My recollection does not serve me at the moment; I have a vague impression of a very light shed, posts or standards for a shed.

Q. And how near were these pots to the small brick house?

A. 10 or 12 feet away.

Q. On the same side of the yard?

A. On the North side of the property.

Q. When you walk from these buildings where the oil vats were—

A. When coming out of the building where the fixed kettles were and going up to the terraced part, you would pass the varnish kettles.

Q. In passing from the little brick structure on which the kettles were, were the open kettles as far away as from me to you?

A. A very little more than that.

MR. GOURLEY.—How many feet is that, Mr. McCarter.

THE COURT.—That is pretty good.

Q. Now, doctor, what is acrolein?

A. Acrolein is the product of the decomposition of fats.

Q. Is that peculiar to linseed oil, or does it arise from any oil?

A. It arises from any fat which is a compound of a fatty acid and glycerine.

Q. In reference to linseed oil?

A. Linseed oil is a complex compound, and contains such components that glycerine can be obtained therefrom, and that on heating, an imperfect combustion produces acrolein.

Q. Do you know what purpose this oil is being boiled for—the business that they are engaged in?

A. I learned it from them, and it bears many evidences of the fact, that it is the printing ink manufacture.

Q. With that in view, is the boiling of linseed oil the first process towards that result?

A. It is the first process.

Q. Describe the process, then.

A. Printing ink is made primarily in its simplest forms by changing linseed oil by means of heat, at about 500 degrees Fahrenheit, more or less, to a mixture of new compounds called chemically polymers, and incorporating with this more condensed product, fine pigments in particular, and most largely a lamp black.

Q. Any resin used?

A. At times.

Q. In the boiling, what is the process, when is the lamp black—

A. That is the milling process which follows.

Q. The offensive odors that arise from it, does that come entirely from boiling or not?

A. Yes, sir, the materials are innoxious therein

when cool, and not productive of such a nuisance as bad odors.

Q. Well, to get the best effects for the printing ink, how high is it necessary to raise the heat to?

A. I cannot, without reference to my notes or authorities, give it other than as approximately 520 degrees Fahrenheit.

Q. You may look at what authorities you have.

MR. McCARTER.—I don't understand that an expert can bring text-books in; the theory of an expert to help the Court in a case of this kind, is, that a man of sufficient experience can come here and say so and so is the fact; and if counsel on the other side think that his views are not correct, they can confront him with authorities that seem to look otherwise; but I don't think it is proper to ask an expert to read from text-books.

THE COURT.—He says there is a figure.

THE WITNESS.—I am very close to it when I say 520 degrees Fahrenheit, but I do not pretend to be absolutely correct.

Q. (BY THE COURT) Now, by refreshing your memory by the authority, what is the figure?

A. Any temperature between 515 and 715 degrees Fahrenheit will thicken the oil; 525 is the figure I gave, which I believe, myself, is adequate.

FURTHER DIRECT:

Q. Those later figures are taken by you from your book which you have used for the purpose of giving that statement?

A. Yes.

Q. (BY THE COURT) You might name the book.

A. It is the work on "German Varnish Making," by Professor Max Bottler, translation by A. H. Sabin, Consulting Chemist, National Lead Company, published in New York by Wiley, 1912.

FURTHER DIRECT:

Q. I think you say that at a temperature of 300 —am I right—the acrolein was discharged or rose from the burning oil?

A. At 330, strong odors are observable from heated oil.

Q. Have you any practical knowledge, aside from the history that you gave us of the burning on this day, how long it would take under the space of fire—under the proper fire—under the kettles, before that particular plant would be heated to the 325 degrees?

A. I believe it would take only one hour.

MR. McCARTER.—I move that the answer be stricken out; the question is whether he had any experience besides this particular day.

THE WITNESS.—I answered the word "yes" first.

Q. And that time would be one hour?

A. Yes, sir.

Q. What effect, doctor, upon the consumption of the acrolein was there, in case the walls of the chamber were not heated red?

A. Two things are possible—one is, that quantities of the acrolein could pass out undecomposed

in the fumes; a second possibility is, that imperfect combustion of the acrolein could take place—deposit carbon, and if this was heated, succeeding portions of the product of perfect combustion, as carbon dioxide, could be partially turned into carbon monoxide.

Q. What effect has carbon monoxide upon an individual?

A. If inhaled without dilution, it is immediately poisonous, with fatal results.

Q. If in less degree than that?

A. It is a good producer of headache.

Q. Supose there was not sufficient air admitted into this heat chamber, what effect would that have?

A. The oil would burn with a smoky flame, and the acrolein would discharge partly consumed with the smoke.

Q. What effect has the soot on the walls of the heated chamber, upon the suit pending?

A. No, effect, unless it was hot, in which case it would react with the carbon dioxide to form the monoxide.

Q. When you speak of the bricks being red hot, do you mean the bricks on the inside of the chamber?

A. Yes, sir.

Q. In other words, the sides of the bricks facing the chamber inside, were red hot?

A. Yes, sir.

Q. Is this flame used merely for heating purposes, to heat the side walls of the chamber, so that the fumes in passing through the heated chamber—coming in contact with the side walls, cause the destruction of the acrolein; or is that done by the flame itself?

A. It ought to have been designed as you describe—that is, that the flame should heat to an intense heat the walls; but I think there has been a misapprehension of the condition, and that the design and construction are not adequate for the purpose intended, namely, of complete combustion and disposition to innoxious fumes of the acrolein fumes.

Q. You may state why.

A. For such proper disposition a very large area of contact should be provided, and an amount of the oxygen of the air so well disposed in quantity that the temperature would not be lowered by an excess, and yet the combustion proceed by reason of high temperature, actually mixing in contact of the oxygen and the acrolein.

Q. (BY THE COURT) In other words, do I understand you to say, that if the exposure was greater for the attack of this oil flame, coincident with a higher temperature, that there might be complete destruction of the noxious and harmful fumes?

A. Yes, sir; and I would add the adequate amount of oxygen; I mean by that, neither too little nor too much.

FURTHER DIRECT:

Q. In other words, under the circumstances that you describe, in your judgment, the combustion would be complete?

A. Yes, sir, it could be.

Q. (BY THE COURT) Taking the atmospheric conditions as they are, you practically mean, that an enlargement of this system would probably

result in the doing away with any of these harmful fumes?

A. Only if the temperature also was made right.

Q. If any place in these chambers or passages for the acrolein to be disposed of should grow cold, you could have a defective reaction?

A. Yes, sir.

FURTHER DIRECT:

Q. This chamber was designed, I presume, or you said so, this chamber was designed for the purpose of destroying the acrolein?

A. It seems to have been so.

Q. Now, then, suppose there were four kettles going instead of two at a time—with this flame lighted as it was; what effect, if any, would that have upon the destruction of the acrolein?

A. I think it would have been out of proportion defective; its ineffectiveness is more than half as great.

Q. In other words, you think, in describing the two kettles, the operation of two kettles—you think the oil flame, and the surface exposed, was not sufficient to make a complete destruction of the fume?

A. Yes, sir.

Q. And you think this would be twice as great?

A. The effect would be more than twice as great.

Q. What would the effect be with the degree of heat required to bring the linseed oil to the point required, to 525, if the fires were withdrawn for the purpose of cooling off the oil; what effect would that have until the temperature lowered to 325, which is, I think, the degree at which acrolein is given off?

A. In the plant in question, the design is so crude

that the temperature continues to rise for some time after the drawing of the fires, and consequently, in an effort to await the cooling to a temperature at which no vapors come off, there must be a great deal of decomposition of oil, continuing for a great many hours, as the cooling is difficult.

Q. Do you know how long it would take the boiling oil to cool from 515 to 325?

A. I think it would take six or eight hours to cool, six or eight hours, unless special means were provided for cooling it.

Q. Were there special means there?

A. I don't think so.

CROSS-EXAMINATION by Mr. McCarter:

Q. You stated that you had had some practical experience, Dr. McKenna, in white lead, and that you had, for a short time, been connected with the Bradley concern; how long were you connected with them?

A. About three months.

Q. When was that?

A. About 28 years ago.

Q. That was shortly after your graduation?

A. Yes, sir.

Q. In what capacity were you connected with the Bradley concern at that time?

A. Chemist.

Q. And did you burn linseed oil?

A. No, sir.

Q. So that, your short experience for three months with the Bradley concern 28 years ago, gave you no practical experience in the boiling of linseed oil?

A. No, sir.

Q. Then you, later, were connected with the Passaic Zinc Company?

A. Yes, sir.

Q. They manufactured white oxide of zinc?

A. Yes, sir.

Q. You, of course, had nothing to do with the boiling of linseed oil while connected with that concern?

A. I do not remember any instance of such.

Q. What practical experience in everyday life have you had with the boiling of linseed oil?

A. Only the observation of the work in a factory, and my experiment in the laboratory.

Q. Now, the observation that you refer to, has been such observation as has come under your eyes in varnish factories?

A. Yes, sir.

Q. Have you ever had anything to do with actually boiling linseed oil in factories?

A. I remember some years ago performing some work in a factory on varnish-making for a client, in a practical way.

Q. What was that experience; how long ago?

A. 18 or 20 years ago.

Q. What was the experience?

A. Melting gums and oil to go in the kettle.

Q. Was that merely an experiment?

A. Yes, sir.

Q. Now, since you were out there at the plant on June 11th, 1913, have you made any experiments in your laboratory?

A. Yes, sir.

Q. And it is those that you have relied on as experiments specifically taken by you in the boiling of linseed oil?

A. Yes, sir.

Q. You have said that you reached the factory at 8:30?

A. Yes, sir.

Q. Had you requested, as a matter of fact, before you went, that they should not start the process at all until you reached there?

A. Yes, sir, I think I did; or, if I did not request it, it was an agreement, nevertheless, between us; whether I suggested it, or Mr. Barrett suggested it, I cannot say.

Q. At any rate, it was observed, and the whole process was under your ken until you left?

A. Yes, sir.

Q. Did you go to the top of the chimney?

A. I went up on the ladder which Dr. Olsen described.

Q. Did you get your head up to the top of the chimney?

A. No, sir, I was not as brave as he was.

Q. You said that the kettles you found installed there, were cast iron?

A. I thought so, yes, sir.

Q. Don't you know cast iron would not do at all, would not perform the function for a moment—they are copper?

A. I do not know that to be the fact.

Q. Do you know the difference between cast iron and copper?

A. Yes, sir.

Q. If you look at it?

A. Yes, sir.

Q. Has your experience been sufficient to enable you in making an investigation of this kind, to distinguish between cast iron kettles and a copper kettle?

A. Yes, sir.

Q. If you thought this was a cast iron kettle—I refer you to this book that you have yourself referred to—that is, Dr. Bottler's German and American Varnish Making, and at page 161, which I see is a page that you have marked, appears the following: "More attention has, therefore, been given to the perfection of furnaces," etc., "and in particular, the use of enamel kettles has become general." Did you notice that?

A. Yes, sir.

Q. Why, then, didn't you criticise these kettles, if they were cast iron?

A. Because enamelling is desired to prevent the discoloration of the oil.

Q. That is the only object of the enamel?

A. Yes, sir.

Q. Your judgment is, that cast iron is just as good as copper?

A. I cannot say about that.

Q. This book that you have referred to, you bought after your trip to the factory?

A. I am sure I don't remember; I think not.

Q. It seems to be an edition of 1912?

A. Yes, sir.

Q. You had not had it very long before you went up there?

A. I think I have every book brought out by Dr. Sabin.

Q. Will you swear you had this book before you went up there?

A. No, sir.

Q. Won't you point me out the place in the book where you found the figures 325 or 525 degrees?

A. (Witness indicates).

Q. You refer me to the following—page 40—to

make it intelligible, I will read a little ahead: "Cold compressed oil is of a very clear yellow color, with a faint but characteristic odor and taste. Compared with this, the warm compressed oil is darker in color, and the taste and odor stronger and less agreeable. The specific gravity varies according to age of the oil; according to Schubler it is about .9347 at 15 degrees centrigrade. At the same temperature the viscosity is 9.7; and at 7½ degrees centrigrade is 11.5; it thickens decidedly at 16 degrees centigrade; and at about 29 degrees centigrade solidifies to a solid yellow substance." Now, have I read the part that you say justifies your statement?

Q. "When heated it gives off a vapor. Kunkel gives 185 degrees centigrade at the point at which this begins, and the fresh point at 285 degrees centigrade;" have I now read enough from the portion pointed out by you as being the statement that you gave on the witness stand?

A. It was part of the basis of my statement.

Q. Do you think anything I have read thus far from the book justifies the statement that you made?

A. In connection with my experience, it does.

Q. What is there in the book, or the portions of the book that I have read, which you say is all that is necessary, that justifies the statement that you made?

A. It is not all that is necessary.

Q. What is there that justifies any of the statement that you made?

A. Only the vagueness of the statement that Kunkler gave 185 centigrade as the figure; my own experience is, that the figure is 175.

Q. There is no figure there fixing the Fahrenheit temperature?

A. It is the same thing.

Q. When you gave the figure you did, were you speaking of the point when vapor was given off?

A. Yes, sir.

Q. Are you sure about that?

A. Yes, sir.

Q. What experience have you had that justifies your statement differing from Kunkler?

A. The experience in the operation of tests of that myself.

Q. When?

A. During the pendency of this trial.

Q. So that you, since this trial, have made an experiment in your laboratory?

A. Yes, sir.

Q. What kind of experiment was it?

A. It was the heating in the glass flasks of linseed oil.

Q. In little glass flasks?

A. Yes, sir.

Q. Subjected to heat?

A. Yes, sir.

Q. And the result of your experiment was, that at three hundred and what—

A. At 347 degrees.

Q. Yes?

A. Allow me to refer to my note-book, please. (Witness examines his note-book). At 178 degrees centigrade, or 354 degrees Fahrenheit; that is about seven degrees difference, lower than Kunkler gives it.

Q. You gave what figure on your direct examination?

A. 178 or 175.

Q. You referred to Fahrenheit?

A. 330, I think.

Q. Do you stick to that now?

A. Yes, sir, I observed vapors at that temperature also—strong vapors.

Q. Did you mean to imply, when I was over by you, that 185 centigrade was equal to 330 Fahrenheit?

A. No, sir, I knew that Kunkler's figure was higher than I had obtained in my experiment in my laboratory since this case.

Q. Now, after you got there, the fires were started, and have you given us all your smoke observations?

A. Yes, sir.

Q. I ask you now what is the reference on page 40 of this treatise that you referred to in the figure you gave, when complete destructions of vapors would take place—

A. 285 degrees centigrade.

Q. (BY THE COURT) Which would be equivalent to what degrees Fahrenheit?

A. 545 degrees.

FURTHER CROSS:

Q. 545?

A. Yes, sir.

Q. Then, your figure was 530?

A. It might have been.

Q. What was your figure? I will ask you again to repeat what you said on your direct examination.

A. I would like to have the specific question, and I am quite willing to answer it without any reference to the previous answer.

Q. When you looked at this book and gave an answer, what were you undertaking to give an answer to?

A. I would like to have the question identified.

THE COURT.—I recall clearly, that the question was: "At what figure would there be a complete destruction of these harmful vapors arising from this process in this factory?" and you said that you thought "at about 525 Fahrenheit." You said, however, you could refresh your recollection by referring to your memorandum or the authority which you had. I then said to you, "What authorities have you?" and you pointed to the table and said there was a book on the table; you then looked at the book, and you said, "I find by looking at this authority that the figure Fahrenheit is" such and such.

Q. I ask you what there is in that book at the page you referred to, to justify that answer?

A. There is nothing in the page I referred to.

Q. That is the place you referred me to; now, refer to any other part of the book that justifies that answer?

A. Page 144.

Q. Just read what you refer to; is this the place you referred to on your direct examination?

A. In answer to that particular question, yes, sir.

Q. That is the only time that you referred to the book, isn't it?

A. I have forgotten; I think so.

Q. Why didn't you, then, refer to this same page before, on my cross-examination, when I handed you the book?

A. Because I was under a misapprehension.

Q. Now, the thing you refer to reads as follows: "Linseed oil is the material from which printers' ink and lithographic varnish are made; only such oil should be used as does not break at 270 degrees to 300 degrees centigrade—515 to 570 degrees Fahrenheit." Is that what you refer to?

A. No, sir.

Q. In the first place, the oil is heated to 130 degrees centigrade—265 degrees Fahrenheit—and held at this temperature as long as foam shows, or as long as the foam rises considerably, i. e., as long as there is any moisture in the oil; then the heat is run up to 270 degrees to 500 degrees centigrade—515 degrees to 570 degrees Fahrenheit; and later yet, to 360 degrees to 380 degrees centigrade—680 degrees to 715 degrees Fahrenheit, which thickens the oil." Is that the part that you refer to?

A. Yes, sir.

Q. And your answer was based on those figures?

A. Yes, sir.

Q. Somewhere between 515 and 570?

A. Yes, sir.

Q. And what was it that led you to settle upon 525?

A. The well-known fact of the increase in the density of the oil by heating to that temperature.

Q. So, you figured with your one experiment in your laboratory since you went up to the works, to specify in one figure what this author only put somewhere between 515 and 570?

A. No, sir; I have not testified as to any experiment of my own at which I made the thickened oil; I have testified as to the temperature at which strong and offensive odors come off from linseed oil when heated.

Q. But you have named a figure, a heat, a tem-

perature, at which the oil should reach, in order to produce good printing ink, and you referred me to this treatise which indicates that the heat is run up to between 515 and to 570, and later, 680 to 715, which thickens the oil,—as a justification for your statement; where do you get it from?

A. That is my opinion.

Q. What is it based on?

A. It is based on experience in the past.

Q. What experience? Have you ever made printing ink in your life?

A. No, sir.

Q. Had you ever been in a factory where printing ink is made, prior to that time?

A. Yes, sir.

Q. Now, what authority did you have to justify that statement—525? Your book does not seem to bear it out; is that just a guess of your own?

A. No, sir, it is a statement of my belief.

Q. Based on what?

A. Based on my knowledge of linseed oil.

Q. And you have given us all your experience with linseed oil?

A. Yes, sir.

Q. Now, you said the temperature had reached 265, and you said the oil flames started in the brick chamber at a temperature of 295; do you remember the fact, that that was done at your request, and that they stated to you that ordinarily they started the oil flame at a lower temperature?

A. No, sir; I have no recollection of any such conversation.

Q. Do you recall that the chamber has baffle bricks?

A. I was told that it had.

Q. If so, what is the object of them?

A. To produce surface contact and mixture of the gases.

Q. In other words to bring about the very thing that you said was important to have?

A. Yes, sir.

Q. You did not speak of this in your direct examination?

A. I did not know of them.

Q. You don't recall being told about them?

A. Yes, sir, I do.

Q. Were they not pointed out to you?

A. No, sir, the apparatus was closed; it was in use.

Q. Was the apparatus in use when you started?

A. It was bricked up and sealed up with fire clay luting.

Q. Didn't you look through the hole?

A. Yes, sir.

Q. Didn't you see the baffle brick?

A. No, sir, all that could be seen was an indefinite appearance of brick surface; baffling was not evident.

Q. If it is so, it would tend to accelerate the process, wouldn't it?

A. It would tend to improve the action.

Q. How was the wind that day?

A. It was very light, indeed, but mostly from the West.

Q. Southwest?

A. No, sir.

Q. Have you a memorandum of the direction of the wind?

A. My only memorandum says, "Mostly West, from the West," and that is my recollection of the testimony.

Q. (BY THE COURT) This factory is right at the base of this great Palisade hill?

A. Yes, sir, it is about 800 feet East of it.

FURTHER CROSS:

Q. Now, the presence of smoke, black smoke, indicates a lack of complete oxidation, doesn't it?

A. Yes, sir.

Q. Now, you spoke of some two vats, two or three vats in the yard—ten feet from the little building. Resin has no glycerine in it, has it?

A. No, sir.

Q. So that if resin is burnt or boiled in those vats, you have no opportunity for the escape of acrolein, have you?

A. No, sir.

Q. Were those vats in operation that day?

A. No, sir.

Q. The acrolein is the noxious vapor that comes, as you said, from glyceroids or fatty substances?

A. The decomposition of fatty compounds—oils.

Q. You made no analysis of the stuff coming out of the chimney top, did you?

A. No, sir.

Q. You agree, I believe, with Professor Olsen, that it could have been done, an analysis could have been made?

A. Yes, sir.

Q. Assuming that an analysis were made and it was ascertained to contain 2 per cent. of carbon dioxide; 18 per cent. of oxygen, and no carbon monoxide, what would you say as to the state of the combustion?

A. I could not make any statement as to the

state of the combustion from that; that is mostly air.

Q. Suppose you made an analysis of he effluvia coming out of this chimney, and that analysis displayed the presence in such effluvia—in the proportions I have named, of the chemical substances I have named—what would you say as to the state of the combustion that had occurred, leading to that effluvia?

A. I could not say.

Q. Wouldn't you say that it was complete?

A. No, sir, I could not say that. The excess of air is so extraordinary, that I would assume cooling.

Q. You were up there, were you not, near the top of this chimney?

A. Not when these samples were taken.

Q. (Question read).

A. I have been up near the top of the chimney.

Q. When you were there, was it cold or hot?

A. The exit gases from the chimney were very hot.

Q. Exactly—now, suppose those exit gases had been analyzed and found to contain the chemical substances in the proportions I have named, which examination you say is perfectly capable of being done; what would you say as to the completeness of the combustion?

A. I don't think I can say anything as to the completeness of the combustion; the amount of carbon that has been consumed and brought into that mixture is certainly very small, and you have an enormous excess of air; it is almost like pure air in which a very small amount of carbon has been burned.

Q. In other words, if there had been something

to give rise to this heat in the way of attempted combustion, that combustion had practically been complete?

A. I cannot answer that.

Q. Now, suppose you had gone to the top of that chimney,—seeing the conditions below—knowing what was giving rise to the vapor coming from the chimney; and you found it as hot as the day that you were there, and you then made an analysis, which you say is capable of being made, of the vapors coming out of that chimney, and found that analysis to be such as has been repeated several times to you—what would you say as to the state of perfection of the combustion that had taken place below?

A. The results of the analysis are so out of all reason, as the result from the two furnaces in operation, that I could not believe it to be correct, and I could make no deduction from it as to the completeness of combustion.

Q. Supposing such a condition was found to exist, what would you say as to the completeness of the combustion?

MR. GOURLEY.—I object; he says that could not be. Is not he entitled to say that the question submitted to him is based on a state of facts that the witness says is not conceivable under the circumstances?

THE COURT.—He can say that there is no such condition that could exist as between the components.

A. Such a condition could exist as between the components, but I cannot believe it as coming from the product of combustion of these furnaces.

Q. (BY THE COURT) Could there be, considering the presence of these components, in the same degrees as is indicated by analysis of this character?

A. Yes, sir.

Q. They could exist together?

A. Yes, sir.

Q. So that such a condition is not impossible?

A. Such a composition is not impossible.

FURTHER CROSS:

Q. I think I am entitled to an answer to my question: Now, assuming that they are there, what would you say as to the completeness of the combustion that had occurred?

A. I cannot answer that.

Q. Does not that infer and imply that the combustion was practically complete?

A. No, sir, I don't think it does—

Q. Have you ever analyzed, or are you aware of what are the chemical constituents or effluvia that comes out from the chimney of ordinary boilers?

A. Yes, sir.

Q. What are they?

A. They are carbon dioxide, carbon monoxide and nitrogen and oxygen.

Q. How much monoxide shows in an ordinary situation?

A. I do not recollect.

Q. Very small?

A. Yes, sir.

Q. Cannot you tell us how much?

A. No, sir.

Q. Well, it is the presence or absence of the

monoxide that indicates the completeness or incompleteness of the combustion, isn't it—with anything of that kind?

A. Yes, sir—coal and coke.

Q. Now, have you ever erected a plant for the boiling of linseed oil and innoxious disposition of the vapor of acrolein that goes off?

A. No, sir.

Q. Have you ever seen one except this one?

A. No, sir.

Q. What standard do you suggest for a proper one—how would you create it?

A. I would begin by designing a heating arrangement which is under better control than coke fires.

Q. Did you ever see that done?

A. No, sir.

Q. Do you know of any place where any other fuel other than coke fire is used for heating—do you know of any such thing—in boiling linseed oil?

A. I don't know of any.

Q. Just erect your plant now; it is possible, isn't it, to erect a plant that will practically and innoxiously dispose of the harmful vapor coming—

A. Yes, sir.

Q. Linseed oil is boiled all over the world, isn't it?

A. Yes, sir.

Q. Text-books are full of the fact that it is done?

A. Yes, sir.

Q. Every varnish factory burns linseed oil?

A. Yes, sir.

Q. Now, tell us what you would do—you have never made one and never seen one—now, if you were going to start on a brand new experiment,

how would you remedy the defects you found at this place?

A. I would heat the oil by superheated steam, using a coil within the body of the oil, and I would have a very tightly closed top and convey the vapors first through a condensing worm cooled, and from there for final disposition into a fire-brick canal—the walls of which were of adequate surface.

Q. What is adequate?

A. Adequate for the amount of vapors coming off from the kettle.

Q. Taking these kettles?

A. Taking these kettles I would arrange a canal with a series of baffle-plates, having their surfaces heated by an oil flame, and with adjustment for the admission of air of an adequate quantity for the consumption of the vapor produced, and as there would be no gases from kettle fires, the proposition would be simpler than we find it here.

Q. You have no experience with a difference of condensers in such apparatus?

A. No, sir.

Q. Were you told and informed that condensers had been used and abandoned as a failure in this plant?

A. No, sir.

Q. How would you determine adequacy?

A. I would determine that by seeing the number of kettles and the quantity of their contents which I was to heat, and determine the volume and weight of acrolein coming from the surface of those oils in units of time under uniform increases of temperature.

Q. Do you know what the proportion is?

A. No, sir.

Q. You would have to learn that?

A. Yes, sir.

Q. So that you have no fixed standard in mind?

A. No, sir.

Q. Your use of the word "adequacy" then, is something that has to be ascertained from further investigation or further study in some way?

A. Yes, sir.

Q. Now, did you hear Professor Olsen's testimony yesterday, to the effect that when he came down from the chimney—having put his head over the top of it and detected no odor at all, that he was satisfied at that time that combustion was complete and there was no odor?

A. Yes, sir.

Q. So that, at that stage of his experiment, at least, the plant was operated successfully, wasn't it?

A. At that moment the acrolein was not coming off.

Q. And that was a complete success—the design was effectual?

A. At that moment, yes, sir.

Q. Did you get near enough when you were up on the top of the chimney, to make any smell—

A. Yes, sir.

Q. Did you smell any odor up there?

A. Yes, sir.

Q. You did not note that fact in your direct examination?

A. I think so—

Q. You found an odor up on the chimney?

A. It was only the same as I had been observing when on the level of the terrace.

Q. Where was Dr. Olsen at that time—was he at the foot of the ladder?

A. No, sir, he was not there.

Q. He had not arrived yet?

A. No, sir.

Q. What time was this that you were at the top of the ladder?

A. It was about ten o'clock; no, I beg your pardon, it was eleven o'clock; Dr. Olsen was there then.

Q. Now, the temperature at that time was 425?

A. Yes, sir.

Q. The testimony that you gave on your direct examination is, that at 11 o'clock you climbed to the top of the terrace, and returned, and at 11:02 you found the temperature to be 425?

A. Yes, sir.

Q. In two minutes did you go up to the top of the terrace and then climb up the chimney and then come back again?

A. I don't know the exact minute that I was up on the chimney.

Q. Tell us when it was that you were at the top of the chimney—I think that is very important; your 11 o'clock expedition was only to the terrace?

A. I have no exact note.

Q. Was Dr. Olsen there then?

A. Yes, sir.

Q. Dr. Olsen did not get there until 10:40, so that it must have been sometime after 10:40?

A. Yes, sir.

Q. You have no note of it?

A. No, sir.

Q. Were you there when he went up?

A. Yes, sir.

Q. Where were you standing when he was up on the ladder?

A. At the base of the ladder.

Q. Is that the time that you referred to as the time when you were on the chimney?

A. No, sir.

Q. Well, after you got up on the terrace, a ladder was procured to go to the chimney top?

A. Yes, sir.

Q. Now, you had not been to the chimney top before Dr. Olsen got there, had you?

A. No, sir.

Q. Now, a ladder was procured and that ladder was shorter than the later one?

A. Yes, sir.

Q. Which ladder did you ascend?

A. The first one.

Q. You went up about the same time that Dr. Olsen went up?

A. A little time before him; I don't know that he went up on that ladder; that was found to be low and it was he that started the request for a larger ladder, and I did not thereafter go up on the larger ladder.

Q. Before the larger ladder was procured, you went up?

A. Yes, sir.

Q. Now, you have no idea when that was?

A. No, sir.

Q. Then it was that you say you detected a slight odor?

A. Yes, sir.

Q. Of acrolein?

A. Of heated oils—very much like diluted acrolein.

Q. When had you smelled diluted acrolein before that day?

A. Very often—in the neighborhood of varnish

factories, and in my laboratory and other gentlemen's laboratories, and at home.

Q. Now, what experience have you, or what standard have you from your studies to justify the statement that you made in your direct examination that the apparatus that was provided in this factory is inadequate to take care of oil boiling in four kettles?

A. Because I saw that it was obviously inadequate when seeing two kettles boiling.

Q. And the fact that it was obviously inadequate for two kettles was demonstrated how?

A. By the great mass of vapor coming off from the kettles and passing into a small brick chamber and passing out of the chimney, leaving the odor I have described, and producing a headache.

Q. Did you remain long enough to be there when Mr. Olsen went up and found no odor whatever; were you there then?

A. Yes, sir.

Q. Was your nose sharper than his?

A. I found it in the same way he did.

Q. You found none when he found none?

A. I cannot say.

Q. Well, if he found none, as he says he did, then it was adequate at that moment?

A. Well, he explained to you.

Q. No, no; when he found none, it was adequate, wasn't it; I refer to the time he went to the top of the chimney and found no odor whatever, and came down and said he found the chamber at red heat, and he was satisfied that it was doing its work sufficiently; now, I say, at that time the thing was adequate?

MR. GOURLEY.—Objected to.

THE COURT.—The objection is overruled.

Q. (Question read).

A. At the moment at which that observation was made, the combustion was perfect, and consequently, considered as adequate at the moment.

Q. Why didn't you take along with you an apparatus to be able to seize and retain the vapor that was emitted from the chimney, so that you might chemically examine it?

A. Because the question at issue was one of physical effects upon the physique of a person.

Q. But you knew very well, that if those physical effects upon the neighborhood were due to the presence of acrolein in the vapor, you could, by chemical analysis, discover whether that acrolein was there or not?

A. No, sir, I believe it would be very difficult to detect and measure by any chemical means an amount of acrolein in the atmosphere which would be extremely offensive.

Q. Well, if the combustion was complete, there was no acrolein there—that is plain enough, isn't it?

A. If the decomposition of acrolein by combustion were perfect, there would be none of the effects of acrolein.

Q. And if combustion were not complete, you would find carbon monoxide, wouldn't you?

A. Yes, sir.

Q. Therefore, the presence or absence of carbon monoxide which could be detected would be very important in learning whether or not the complete combustion, which would absolutely dispose of the acrolein, had taken place?

A. No, sir.

Q. It would not?

A. No, sir.

Q. Why not?

A. Because you have the products of combustion of two coke fires and an oil fire going into that stack.

Q. But at a certain stage in the process, which we call combustion, the vapor, known chemically as acrolein, becomes completely oxidized, doesn't it, and its harmful effects disappear?

A. It could be—

Q. Did you look into the kettles sufficiently to see whether or not there were white vapors exuding from the boiling liquid?

A. Yes, sir.

Q. They went into the chamber, didn't they?

A. Yes, sir.

Q. As I understood your evidence, it was that it would take an hour to heat the oil up to a temperature of 330 degrees?

A. Under the conditions found there, yes, sir.

Q. Now, the fire on this particular occasion was started under your supervision at 8:54?

A. Yes, sir.

Q. At 10:20, which is a little over an hour and a half, you had a temperature of 325, didn't you?

A. Yes, sir.

Q. Now, when had you put on the oil flame—at 10:12, hadn't you?

A. At 10:12, yes, sir.

Q. How much time, therefore, did you allow by that plan for the combustion chamber to be properly heated before acrolein was coming off?

A. I don't understand.

Q. How much time, under that plant that you were operating under, did you allow for the com-

bustion chamber to get in operation before acrolein would go off from the linseed oil at 3:30?

A. I don't understand what you mean by saying the plant which I was operating.

Q. I refer to that plant?

A. I was not operating it.

Q. Wasn't it done under your direction that day?

A. No, sir.

Q. Were you not there when the fire was started?

A. Yes, sir.

Q. Didn't you request that it be not started until the temperature got to 295?

A. No, sir.

Q. Don't you know that they always started it earlier than that?

A. I did not know anything about it.

RE-DIRECT EXAMINATION by Mr. Gourley:

Q. Did you give any directions whatever about the operation of that plant that day?

A. No, sir.

Q. Were you there for any such purpose?

A. No, sir.

Q. Something has been said about yellow fumes coming out, or yellow smoke coming out of the top; what causes that?

A. I think that must be from imperfect combustion of the fuel under the kettles.

Q. Counsel has also asked you, if it is not well known all over the world that linseed oil is commonly burned; is it also recognized, that in the more densely populated parts of the old world, it is not allowable to discharge the acrid fumes from

varnish—making into the atmosphere, as is the custom here; and, in consequence, apparatus is in use which collects and condenses these products?

A. Yes, sir.

Q. What is the fact in this country; we won't take the old world; do you know of any varnish factory in New York City or in Newark where the fumes are discharged right from the stack into the community?

A. Yes, sir.

Q. Do you know one where anything at all is provided except the stack to let it go out?

A. No, sir.

Q. So, the well-known "work" you refer to, is not observed in a single instance in this country?

A. No, sir.

Q. Do you know a single place in this country that has a small stack like this?

A. No, sir.

RE-CROSS EXAMINATION by Mr. McCarter:

Q. Have you ever been to the plant of Sigmund Ulman?

A. No, sir.

Q. 149th Street, New York City?

A. No, sir.

Q. Park Avenue?

A. I have seen it.

Q. How about the stack there, compared with the surrounding country?

A. It is moderately high; the roof is 30 or 40 feet above the street and the stack high above that 40 or 50 feet.

Q. And is not the contiguity of the land immediately near it, higher?

A. No, sir, I think that is the level part of Mott Haven.

MR. ELLIS.—I now desire to offer a certified record by the Bergen County Quarter Sessions—indictment and record of the plea.

MR. McCARTER.—We object to it as irrelevant.

THE COURT.—I will accept it and note your objection to it.

Marked "Exhibit C. A. J. 10."

RECESS TO 2 P. M.

AFTER RECESS.

COMPLAINANT RESTS.

CHARLES DOBBELAAR, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Mr. Dobbelaar, have you taken some photographs in and about the Borough of Edgewater, at the request of the defendant in this case?

A. Yes, sir.

Q. I show you a photograph which I have marked "Exhibit D. 1," and I ask you what that represents, where taken from, and what it shows?

A. Well, this photograph has been taken a little bit East of the River Road, looking South, showing Kanfer's Feed Mill and Higgins' stable; also, the Sinclair and Valentine Company's building.

Q. How far away from the camera is the Sinclair and Valentine building?

A. About 400 feet.

Q. I show you a photograph, which I have marked "Exhibit D 2;" now, tell me the same about that.

A. This photograph has been taken from the top of the Sinclair and Valentine building, looking Southeast.

Q. What does it show?

A. It shows Paterson and Eisele Marble Works, and part of the sugar refinery.

Q. I show you a photograph, which I have

marked "Exhibit D 3," and I ask you to describe that.

A. That has been taken from the top of the Palisade, looking East, showing the sugar refinery, the ink works, Kanfer's feed elevator—

Q. Does it show Mrs. Harrigan's house?

A. Yes, sir.

Q. Point that out, please.

A. Here it is.

Q. (BY THE COURT) Point out the ink factory to me.

A. There it is; it takes in this here chimney and this here (indicating).

FURTHER DIRECT:

Q. Does the little chimney which has been the subject of discussion, appear on this photograph?

A. Yes, sir.

Q. Point it out to his Honor.

A. There it is.

Q. I show you "Exhibit D 4," and ask you what that shows, and where it was taken?

A. That was taken from the top of the Sinclair and Valentine building, looking North, showing the River Road.

Q. What factories or places of business does it show?

A. Kanfer's Grain Elevator; McGarry's office; part of the sugar refinery, and Higgins' Dye works and stable; it also shows part of the ice plant.

Q. I show you "Exhibit D 5;" what does that show, and where was it taken?

A. It was taken from the building of Sinclair and Valentine Company, showing the sugar refin-

ery; that is part of it, showing the cars going through the yard.

Q. What does the photograph which I have marked "D 6" show, and where was it taken?

A. That is taken South of the Sinclair and Valentine factory, looking North—about, I should judge, 150 feet or 100 feet from the Sinclair and Valentime works.

Q. What is the large brick building right beyond an elm tree?

A. That is the Sinclair and Valentine plant.

Q. What is that back of it?

A. Thas is a sort of a restaurant, I believe.

Q. What does this photograph, which I have marked "D 7", show?

A. Picture taken on the East side of the River Road, showing part of the Sinclair and Valentine factory; also some tanks, and some of the lumber and things that have been put on the side.

Q. Does the photograph show the small chimney about which discussion has been had?

A. Yes, sir.

Q. Point that out to his Honor.

A. Right here (indicating object immediately to the left of the tank).

Q. (BY THE COURT) Is the chimney right up against those tanks?

A. No, sir.

FURTHER DIRECT:

Q. When were these photographs taken?

A. They were taken some time in June of 1913.

MR. McCARTER.—I offer these in evidence.

CROSS-EXAMINATION by Mr. Gourley:

Q. Who gave the order to have these taken?

A. I got the order from Mr. Eldridge.

Q. The Secretary of the Sinclair and Valentine Company?

A. I know he is one of the officers.

Q. Did he go with you when you were taking them?

A. Yes, sir.

Q. Did he give you the order the day they were taken?

A. No, sir; he asked me to go down; I don't know who it was that gave me the order.

Q. He went with you when you took them?

A. Yes, sir.

Q. He selected the places?

A. Yes, sir.

Q. You simply took them from all the points he indicated?

A. Yes, sir.

Q. You knew what he wanted to show?

A. No, sir.

Q. Did he point out the places to put the camera?

A. He told me in what direction he would like to have the pictures taken, and I set the comera myself.

Q. And he also located the site from which the pictures should be taken?

A. Yes, sir.

Q. What kind of day was it?

A. A kind of a hazy day.

Q. It was not rainy, apparently, was it?

A. No, sir, it was not raining, that I recollect.

Q. Did you make any suggestion at all about a better place for taking them?

A. No, sir.

Q. Or where the instruments should be set?

A. No, sir.

AUGUSTUS ELDRIDGE, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. You hold what relation to the Sinclair and Valentine Company?

A. Assistant Secretary and Treasurer.

Q. How long have you been connected with the corporation?

A. Eight years this coming August.

Q. Where is its main plant?

A. 611 West 129th Street, New York City.

Q. What is the business of the Sinclair and Valentine Company?

A. The manufacturer of lithographic varnishes and printing inks.

Q. Do you make glue?

A. No, sir.

Q. Did you ever manufacture your varnish or printing ink in New York City?

A. No, sir.

Q. Were you connected with the enterprise when it came over into Jersey?

A. Yes, sir.

Q. When was that?

A. Do you mean when we actually built over there?

Q. Yes.

A. We actually started to build over there in the summer of 1911.

Q. Having purchased during the early part of the same year?

A. Either in December of 1910, or January, 1911—

MR. GOURLEY.—You are looking at a paper; there are certain rules about looking at papers (addressing the witness).

THE COURT.—He says he is referring to it.

MR. GOURLEY.—At this stage of the case, I do not care about interrupting.

Q. Who attended to the acquisition of that property in Edgewater?

A. Mr. Francis Sinclair and myself went over there one Sunday morning and met a real estate man, and looked at different sites along the River Road.

MR. GOURLEY.—Is this within the compass of the case; is it of any concern in this case—the cause of settling there?

THE COURT.—It is a grave question whether it is material to the issue.

Q. Is this company a corporation?

A. Yes, sir.

Q. How much stock outstanding?

A. 4,000 shares.

Q. Par?

A. $100.00.

Q. Who are the principal stockholders?

A. Three—Francis McGee Sinclair; Edmund E. Sinclair, and Theodore S. Valentine.

Q. What has been the condition of Mr. Sinclair's health for some time?

A. He has been ailing for the past 18 months.

Q. That is, the elder Mr. Sinclair?

A. Yes, sir.

Q. Is that the gentleman who was present the first day?

A. He was taken seriously sick on the 3rd of January of this year, and while he has been around, at this time he is far from a well man.

Q. How large a tract of land have you at Edgewater?

A. There are five lots there, and in addition to these five lots there is a little strip—about six feet, adjoining the Northerly lot, which we are not allowed on, and the Borough reserves the right to use that for storage purposes.

Q. Those lots are 25 by 100 feet?

A. I don't remember the exact details of those lots.

Q. Did you build any buildings there after you bought?

A. Yes, sir.

Q. Describe how much of a plant you have there?

A. We have a large building there of five stories in height, I think.

Q. Brick building?

A. Yes, sir—in which we manufacture printing inks and some dry colors.

Q. Any other building?

A. We have three small buildings—one in which we boil linseed oil, making varnish—one in which

we store the varnish after it is made—and one in which there is a resin still.

Q. I show you a plan; does this show the different buildings that are upon the property?

A. Yes, sir.

Q. The building marked "A" represents what?

A. The five-story main building.

Q. And the River Road is indicated on the plan?

A. Yes, sir.

Q. The building marked "B" is what?

A. The resin still.

Q. The "C" represents what?

A. That is an elevation on which some tanks are placed.

Q. Three tanks—closed tanks?

A. Yes, sir.

Q. "D" represents what?

A. The storage room for finished varnish.

Q. "E" represents what?

A. That is a little sort of a shed in which we have a motor that runs our presses or plant for use in this apparatus.

Q. And "F" is the building—

A. That is the building in which we boil the linseed oil.

Q. And the stack is right behind here?

A. Represented by "H."

Q. So that gives you a general representation, then, of the layout?

A Yes, sir.

Q. (BY THE COURT) Where did they boil the linseed oil?

A. In the building marked "F."

FURTHER DIRECT:

Q. You are not, I suppose, personally a manufacturer of inks, or of the components of inks?

A. No, sir.

Q. Are you familiar at all with the first steps that were taken there to burn or boil linseed oil?

A. Only from hearsay; I was not connected with it in any way; I knew that experiments were going on, but as to the actual steps that were taken, it is only hearsay.

Q. What did you actually see done there at first?

A. The first experiments I saw were when we put in the coke furnace over there; that is the first actual experiment that I saw.

Q. Just describe that.

A. We used, practically, the same furnace that we are using now for an oil consumer.

Q. Were you acquainted with what was done there before Mr. Barrett came?

A. Yes, sir.

Q. Describe what was done in the way of boiling linseed oil on this plant?

A. We put up a little shed in the middle of the lots, and had two open kettles there, in which we started to boil linseed oil, until such time as we found we were making a nuisance of ourselves there by the odors, and then we immediately commenced to make inquiries—to consult with other people to find out what we could do to so construct our plant that we would not be offensive to our neighbors.

Q. You say there were two open vats in this shed?

A. Yes, sir.

Q. How would you boil the linseed oil?

A. The kettle was run over an open fireplace on a small three-wheeled truck.

Q. And the boiling would be right in this open shed?

A. Yes, sir.

Q. And no chimney or no device of any kind?

A. That is right.

Q. Now, you had complaints about that?

A. We had no direct complaints.

Q. How long did you continue this boiling in the open air?

A. We started that in July or August, 1911, and continued until September the same year—probably, it was June.

Q. Well, it was in the early stages then, that the concern was getting complaints about the odors?

A. We had no direct complaints made to us, but we would meet people on the street and they would talk about it; but we had no formal complaints; and we consulted the men that werew orking for us as to what we could do, and we built this building which we have at the present time, but without the consumer on top of the kettles.

Q. Who was the man that you consulted?

A. A man named Borch.

Q. You built building "F?"

A. Yes, sir.

Q. And put what in it?

A. The four kettles that are still there.

Q. You had no chamber?

A. No, sir.

Q. And what did you have besides the four kettles?

A. Nothing at all.

Q. Prior to that time you had no stack at all?

A. Prior to that we were boiling in the open yard.

Q. That condition of affairs continued how long —without the chamber?

MR. GOURLEY.—I object to his looking at that memorandum.

A. The bill will show.

Q. Get the bill—now, what is it you have in your hand?

A. A bill from the mason for the erection of fume furnace.

Q. Do you mean the chamber we have referred to?

A. Yes, sir.

Q. Now, refresh your recollection from that, and, remembering now about it, when will you say that you commenced or completed the so-called brick chamber or brick fume furnace?

A. In April, 1912; the bill was rendered April 30th.

Q. How long a time was spent, if you recall, in getting the fume furnace or chamber in shape?

A. I don't know when they started, so I could not say.

Q. Was Mr. Barrett there when you started?

A. Yes, sir.

Q. (BY THE COURT) He had charge of it?

A. Yes, sir.

FURTHER DIRECT:

Q. Had you had some experiments made with regard to the proper way to dispose of the odors in your New York factory?

A. Yes, sir; I had heard so.

Q. By whom were they made?

A. By our chemist, Mr. Klein.

Q. Did you continue to have complaint after you erected this furnace and had the stack, but before you built the chamber?

A. We really never had a direct complaint made to us.

Q. What led you to build the chamber?

A. Because we knew that things were not right there.

Q. By that, you mean what?

A. Not only from my own observations, but from the talk that we heard over there—people talking to us about it on the street there.

Q. Gossip?

A. Yes, sir.

Q. Did you ever have, so far as you know, any complaints personally from Mrs. Harrigan?

A. No, sir.

Q. You have charge of all the correspondence of of the company?

A. I did not—not at that time.

CROSS-EXAMINATION by Mr. Gourley:

Q. Your duty is Assistant Secretary and Treasurer?

A. Yes, sir.

Q. And that confines you to the office very largely, I presume?

A. Most of the time.

Q. Were you such officer when you were connected with the New York office?

A. I am still connected with the New York office.

New Jersey State Library

Q. You are not, then, in daily attendance at Edgewater?

A. No, sir.

Q. How frequently are you at Edgewater?

A. I go through Edgewater every night on my way home.

Q. How frequently are you at the plant at Edgewater?

A. Very infrequently.

Q. How infrequently?

A. I cannot answer that; lately I have been over there on account of this action; I have been over there quite frequently; but before that, I guess since last May, when I was last here, I have only been there twice.

Q. Then, while these changes were being made, of which you speak, were you in daily attendance at all?

A. No, sir.

Q. Therefore, when you speak of complaints, you speak of complaints that you heard about?

A. No, sir, people spoke to me about them personally; I said we had no direct complaints, just gossip.

Q. Was that gossip to you from the people complaining?

A. Some of it.

Q. How did it reach to the New York plant?

A. I told the people over there that people were talking.

Q. Did the people that you learned of it from go to New York about it?

A. Not that I heard of.

Q. How did the gossip reach your ears?

A. I heard the gossip on the street myself.

Q. Was it from the people who were complaining about it?

A. Different people told me that the odor was terrible down there.

Q. The last gossip you heard about that was when?

A. I made no mention of any dates.

Q. As near as you can recall?

A. The last time I recall any complaint made direct to me was—

Q. I did not ask that question—I was talking about this gossip—

A. The last night that anybody spoke to me about it was the night that the Council in Edgewater decided to take action against our company, upon which indictment has been entered for nuisance; I was standing in front of the Borough Hall that night, talking to two people that night.

Q. With that exception, have you ever heard any talk about it?

A. Not since that time, but before that.

Q. When was it?

A. Well, this action was brought in the early part of 1912, and it was before that was; it is over two years ago, or at least two years ago.

Q. But you had heard about the complaints before you put up the heated chamber?

A. I had heard of the gossip.

Q. Was that common or uncommon?

A. It was very common around there.

Q. You heard of the gossip when you were boiling in the open air?

A. Yes, sir.

Q. And before you put up the heated chamber?

A. Yes, sir.

Q. But you have not heard any gossip since you put it up?

A. Not directly—except when I have been over to see people about coming down as witnesses; some of them would say, "I am going down as a witness for the other side."

Q. Haven't you heard of any gossip—

MR. McCARTER.—I object to this. I say specifically the only purpose of introducing the so-called gossip was to account for the changes that were made; I don't think this case can be won or defeated by gossip.

THE COURT.—I would infer that one of the objects of introducing the evidence of the changes in this condition of this working proposition here at Edgewater, was the purpose of indicating that the talk ceased when the change was complete.

MR. McCARTER.—I disavow any such purpose.

Q. Now, then, you had Mr. Borch make some suggestions, I think, about the plant?

A. Yes, sir.

Q. Was that the New Jersey plant?

A. Yes, sir.

Q. Mr. Borch is your chemist?

A. No, sir; he was a varnish maker.

Q. Varnish maker at your New Jersey plant?

A. At Edgewater.

Q. Then Mr. Borch was the man who designed this heated chamber?

A. No, sir.

Q. Who was?

A. I really don't know which one of our employees designed it.

Q. Cannot you tell as Secretary and Treasurer?

A. No, sir; I don't know.

Q. What did Mr. Borch have to do with it?

A. He had nothing to do with the chamber at all.

Q. You used Mr. Borch's name to indicate what?

A. That was the one that gave us the design for the kettles themselves—for the brick work around the kettles—for both the kettles and the brick work.

Q. Was there any difference between the form of the kettles and what you use in New York?

A. We don't use any in New York.

Q. Where did you boil your oil?

A. We never boiled it before we went to Edgewater.

Q. What ground have you in New York?

A. Five lots.

Q. How much of that is built upon?

A. It is completely built around; there is a hollow court in the center.

Q. How high is your smokestack in New York?

A. About 150 feet, I should judge.

Q. Did you never make printer's ink before?

A. Yes, sir.

Q. Where?

A. In New York City.

Q. How did you make it?

A. We bought our varnishes.

Q. Having bought the varnish, was it necessary to heat the varnish in order to mix the pigments?

A. No, sir.

Q. Where did you buy your varnish?

A. From different places — Sherman-Williams Company—they have a place out here on the meadows, and also one in Cleveland.

Q. And who else?

A. And C. W. H. Carter.

Q. Where is their place?

A. South rooklyn.

Q. South Brooklyn?

A. Yes, sir.

Q. And who else?

A. Wilson Varnish Company.

Q. Where is their place?

A. They are out of business now—Moller and Shoeman, corner of Marcy and Flushing Avenues, Brooklyn.

Q. So that you came over to New Jersey for the purpose of burning your oil?

A. I cannot say that that was the exact purpose; we needed more room, and while we had some room, we thought we might as well make our own varnishes; we needed more varnish for making ink.

Q. Then, the burning of the oil had nothing to do with your coming?

A. I could not say.

Q. Isn't it true that you went to Edgewater because it was a good place to boil your oil?

A. I don't know.

Q. Your date of finishing that heated chamber is drawn from this mason's bill?

A. Yes, sir.

Q. You don't remember yourself whether those dates are correct or not, without the aid of the bill?

A. No, sir.

Q. Indeed, you were not there while it was being done?

A. I was there off and on while it was being done.

Q. Then, do I take it that you do confirm that by your recollection?

A. It was about that time.

Q. That was about April, 1912?

A. Yes, sir.

Q. Was that the finishing of it?

A. It was completed in the month.

Q. You said that you boiled the oil formerly in the open yard?

A. Yes, sir.

Q. You know all about that?

A. Yes, sir.

Q. Do you know at the present time, that you have a place for kettles to rest upon, some kind of a movable structure that wheels over a hole in the pavement, near this boiling shed?

A. Yes, sir, I know that is there.

Q. How many openings in the pavement have you?

A. Two.

Q. Are not there four?

A. No, sir.

Q. Do you know?

A. Yes, sir; I am positive.

Q. You just saw two?

A. That is all I could see.

Q. What size are those kettles?

A. I should judge they would hold about two or three or four barrels.

MR. McCarter.—Mr. Barrett will tell you all about that; this gentleman does not really know very much about it.

MR. GOURLEY.—All right.

Q. You spoke of a real estate agent—having met a real estate agent—or purchased the property through a real estate agent; who was that agent?

A. A man named Seiver, from Hudson Heights.

MR. JOHN S. KLEIN, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

MR. McCARTER.—Sketch of the layout is marked "Exhibit D 8."

Q. Mr. Klein, what is your profession?

A. Chemist at Sinclair and Valentine Company's.

Q. What education did you have for that profession?

A. I was graduated from the Pratt Institute, Brooklyn.

Q. Have you been connected with the Sinclair and Valentine Company for some time?

A. Since July 1st, 1907.

Q. As chemist?

A. Well, I was assistant chemist for two or three years; and since that time head chemist.

Q. And are still with them?

A. Yes, sir.

Q. Engaged in doing the chemical work necessary for the manufacture of ink?

A. Yes, sir; with assistance.

Q. Did you make some experiments in your laboratory at the factory in New York, for the purpose of showing how, if possible, you could get rid of the odors that come from the boiling of linseed oil?

A. Yes, sir.

Q. And when was this?

A. It was between September, 1911, and April, 1912; about the time we put up those four kettles.

Q. What was the nature of those experiments?

A. I made experiments with the boiling of linseed oil, and tried passing it through water to see if we could get rid of the fumes that way, and condensing the fumes, and then burning the fumes.

Q. How long a time were you engaged in these experiments?

A. On and off for two or three months, I should imagine.

Q. Did you continue your interest in the matter, or did it cease after they completed the construction of the kettles in the building?

A. Why, no, I was interested in it up to the time we perfected it.

Q. Do you remember the employment of Mr. Barrett?

A. Yes, sir.

Q. (BY THE COURT) When was it that Mr. Barrett was employed?

A. I could not tell you the date.

Q. Do you remember what year it was?

A. I could not tell whether it was 1911 or 1912.

Q. Then, you don't remember his employment?

A. I remember when he was employed, but not the date.

CROSS-EXAMINATION by Mr. Gourley:

Q. You say this experiment lasted two or three months; do you mean it was continued every day for that time?

A. No, sir; not every day; sometimes we would be very busy, and prepared new apparatus, and

consequently, could not try out the experiment every day.

Q. Until you finished?

A. Yes, sir; about that time.

Q. Now, you say you tried passing through water and what?

A. Tried passing fumes through water, and tried condensing the fumes.

Q. In what way?

A. Passing through a condenser.

Q. Condenser of what?

A. Passing through pipes, which passed through water. That is, a pipe through water—the same as a coil through water.

Q. Was anything else done?

A. I tried burning.

Q. Burning in what way; what burning did you do?

A. In the laboratory this was; of course, we tried burning under a Bunsen burner, and then a Bunsen flame, about that much passing through the flame of that.

Q. That was all that was done?

A. Yes, sir.

Q. Do you say it was in consequence of that that this heated chamber was erected?

A. The experiment with the burning process came out best of any; and then we decided to try it in a chamber under a coal or coke fire.

A. Yes, sir.

Q. Did you, in consequence of your experiments under this Bunsen burner, or over it, build this heated chamber?

Q. That had nothing to do with the problem that you were passing on with the Bunsen burner, had it?

A. Yes, sir; we tred these three experiments, and that is the one that came out best; we saw we could burn those fumes, and then, by speaking to other people and asking advice around, we found that that could be done.

Q. Now, then, tell me this—why did you have this surface of brick around there, if you had no previous experience?

MR. McCARTER.—Objected to as not cross-examination.

MR. GOURLEY.—I understand that the witness said, that in consequence of his experiments with the Bunsen burner, this heated chamber was constructed.

Q. Was it in consequence of your experiments with the Bunsen burner that this heated chamber was constructed?

A. It was in consequence of that, and of the advice we received from other people.

Q. Well, then, why did you build the interior of that heated chamber just as you did—so many square feet—with the particular number of square feet—

MR. McCARTER.—Objected to, as he did not build it and did not design it, and has not been asked about it.

THE COURT.—The objection will be sustained.

CHARLES M. HILLIKER, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. What is your full name?

A. Charles M. Hilliker.

Q. What is your business?

A. Engineering.

Q. Are you at present employed by the Sinclair and Valentine Company?

A. No, sir.

Q. Were you formerly so employed?

A. Yes, sir.

Q. When?

A. In regard to dates, I cannot give them, but it was the latter part of October, 1911, to about the 1st of March, 1913.

Q. Did you have anything to do with the design and construction of what is known as the brick chamber, that was erected and is now in the room where they boil the linseed oil, at the Edgewater plant of the defendant company?

A. Yes, sir; that same combustion chamber is there now.

Q. Describe what was done in the designing and construction of that chamber, and about when it was that it was so constructed.

A. Why, it was very recently after I became connected with the Sinclair and Valentine Company; I should say that we started experimental work about the middle of November, 1911.

Q. When did you complete the thing?

A. The experiments or the building?

Q. (BY THE COURT) When did you complete your experiments first?

A. That is hard to tell.

FURTHER DIRECT:

Q. When did you get the furnace or chamber done—April or May or March?

A. I think sometime in February—we constructed several dfferent chambers before we arrived at the present one, and I should judge it was along in February, or possibly March of 1912—that is, approximately.

Q. Who designed that chamber?

A. I did.

Q. What was the object of the chamber?

A. To burn the vapors from the kettles, the linseed oil kettles.

Q. How was he chamber constructed?

A. From brick walls, and with the usual cast iron fire grates, and the chimney connections.

Q. Did you yourself have anything to do with the fume oil burner?

A. Yes, sir.

Q. Look at this plan which I show you, marked "Exhibit D 9,"—see if it correctly represents the oven, and the fume oil apparatus, as was constructed by you.

A. It does; that is, this is an improvement over our first chamber.

Q. Anything else changed?

A. No, sir.

Q. Was the chamber itself changed, or only the burner in the chamber, or what?

A. Well, we made the chamber a little higher, but this plan is as the chamber now is, I take it.

Q. Then, this does not represent the chamber as you made it?

A. Yes, sir; with the exception of the different piping system here for hauling.

Q. Now, you made a chamber.

A. Yes, sir.

Q. Tell us what it was like?

A. Just as your sketch shows there, absolutely, made from firebrick with baffle-plate for deflecting our vapors, and the usual smoke connection leading to the flue and grate bars—necessary connections leading from each kettle to the end part of the grate surface.

Q. What was on the bottom of this chamber?

A. Brick.

Q. And where were the grate bars?

A. Located about 25 inches above foundation brick.

Q. And how did you connect the four vats with the chamber?

A. By first constructing hoods over the vats—reconstructing the hoods over the vats, and carrying a connecting pipe from each hood, individually, to the end portion of the combustion of the furnace—that is almost under the grates.

Q. The object being to thereby transport from the furnace to the chamber under the grate, what?

A. The vapors that pass off from these kettles.

Q. What was the size, if you can recall, of the chamber, the interior size; what determined you upon that size?

A. It is pretty hard for me to remember; I should say, approximately, the chamber is 30 inches wide by about 27 inches long, inside measurement.

Q. That is the original chamber you are talking about?

A. The one I designed; then the entire chamber was approximately, I should say, five feet tall.

Q. Made entirely of what, on the outside?

A. Brick.

Q. What kind of brick?

A. Firebrick lining and built brick from the outside.

Q. And the stack goes out where from this chamber?

A. Leading into the main chimney from the kettles.

Q. What is this chamber lined with, do you say?

A. Firebrick.

Q. It is the same as ordinary brick, only it is made to stand a higher temperature?

A. Yes, sir.

Q. What are these baffle-brick?

A. The purpose is, to deflect the flame that is ejected from the burner.

Q. Is there baffle-brick in this chamber?

Q. Now, we will call this square thing that I have drawn on this paper—this rectangular thing—the inside of the chamber; won't you just locate these baffle-brick?

A. About in this location is the jet; flame jet; that is right up on the side—at the front end; that is the position of the flame. Now, that flame diverges as it leaves the apex of the opening; then, about in that location is a column of fire-brick forming a baffle-plate; that baffle-plate is carried on top of the grate bars; I should say it is approximately 12 or 14 inches high.

Q. Instead of being concentrated it becomes thereby deflected?

A. Yes, sir.

Q. That is the object of it?

A. Yes, sir.

Q. Now, what provisions did you have for fuel, and heating the chamber?

A. We started by using coke for fuel; we found, however, that there were times when we re-coked

the fire, that for the time being, say five or ten minutes, or until such time as the newly-applied coke became thoroughly heated or in an incandescent condition, that a small tracing of fumes could pass through this bed of fire; we found that that was the only time that we could get the fumes through it.

Q. Otherwise, when the fire was going with a thoroughly ignited coke, what became of the fumes?

A. Consumed; then we decided to try some different method whereby there would not be interruption in the feeding of this fire, or creating of this fire; which resulted in our putting in an air compressor for the purpose of burning crude oil as a fuel, the object of the air compressor being to compress the air, to force the oil in through the burning jet, to blow it into atoms, for the purpose of making it more spontaneous.

Q. And how else, if any way, did you modify the original design?

A. I don't know that we have.

Q. Now, Mr. Hilliker, will you tell us as near as you can, when it was that you got the original chamber with the coke fuel apparatus completed, and about when it was that you changed or modified it to that fuel oil with a compressed air pump and so on, and when you had that completed?

A. It is very hard for me to tell. If you have the data in connection with the purchase of the air compressor, that would give, approximately, the time.

Q. I show you what seems to be a specification from the American Air Compressor Works; look at that and see if you, from that, can now tell us about

when it was that that air compressor and oil fume were substituted for the old coke fuel plant?

A. Well, I had in mind that this matter was taken care of a little earlier in 1912 than this quotation, but I bear correction; I do know this, that we had the equipment installed and we had the delivery of this compressor, which only took several days—

Q. When was it that you got the compressor in?

A. I should say, approximately, August 15, 1912, this whole equipment should have been running, that is, approximately.

Q. (BY THE COURT) You were still there?

A. Yes, sir.

Q. Were you there when the installation was complete?

A. I was.

Q. What was the result after that installation of the compressor and the use of oil fuel—the substitution of oil fuel for coke, upon he consumption of the fumes in the chamber?

A. Very satisfactory.

Q. When did you leave?

A. About March 1st, 1913, in the latter part of November.

Q. After it was constructed and put into what you call successful operation, did you continue to operate it?

A. No, sir; I had nothing to do with the operation.

Q. Who was operating it?

A. Mr. Barrett had charge.

Q. You were there, then, when he came?

A. No, sir; Mr. Barrett was employed before my time.

CROSS-EXAMINATION by Mr. Gourley:

Q. What kind of an engineer are you?

A. I am carrying a first-class license in New York City.

Q. I want to know the variety?

A. Erecting, mechanical and electrical.

Q. You have nothing to do with anything appertaining to chemistry?

A. Nothing more than that I have had the course in chemistry, academic course.

Q. You have never constructed any chambers of this kind to consume gases?

A. No, sir.

Q. You had no instruction from any chemist how to form this chamber?

A. I must answer that this way if you will permit: I designed that chamber after Mr. Klein and I had experimented—

Q. (BY THE COURT) With what?

A. With gas and various chemical equipment.

FURTHER CROSS:

Q. Tell us just what you did.

A. We tried various oils to get the flashing point—in an open kettle or retort.

Q. Do you mean you experimented with linseed oil to get the flashing point?

A. Yes, sir.

Q. What information did that give you?

A. We found, by ascertaining the flashing point, we were able to tell whether we could successfully burn the vapor or not.

Q. What is the flashing point?

A. I rather think you have got me on that; it is

the height in temperature that a gas or vapor must be raised to before it spontaneously bursts into flame.

Q. That is the flashing point?

A. Yes, sir.

Q. Can you approximately tell us now?

A. No, sir; I cannot; I know we experimented on various oils.

Q. Why various oils?

A. Because different grades of oil have different flashing points.

Q. What grades do they use?

A. I should have to refer to the chemists on that; I just took the oils and we tested for the flash.

Q. How many kinds of oil did you test, and grades of linseed oil?

A. Three or four.

Q. Did you find variations?

A. Yes, sir.

Q. Did you take the high or the low?

A. We took the low.

Q. What difference was there between the low and the high?

A. I cannot remember.

Q. What other test did you make?

A. Test for burning—kept tracings of the vapor, after passing it through B. flames.

Q. Did you have a B. lamp?

A. Yes, sir, and I had Mr. Perry, who is recognized as a builder of one of the best kerosene burners, apply one of his kerosene burners to our consumer, for the purpose of creating enough heat to burn, successfully, these vapors.

Q. What vapors did the oil give out?

A. That I cannot tell you.

Q. What was the result at which you were aiming?

A. Just to burn up that smell.

Q. Did you get any smell?

A. Yes, sir; without burning—from the vapor, without burning.

Q. You got that odor from your experiments?

A. Yes, sir; until we burned it.

Q. Did you form a chamber for burning it?

A. Yes, sir; we tried various chambers; I presume we tried ten or twelve.

BY MR. McCARTER:

Q. Are you speaking now of your experiments in New York?

A. Yes, sir.

MR. GOURLEY.—This is the parent of the chamber in question.

THE COURT.—He is speaking of his experiments prior to the building of this chamber.

THE WITNESS.—We tried ten or twelve different chambers.

Q. Did you make a little box over the lamp?

A. Yes, sir; we made metal boxes, and I tried out different forms of brick.

Q. What size of chamber when you used the brick?

A. That I cannot tell you, because it is a matter of experiment which led to no results.

Q. The chamber would depend, I presume, on the quantity of oil you were boiling?

A. That is true.

Q. Therefore, there must be some defined relationship between the heated chamber and the quantity?

A. You have to experiment until you get something that is right; that is the development of all great things.

Q. You were applying Edison on the job?

A. Yes, sir; because nobody had ever done it before.

Q. Now, then, after you had made this experiment—as I will dignify it—you then proceeded to construct this brick plant?

A. Yes, sir.

Q. At that time you knew nothing except as you have stated, about the combustion of gases, by experience?

A. I never constructed any for any similar purpose.

Q. I say you have never built anything anywhere, at any time, to consume gases from boiling oils?

A. No, sir.

Q. Now, then, you built this chamber, and your first plan, according to your statement, was, that you had a coke fire?

A. That is right.

Q. Under the chamber to be heated?

A. Yes, sir.

Q. How long did you carry on that experiment?

A. I canot tell you, I am sure, because we might have carried it on for a day, and we might have carried it on for three or four weeks.

Q. Do you know how long you carried it on; did you carry it on more than one day?

A. Yes, sir; because we kept on experimenting.

Q. You found that the air did not properly go through the grate, very well?

A. At times, when we were re-coking the fire.

Q. What happened in consequence of that?

A. A slight tracing of vapor escaped through our chimney.

Q. Could you notice that down in the yard?

A. No, sir; we did not trust ourselves, being on the ground; we had ladders constructed so we could get right to the top of the chimney, and that was one of our principal duties to go up there every few minutes.

Q. You abandoned that for what reason?

A. Because of the efficiency of our equipment.

Q. You spoke about carrying the jet here; what do you call baffling?

A. That is just as I demonstrated there—striking against some immovable body deflects the direction of your gases, in this particular—

Q. Suppose you have three bricks in a row, and goes up and down and around it, what is that?

A. Baffle-plates.

Q. But you call this also "baffling," do you?

A. Yes, sir.

Q. Now, what oxygen got in there into that chamber; what oxygen got about that heated chamber?

A. The oxygen that entered through the small crevices, and so on through our hoods.

Q. What is the object of that?

A. Through the opening at the apex of the burner, and also through the slight openings over the kettles, which were very slight.

Q. Had that any appreciable effect on the combustion, the holes in the kettle lid?

A. Yes, sir, it increases the combustion.

Q. How long a time did you burn coke under that heated chamber?

A. I should say, approximately, two months.

Q. Do you know what two months they were?

A. No, sir.

Q. Approximately, can you tell us—the season of the year—was that the first experiment you undertook?

A. We tried oil first.

Q. What season of the year was it?

A. That was in the summer time.

Q. What year?

A. I am taking advantage of this estimate that was just furnished; I thought all along it was earlier than that; but I should judge it must have been some time in July—June or July.

Q. Mr. McCarter handed you a typewritten and printed estimate?

A. Yes, sir; that revives my memory.

Q. How do you know this is true?

A. I have seen that estimate before; I saw it at the time they bought the compressors.

Q. Did you see this particular paper before?

A. I saw one that I think was the original.

Q. Upon the strength of that, you say now that it was not in—

A. It must have been around June or July.

Q. (BY THE COURT) When was it you experimented with coke; in what season of the year?

A. During the month of June and July, 1912.

FURTHER CROSS:

Q. And that continued for two months?

A. Approximately.

Q. The principal oxygen was, however, at the point the gas entered?

A. Yes, sir.

Q. That was on what you mainly relied?

A. Yes, sir.

Q. Didn't you need that air for the flame of gas; was not that air needed for the purpose of having the gas burn?

A. Which gas?

Q. You have said that the main supply of oxygen came through the burner—at the point of the burner—you mean the oxygen that is necessary to keep this flame going or to consume the vapors coming up there—to keep the flame going—

A. Yes, sir.

Q. Which arranged the opening at the apex so it could be increased or diminished in size so as to give the best results?

A. By experiments we determined the correct amount of air to let in there.

Q. Did you have any instrument to determine it?

A. No, sir.

Q. What analysis was made to determine it?

A. Just the smell.

Q. Do you know what a C O-2 machine is?

A. Yes, sir; that is carbon dioxide.

Q. Would a C O-2 machine register the result of the combustion?

A. It would of the C O-2 gases emitted at the location of the instrument.

Q. These were not C O-2 gases?

A. They must be.

Q. Were they?

A. Plus carbon.

Q. Were they C O-2 gases or not?

A. If there was anything besides C O-2 gases and carbon—I cannot tell you what tracing it would be.

Q. But did you know that after you had admitted oxygen enough for the purpose of the flame, you needed more oxygen than that, or didn't you?

A. Yes, we knew when we got the right proportion.

Q. Did you know that you had to have more oxygen admitted into the heat chamber than was necessary to keep that flame burning at its highest?

A. No, sir; I did not.

Q. You did not know, then, that the acrolein gas itself needed more oxygen to be consumed?

A. But you must remember there is but one combustion chamber there.

Q. The gases under your kettles, and the gases emitted from your flame, are all burned under one heat?

A. Yes, sir.

Q. Did it make any difference whether you had one kettle or four going as to consumption of the gases, with this apparatus of yours?

A. It made no difference so far as the capacity of our burner was concerned.

Q. Now, then, did you consider the quantity of square feet of surface to be heated—

A. Only by experiment.

Q. Then you had to get the same degree of heat in the walls of the chamber whether you had one kettle going or four?

A. We did, to get the proper burning conditions.

Q. Now, did you make any examination of the volume of gases?

A. No, sir; we put in an equipment sufficiently

large to take care of considerably more volume than we had to deal with.

Q. Did you ascertain how long the heated chamber was in cooling?

A. No, sir.

Q. Would not that determine very largely the question?

A. No, sir.

Q. Did you ascertain how long the oil was in cooling?

A. The oil in the kettles?

Q. Yes.

A. We did.

Q. How long would the oil be in cooling—after it was heated to the degree required, if you know?

A. You mean, at the completion of the oil?

Q. After the oil had been boiled to the point required?

A. I cannot tell you.

Q. Different grades of oil would cool at different periods of time?

A. Yes, sir.

Q. Relatively to the heated chamber, was it a longer or shorter time in cooling?

A. I don't understand your question.

Q. Did you ascertain whether or not the heated chamber cooled earlier than the boiling oil, after the fires were withdrawn from the kettle?

A. I always term this whole apparatus—

Q. Answer my question—

A. I must do it this way—I was not permitted to

Q. (BY THE COURT) Did you ever do it?

A. Not to the best of my knowledge.

FURTHER CROSS:

Q. Then you have not any knowledge on that subject?

A. I have.

Q. Can you tell us?

A. I cannot tell you how long it requires for those kettles to cool off with the different grades of varnish, but I do know that the consumer was kept burning after the fires were drawn from under the kettles.

Q. That is, the chamber?

A. Yes, sir—fire in the chamber.

Q. Then, from the moment that the oil itself begins to cool, of course, the walls of that chamber begin to cool in consequence of having lost the heated air that passed through?

A. No, sir, the flame is carried on continuously until after all the vapor will have passed off from the heated oil; the temperature of the gases or vapors from the kettles is never as high as the temperature of the flame in the combustion chamber; therefore, it cannot add heat to the temperature in the combustion chamber.

Q. Then the burning of the gas in the heated chamber, if continued until the oil is taken away from the kettle, all gases would be consumed if this was constructed properly—if it was as you said?

A. Yes, sir.

Q. So that there cannot be any way, if that plant is managed properly, when any noxious vapors could escape at all?

A. Not to the best of my knowledge.

Q. Did you consider the height of this stack at all, in your problem?

A. No, sir.

Q. Did you consider the situation of the stack, built against an embankment that was higher than the building itself?

A. No, sir; but we did cionsider putting up a special stack for that purpose.

Q. Was that part of your plan?

A. Well, it was carried along in connection with our experiments; we found it not necessary to construct a special stack—the present one being adequate.

Q. You mean adequate for the volume or for the vapors?

A. For the volume.

Q. If gases were emitted from time to time, that were noxious, it would have a tendency to be aerated or oxidized, and consequently, not deleterious or offensive?

A. There might be a tendency there—

Q. Are not stacks constructed for that very purpose?

A. Yes, sir, that is very true.

Q. You have seen these large ones down at Staten Island?

A. That is the object.

Q. Didn't you take into consideration how near it was to this cliff, several hundred feet high, in the air?

A. I had nothing to do with that at all.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Mr. Hilliker, do you recall an instance when your plant was shut down when you had an odor at this locality, of the same character that comes from burning linseed oil?

A. I distinctly remember.

Q. When was that?

A. It happened on one Saturday afternoon, or Saturday morning, when our plant was shut down.

Q. What were you doing on the plant that enables you to remember the incident?

A. We were erecting the steam exhaust head on the roof from our power engine.

Q. And you smelled at that time, when you were not working yourselves, at all, what?

A. The same sort of smell that we get from linseed oil vapors.

Q. And you smelled that at your plant?

A. Yes, sir; and I called Mr. Barrett's attention to it, and Mr. Curran's, one of my own men.

Q. Now, tell us about when that was.

A. It was in the middle of the summer of 1912.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. Is this the Sinclair and Valentine plant?

A. Yes, sir.

Q. At that time was the injunction asked for in this case?

A. No, sir; not that I know of.

Q. Well, it was about the time things were becoming acute in the neighborhood?

A. I cannot say as to that.

Q. You cannot say you heard it, or you don't know it was acute?

A. I may have heard of it.

Q. Didn't you think it was a very significant thing; did you trace that odor to its lair?

A. Yes, sir.

Q. When you were forewarned that day, didn't you trace it out?

A. We knew that there are gases of similar nature escaping.

Q. Did you, at that time, when you and this other gentleman, the superintendent, had your attention drawn to this fact that odor of this very character was found by you in the air when your plant was closed, didn't you follow that up to its origin?

A. No, sir.

Q. Were you not impressed with the extraordinary importance of that discovery?

MR.CARTER.—Why should he, your Honor? It does not appear that this litigation was on then.

THE COURT.—Answer the question.

A. I did know there was a smell from that, which came from the South.

Adjourned to Thursday, April 23, 1914.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on Thursday, the twenty-third day of April, 1914, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances as heretofore noted.

SEYMOUR BARRETT, sworn in behalf of the Defence, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. What is your age?

A. I am going on 47; I was born on the 22nd of December, 1867.

Q. How long have you been employed by the Sinclair and Valentine Company?

A. I came in their employ in the month of September—I think it was on or about the 25th day of September, 1911?

New Jersey State Library

Q. For whom had you worked previous to that?

A. I came right direct from Sigmund Ullman Company, 146th Street and Park Avenue, Bronx, New York.

Q. What do they make?

A. They make printers' ink and litho varnishes, resin varnishes, that are used in printers' ink.

Q. Do they boil linseed oil?

A. Yes, sir.

Q. How long did you work with them?

A. Close on to 15 years.

Q. Do they have any apparatus such as has been described, or anything to take care of the fumes of linseed oil?

A. None whatever; it is boiled in a copper kettle, on a removable truck—shifted back and forth under a stack.

Q. And what is the character of the country around in the neighborhood of this factory—I mean, as to height, elevation?

A. I think it is West, directly West of the plant formerly called Bruner Ridge; it was quite a high elevation, and there are quite some expensive houses there; and the Morris school, and quite some expensive residences.

Q. How long had you worked for these people in New York?

A. With the Ullman Company—for close on to 15 years.

Q. Now, coming over to the defendant's plant in September, 1911, in what stage of completion was the plant at that time?

A. I did not come directly to Edgewater in the month of September; I was in the laboratory at that time with Mr. Klein, but I made frequent visits at Edgewater; Mr. Borch was in charge at that time.

Q. Where is he now?

A. I could not say; I think he is in Philadelphia.

Q. Were you working with Mr. Klein and Mr. Hilliker on these experiments in the laboratory, that were described yesterday?

A. Not in the laboratory.

Q. What work were you doing in the factory?

A. I was in the laboratory, but at the time they experimented in doing away with these fumes, I was at Edgewater at that time.

Q. Now I want, in the first place, to have you describe the character of the main building on this plant at Edgewater, and what is made there.

A. The main building, I believe, is from 45 to 50 feet, facing on River Road, and extending 100 feet deep—five stories,—brick; the two bottom floors are used exclusively for the manufacture of dry colors; they have large tanks there. The third floor is used for grinding pulps and ink; the fourth floor is used as a sort of a storage room and a mixing room for these inks. And the top floor is used partially for a laboratory and a storage room also.

Q. So that that building, with its five floors, has nothing whatever to do with the boiling of linseed oil?

A. Not in the least.

Q. About how large is the little building in which the boiling of linseed oil is conducted?

A. Well, I believe that that building, according to rough calculations, I should judge it is from 25 to 30 feet in length; and from 20 to 25 feet in width.

Now, it stands in the rear of the lot?

A. 190 foot lot.

Q. And right behind the main building?

A. Yes, sir, the building is anywhere from 20 to

25 feet wide, the little building, and the main building is 100 feet deep.

Q. Now, won't you describe the situation in regard to the boiling of linseed oil from the time you went there, down to the time that the present apparatus was finally completed?

A. Well, when I came in the employ of the company, I made frequent visits to Edgewater, and I found there, at that time, this boiling house in question— on the premises; and a little pump room adjoining it, and a varnish storage room, at that time; nothing else was on the property at that time.

Q. Proceed.

A. And then we commenced to construct a building known as the still room—that was part and parcel of some of the products I wanted to produce.

Q. Look at this sketch, which I think has been already marked "Exhibit D 8," and point out to the Vice-Chancellor which is the still room, as you call it, marked "B."

A. This is the still room; this still room we commenced to construct the manufacture of some products that I wanted to produce; this is the boiling room, of linseed oil, that I saw when I came upon the premises (pointing to "F"); this is the pump room (pointing to "E"); that was on the premises when I came there. "D" represents the varnish storage room that was on the premises when I arrived there. "C" represents a large masonry work, with two large tanks containing linseed oil, when I arrived; and since I arrived another tank has been added. "B" was not on the premises at all then; we had just commenced, started to build that ("B") still room.

Q. Now, won't you go into a little more detail with regard to the apparatus for boiling—the con-

dition of things in this little building where the boiling occurs, when you came, and then its development?

A. As I said before, when I arrived at Edgewater, those were the buildings on the premises, and at that time Mr. Borch was in charge; he was boiling linseed oil in this boiling house at the rear of the yard.

Q. What was the condition of the apparatus for boiling linseed oil in the boiler house at that time?

A. There were four copper kettles; they were copper kettles.

Q. Not cast iron kettles?

A. No, sir.

Q. Not even across the river?

A. No, sir.

Q. Now, what was done with the fumes?

A. There was no provision made for the fumes at that time; these four kettles had large hoods over each one, and at the dome of those hoods there was a small pipe that ran out through the roof of that structure, extending about two feet above the roof of that structure; the fumes came right direct from the kettles through this hood and up through the pipe into the air; out of the roof into the air; did not enter the main stack.

Q. Was the stack there at that time?

A. Yes, sir, it had to be there on account of the fires underneath the kettles to heat the oil.

Q. How long did that state of affairs continue, to the best of your recollection?

A. I was travelling then back and forth, watching the construction of this still room—that was under my supervision—this building was under my jurisdiction, the building of it, and I was there on and off, nearly every day, watching the construc-

tion of it; and I would go back and forth to New York, to our main office; and then I heard that there were rumors in the town that the vapors were annoying the residents of the town; and Mr. Frank Sinclair called me in his office with Mr. Hilliker—he was the gentleman who was on the witness stand yesterday—and Mr. Frank Sinclair asked us if we would not try and get together and find out some method of disposing of these fumes; so Mr. Hilliker and I, whenever he came over to Edgewater, we thought of different methods.

Q. What did you finally devise?

A. Mr. Hilliker, with the experiments that he had in the laboratory with Mr. Klein, relative to the burning of the gases, appeared to have such success that he spoke to me about it, and then it was proposed to run hoods—to take the hoods that were here at that time and run a trench underneath into the fire chamber under the kettles, and burn the gases underneath the kettles, using it as fuel instead of the coke. That experiment failed; it was not a success. The next try-out was condensing those vapors the same as used in the distillation of resin, running the fires through a coil enclosed in a tank of water; that was tried out in Mr. Klein's laboratory, which also proved a failure. The next thing Mr. Hilliker suggested running a pipe from the boiling room all around the yard to the main boiler and burning the gas there.

Q. Where is the main boiler?

A. This is the chimney to the main boiler (indicating).

Q. Attached to the main building, ("A")?

A. Yes, sir.

Q. Did you do that?

A. No, sir; upon thinking and talking the matter

over, we found that these pipes would become clogged up with the accumulation of those acids from the oil, and it would be unsuccessful, and that matter was dropped. Then, Mr. Hilliker thought of the coke fire—putting a consumer there to burn this vapor up with coke, and that looked good.

Q. I would like you to tell us, if you can, as nearly as possible, when it was that you got that chamber (that he described, for the use of coke as fuel,) completed and in operation?

A. To the best of my knowledge and belief—I have no record at all—I put this down this morning—(looking at a memorandum) in January, 1912.

Q. (BY THE COURT) The early part of January or the latter part?

A. I could not say.

Q. Now, how successfully did that operate?

A. That worked very nicely, with the exception of times when we re-coked the fire, and there we found they had not sufficient heat in there to burn up all of it; there was a little particle of these gases getting out at that time.

Q. How would you be aware of the fact that there was a little of these gases geting out at the time you were heating up the fires?

A. We took a long ladder and placed it against the stack, the same as when the doctors were there.

Q. Well, what was done to obviate the trouble that would come from the re-fueling of the coke fire under the consumer?

A. Well, we formally concluded between Mr. Hilliker and myself, that we needed a constant fire in there, something that would not need re-coaling or re-coking; then we thought it would be perfect.

Q. Proceed. Then what did you do?

A. Then, about August, about the month of August, to the best of my knowledge and belief, we changed this furnace so that we could apply this fuel oil burner to it.

Q. Won't you describe what exists in addition to the four vats or kettles, and the chamber; I don't think Mr. Hilliker went very much into the pump and the method you have of getting the air in there and all that?

A. Well, to reach this burner, to make this burner operate, it is necessary to atomize this fuel oil; it needs a power, either compressed air or live steam, it requires to atomize this fuel oil, so they purchased a compressor that was placed in room "E", in the pump room, and a large tank in there; that is a comparatively large tank that would retain compressed air up in that same room; from there we had pipes running into room "F" to the burner, and that would atomize the fuel oil.

Q. What operates the compressor?

A. That is operated by electricity furnished by the town—the Public Service Corporation.

Q. A very good company—go on.

MR. GOURLEY.—I cannot very well say it is not.

A. From the minute that we put that fuel oil burner in effect, I claim that it was a success.

Q. Now, did you have any experimentation and delay in getting a good burner?

A. Well, we purchased a burner which is in use at the present day, but we have tried other burners to see if we could get one as good as that one, in case this should break.

Q. Describe what this burner is like?

A. It is in the center of two lines of pipe. There is a wheel at the end of this burner that operates the burner, and it projects to a needle point; this needle point projects into that hole in the top of the chamber there, the consuming chamber, and these two pipe lines—one is air and the other is oil—that supplies the power to atomize this oil in there to make this fire.

Q. Now, I want you to say when it was that you consider that the design of disposing, or consumption of the fuels from the boiling linseed oil, was completely successful?

A. In August, I should say that it was most successful, August, 1912.

Q. Now, are you able to go to the easel, and refer tot he other diagram that is here, which I will mark "D 10," and give to the Vice-Chancellor as plain and simple a description, without any technique, of the apparatus as you had it at that time, and then show what changes you have made since?

A. At that time, in August, 1912, these kettles and hoods were the same as shown in this diagram. This is the gas oven (indicating); that receives the vapors from these hoods, two of them at one side, and two on the other.

Q. Now, describe the kettles themselves first.

A. These are copper kettles—

Q. About how big?

A. About 46 or 48 inches in diameter, to the best of my recollection and belief.

Q. How much oil will they hold?

A. About six barrel capacity.

Q. What kind of top have they?

A. They have a flange, a copper flange, all around, lying on the brick work; they have a cop-

per flange four or six inches wide, lying on the brick work that supports them in this brick work.

Q. Are these kettles open at the top?

A. No, sir.; they have these hoods over the top of them.

Q. How do the vapors escape from the hoods?

A. They go up into these hoods and pass in through this 10-inch thick cast iron pipe, which pipe leads into this gas oven or gas chamber, two on each side; then they pass up through this open brick that is laid on top of grate bars; they pass up through open brick that are laid on top of grates; that helps to break these gases up into particles so that they can be consumed more readily. This chamber here shows as it was at that time, but today—

Q. Take it at that time first; now, where was the fuel—the coke, at this time, which ignited the fire in the consumer?

A. There was an iron door there which could be opened up and coke shoveled in; those brick were not on the grate bars at the time of the coke fire.

Q. We are talking about the coke fire now.

A. They were not on there at the time of the coke fire—they were plain grate bars. The interior was not as it is there at all; only the grate bars, that is all. The only things inside that chamber were grate bars. On the front where this burner shows, there was an iron door; down below here, there was also another iron door, which gave us the opportunity to pull out the ashes that accumulated from this coke fire; the top door was the means of us firing.

Q. Now, this is still the coke period?

A. Yes, sir.

Q. Now, the fumes would come in through these pipes from the four kettles?

A. No, sir; not the four kettles; we did not operate the four kettles all the time.

Q. How many kettles did you operate at once?

A. Most always one on one side, and one on the other, as a regular thing; ordinary practice, we operated twelve barrels a day.

Q. At any rate, the fumes come into this chamber above this fire?

A. No, sir; they come in below the grate bars, and the coke fire is on top of those grate bars. The fumes pass up through this coke fire.

Q. And thence out through the stack?

A. When the coke fire was brisk, there was nothing got out of there at all, but if the fire was re-coked or dead, then there would be a little come out of this opening here, into the main stack.

Q. Now, in order to obviate the trouble arising, as you have already sworn, from the fact that it was necessary at periodic intervals, to renew the coke or fuel, and to substitute the oil fuel with the compressed air and so on, and the burner, what changes were made in the interior of the consuming chamber?

A. We took off this door, the iron door that we re-coked the fire with—the top chamber; and made a brick that fit in that space, with the opening in the center to admit the burner; this is removable, this brick is, because of the intense heat in there, it crumbles and we have to renew it most every week or every other week.

Q. Is that opening simply all brick?

A. It is made of cement and ashes, and a little broken stone and little iron borings.

Q. Did you experiment at all with the size of the opening into this chamber?

A. That is about three inches wide and about five inches long; that is where the burner goes in.

Q. Now, go on.

A. Then we put these brick that you see here—these open brick on top of the grate bars.

Q. What are they—baffle-brick?

A. No, sir; those were put there as these fumes came up from the bottom chamber to go through these holes in these brick, to break them up into small particles so that they would be more combustible.

Q. How many brick are there?

A. Most all of them surface; here is what they call a break-wall, which is a necessary factor in operating these fuel oil burners; so that when this flame shows against there, it throws the blaze into particles—that is composed of Henry Mauer's fire-brick.

Q. Is that what we call in this case the baffle-brick?

A. No, sir; that I term as a break-wall, where it is necessary for the fire to strike against an atomizer.

Q. What else have you got in there?

A. Then, in the rear of this I ran a fire-brick wall; this is the chimney wall here, as you see now, with that hole in; in front of that chimney I put a fire-brick wall, thinking that possibly the intense heat might crumble that chimney in time; I lined the fire-brick wall against that stack—at least, the mason did it at my suggestion, so as to protect this chimney; on the inside of that, pointing this way, there is laid another course of fire-brick mostly; I lay them in there every week myself; they act as a

baffle, too; they act as a baffle. I decreased the size of this hole into the main stack—made it a little smaller; that was necessarily larger; I decreased the size of this hole and ran this fire-brick, that I placed in there loosely every week—extending out four inches from the chimney—up to these, right close to this edge of this opening. This opening is at the extreme bottom—that is, the arch —the top of it is at the arch and extends down ten or twelve inches below the arch, on top of that wall; this temporary wall that I put there, the loose wall, I placed three fire-brick erect, Henry Mauer's fire-brick, in front of this hole, from another baffle, so that if anything should have a tendency to go near that hole, the fire will go back and strike this wall before anything could get out of that main stack, and burn it up.

Q. Now, have you completed your description?

A. No, sir; in this illustration here, it shows considerable line of pipe; this has been simplified.

Q. Before we come to the change, I want to know whether you have now got the thing complete as it was at that time?

A. At that time that was positively successful.

Q. Now, that is in August, 1912?

A. Yes, sir.

Q. And you commenced to buy fuel oil?

A. Yes, sir.

Q. Can you refer to a record book that you have and tell us when it was that you bought your first fuel oil for permanent consumption, in this place?

A. On August 27, 1912, I received from the Valvoline Oil Company, three barrels of oil for that very purpose, and from that time I have used fuel oil.

Q. What was the effect of the plan, as thus

evolved, so far as the disposition of odors was concerned?

A. In my opinion, as I just explained it, with these brick at the rear, and everything—

Q. What effect did that have?

A. In my opinion, it was positively a success.

Q. In other words, were there any odors of this vapor, that comes from boiling linseed oil, when this apparatus was in operation?

A. Never, to my belief, and I have traveled all around the location—

Q. Now, how much of the time have you been there, say from the first of January, February, March, 1912, down to the present time?

A. I have never lost a day since I have been in their employ; I live in Edgewater, Undercliff Avenue.

Q. How near—can you point on the map to your residence?

A. Yes, sir.

Q. How near do you live to the factory?

A. I should say about six or eight blocks Southwest of the factory.

Q. (BY THE COURT) Then you are in the rear of the factory, somewhat to the South?

A. Yes, sir.

FURTHER DIRECT:

Q. Now, what other changes have been made, if any?

A. This line here represents the live steam line from the boiler.

Q. We will call that "X;" that carries live steam from the boiler into what?

A. Into this burner, in case we want to use it to atomize this oil.

Q. So that you have, in addition to the compressed air, provision for live steam?

A. Yes, sir.

Q. Proceed.

A. This represents the oil and air line.

Q. What does?

A. Above that—

Q. Why?

A. That means that we have two tanks, one with fuel oil, forced to this burner with compressed air; that is what that line represents. This line represents another tank; that is "Z," that represents anoher line of pipe from another tank, run by gravity, down to here (indicating); this is all outside of the building connecting with the burner; this is the main oil valve—called such on the drawing—on this side; this valve represents the air valve from the air compressor of the tank in the pump room—controlling the entrance of air.

Q. What is the size of this air pipe?

A. About three-quarters of an inch; I am not certain—three-quarters of an inch.

Q. Now, go on.

A. That is the burner itself (indicating).

Q. All right; now, this represents the present completed—

A. No, sir; that has been modified since.

Q. What has?

A. This line of pipe.

Q. Now, tell us what further changes have been made.

A. I had them changed to make it more simplified, the system of pipes.

MR. GOURLEY.—This is unimportant, in my view of the case.

Q. Now, won't you describe the operation that you have in your mill—and I think you had better sit down again now—for the boiling of linseed oil; start in the morning and tell us what is done, and the whole thing.

A. As a general rule, we start the fires about six o'clock in the morning; we first put wood in.

Q. What fires?

A. Under the linseed oil kettles; we put wood in first, and then generally throw a little kerosene on and start that off, and throw coke on.

Q. Your practice is, to run no more than two kettles a day?

A. Two kettles, unless there is some important reason that I do otherwise.

Q. How much linseed oil will two kettles consume a day?

A. Six barrels in each kettle.

Q. Do you keep a record of all the linseed oil put into the kettles?

A. Yes, sir.

Q. And can you furnish us the daily record of the amount of linseed oil put in per day?

A. I can, sir.

Q. If you have not that made out, I will get you to do it.

A. Yes, sir.

Q. All right, now; you get the fire started about 6:30?

A. No, sir; generally around 6 to 6:15.

Q. Proceed.

A. Well, when we start those fires there, it generally takes about, approximately—well it all depends on atmospheric conditions, the weather, if the fires are good, if the elements are good out-

side, we will attain a temperature of 250 degrees in an hour and a half.

Q. What do you speak of a temperature of 250 degrees; what is there about that?

A. Because I always start that consumer going, that fuel oil burner going, at that temperature.

Q. How do you happen to use that degree of temperature as the time to start your consumer fire?

A. Simply because I knew, that, in my opinion, my practical experience in handling oil, that linseed oil would generate gases or fumes from about 325 to 350 degrees Fahrenheit; and I start this burner going at 250 degrees to allow time to get this thing so operated and so hot, that when they do commence to go off, that they will be burned up.

Q. Now, in normal conditions and normal grade of oil, and normal weather conditions, about how long does it take to get your temperature in your kettles to 250 degrees?

A. About an hour and a half, under good weather conditions.

Q. How do you regulate the apparatus to suit the varying conditions either of atmosphere or oil?

A. I regulate that burner in one manner; it don't make any difference what the weather is or anything else, I always operate those valves the same one day as I would another—every day in the week.

Q. You said that sometimes the conditions of the weather made a slight variation with regard to the time when the 250 degrees would be reached?

A. I am referring to the fires underneath—that won't burn as brisk underneath when the weather is bad.

Q. Now, is there any method of ascertaining the temperature in your chamber?

A. There is no method of getting the temperature in there, no, sir.

Q. Is there any way of regulating, or have you experimented with the question of how much air should get in there?

A. Well, I carried 25 pounds of pressure of air on that burner itself.

Q. Now, how soon after you have put on your—how soon after you have ignited your burner, will the chamber be going at full effect—what time—how much time?

A. How long after I start the burner— I can get the interior of that chamber at a white heat in 15 minutes' time; I can have that back wall that I spoke to you about, white heat, in 15 minutes.

Q. Which is the greater heat, the white or the red?

A. White heat, in my estimation.

Q. Meantime, are you able to catch the temperature in the kettles?

A. Yes, sir; we have thermometers in the kettles.

Q. And do you keep a record of that or not, of the temperature, during the day?

A. Yes, sir; when I attain high heat and everything, yes sir.

Q. What do you call high heat, and what will be the average heat after the thing is in full operation?

A. To attain a body of varnish made from linseed oil, in my opinion, from 550 to 580 degrees is sufficient.

Q. How often are your records of the temperature from the thermometer on the kettles, taken?

A. Why there is a man boiling that oil in the room constantly—

Q. How often do you take the record?

A. Every day; I put them in my book every day.

Q. You have got a record, then?

A. Yes, sir.

Q. Have you the book here?

A. Yes, sir.

Q. How often during the day did you take these records?

A. The man boiling his oil calls me when it reaches a temperature of 250; he calls me over then, and I start the burner generally myself.

Q. Well, now, this apparatus is now in full swing —just describe the day's work—after it goes on—how long—

A. After I start that fuel oil burner going at 250 degrees of heat, in about one hour's time the gases are perceptible—off the oil; they reach about 340 to 350 degrees in an hour's time.

Q. You are supposed to be looking through what, now?

A. You can open the door and look in and see the oil; we have to watch the oil.

Q. Now, go ahead.

A. And after the oil is boiled up, as I said before, from anywhere round 550 to 575 or 560, around those figures, until we get the grades that we require; we have a number of grades of litho varnishes; we get those grades that we want; when we strike our grades the coke fires underneath the kettles are heated; the fires underneath the kettles are taken out; and the consumer is constantly going all this time that I am speaking of. From then on, the temperature of the oil will commence; it will stand steady, maybe, an hour, possibly, or

from half an hour to an hour the temperature will remain fixed at that high heat, and then will commence to diminish, commence to cool off, and, depending on the grades of varnishes, heavy or soft, they cool down until they reach a degree of temperature of 250 degrees Fahrenheit, which takes place anywhere from ten o'clock at night to two o'clock the next morning; in the meantime, this consumer is going until that temperature is reached, and that is the temperature at which the fire ceases to give off the oil.

Q. And when that stage of temperature is reached, then what happens to the consumer?

A. They shut down the burner, shut the plant down for the night.

Q. Now, is that the plan that is regularly pursued whenever you are boiling linseed oil?

A. Yes, sir.

Q. (BY THE COURT) It takes the whole day to dispose of the twelve barrels?

A. Yes, sir.

Q. What temperature is it your understanding and experience that the noxious vapor, in burning linseed oil, comes off?

A. Comes off linseed oil?

Q. Yes.

A. In my experience, in my practical experience, in handling linseed oil, I believe that anywhere from 325 to 350, you will see light gases coming off.

FURTHER DIRECT:

Q. What time of day is it when the decline in temperature, owing to your method of working and ceasing work, what time of day is it when you

reach the period that this noxious vapor, known as acrolein, ceases to come off—what time or day, ordinarily?

A. It depends upon the specific gravity of the varnishes that we have in those kettles; some are soft and some are heavy; it varies from seven o'clock until two o'clock the next morning; that is the time when we shut down that consumer.

Q. Well, you have spoken, I think, of some leeway—that you allow for the coming off of acrolein or the noxious vapor, when your cooling off process is commenced; just describe that a little more plainly—I think I missed it.

A. I said that in the rising of the temperature of the earth—I was speaking of the rising of the temperature of the earth; I could not tell you the hour that the acrolein ceases to come off the oil in the night time, but I told you the time I shut the burner off at night; then the acrolein is positively off at that temperature.

Q. Now, who, besides yourself, at this plant, is connected with the operation of this boiling of linseed oil?

A. Mr. Fred Klein boils the oil.

Q. Anybody else?

A. Well, we have three or four assistants over there.

Q. That is what I want to know, what human assistance is necessary to the operation of this scheme, as you have outlined it?

A. As far as this burner is concerned, one man can operate that.

Q. The question is, practically, who helps you in the operation of this plant every day there?

A. Mr. Klein, who boils the oil, and generally, a little Italian fellow that they have; he sometimes

starts the compressor off—that is, throws the power on.

Q. Does he do that by direction?

A. Yes, sir; I tell him to start the compressor going.

Q. Then you superintend the concern?

A. Yes, sir.

Q. Fred Klein boils the oil?

A. Yes, sir.

Q. Now, does that include all the hands that are there every day on this particular branch of the work?

A. Yes, sir.

Q. I don't understand you to say that you go to work at six o'clock in the morning and are working there at midnight again?

A. No, sir; I am up at seven o'clock in the morning.

Q. What time do you leave?

A. Anywhere from five to seven o'clock, six o'clock and as a general rule, 6:30 some nights.

Q. Does Mr. Klein stay there all night?

A. Yes, sir; he sleeps on the premises.

Q. Is he there all day, too?

A. Yes, sir.

Q. What plan have you there for having him brought there to do the necessary turning off at the proper time?

A. I instruct the night watchman to awaken Klein up at the time those temperatures are down to 250, and then Klein goes over and shuts the burner down.

Q. Then the watchman is necessary, too?

A. Yes, sir.

Q. Now, you have already described the result of this apparatus upon the noxious odors?

A. Yes, sir.

Q. Have you had any accidents or trouble when the apparatus was out of order, and when there might have been some odors?

A. Yes, sir.

Q. Can you give the dates?

A. Yes, sir.

Q. Go ahead.

A. I have a sheet of them.

A. Yes, sir.

THE COURT.—All right, let us have it.

Q. Now, just wait a moment; what is this sheet you have here?

A. This is a sheet that I put down each day a record of events that transpire there, such as complaints that I hear of, where somebody has smelled the plant; or a fire occurs, or the power is off through lack of electrical current caused by a storm or something of that sort.

Q. (BY THE COURT) Do you put complaints that you hear from people around Edgewater down there?

A. Yes, sir; we constantly hear them, though I don't put them all down.

FURTHER DIRECT:

Q. How late does this thing come to?

A. Right up to April 18th, I think.

Q. Does this show the days you operated and the days you did not operate?

A. No, sir; I have another sheet that shows the days the kettles were in operation.

Q. Give the days when you had any trouble—when your plant was not working?

MR. GOURLEY.—That is two questions: "When you had any trouble," and "When your plant was not working."

A. Thursday, September 4, 1913, there was an electric storm, thunder storm; that must have blown a circuit off at the power house, and the power was off our compressor at 11 o'clock at night; that was September 4, 1913.

Q. What is the next?

A. October 1, 1913, another thunder storm, power off between 2:30 and 3:30 that afternoon.

Q. You were operating that day?

A. Yes, sir; immediately applied steam to it, when I saw the power was off. On November 17, 1913, belt of the compressor, that is the belt from the shaft opreating this compressor, broke; that was November 17, 1913, between 7:30 and 8 o'clock at night.

Q. How long did that throw the plant out?

A. I immediately applied the steam then.

Q. Proceed; how long does it take to get the steam in full operation?

A. It is just a matter of shutting the compressed air valve and opening the steam valve.

Q. Proceed.

A. On November 21, 1913, belt broke between 5:30 in the afternoon and 6 o'clock, used steam. On December 3, 1913, we had a fire in No. 4 kettle between 11 and 11:30 in the morning.

Q. What effect did that have?

A. That had an effect in this way, that it creates quite a smoke for a few mi nutes, and it does not go out of the main stack, but, it goes through the crevices of the roof; there is a galvanized iron roof in

this building, and it passes between the space of the galvanized iron roof and the brick roof.

Q. How long did that last?

A. We can extinguish those fires inside of ten minutes, and we have put them out in ten minutes' time.

Q. Proceed.

A. November 8, 1913, the power was off five times—used steam. On Tuesday, January 13th, we had trouble with the gravity oil line on account of Zero weather, that is 1914—

Q. Is that gravity oil line always in operation?

A. No, sir; not always.

Q. Was it in operation then?

A. Yes, sir.

Q. What was the matter with your other line?

A. We were using the gravity tank at the time of this trouble, and then we threw the other tank on.

Q. How long did that take?

A. I have not the exact time it took, but it did not take long.

Q. Proceed.

A. On the 14th of the same January, we shut down; we did not burn at all on account of the severe cold weather. On January 24, 1914, the burner valve, which is a needle point, became clogged for a few seconds at 11::30—probably a scale off the inside of a pipe had got in this burner and clogged it for a few seconds only at 11:30 A. M.

Q. Proceed.

A. On February 12, 1914, from 8 to 9 P. M., the burner got out of order. On Wednesday, the 25th of February, 1914, we had trouble with the burner again from 9 o'clock in the morning until 1 o'clock, at different intervals, and the kettles were pumped

out and flooded with cold oil so as to stop the gases coming off. On Thursday, March 5th, at 11 o'clock, fire in No. 4 kettle; that lasted from five to ten minutes' time, and we extiguished the fire. On Tuesday, March 10th, No. 4 kettle flushed again—same result—same system we used.

Q. What hour?

A. 11 o'clock in the morning. On Friday, March 20th, power off the town from 1:30 to 2 o'clock in the afternoon.

Q. Did you put on the steam?

A. Yes, sir.

Q. Any more?

A. On April 3, 1914.

Q. What date?

A. April 3, 1914, we had smoke from the still room that did not come from this linseed boiling house. On April 8, 1914, at 11 A. M., No. 1 and No. 2 kettles flashed.

Q. What was that flashing due to?

A. It is due to the extra hazardous conditions of burning these gases—it is a thing that has never, I guess, to my knowledge, ever been experimented on or tried out; and linseed oil always—at such high degree of heat—is in a condition pretty nearly —well, the least little spark that would get to it would start it off, and burning these fumes makes a condition that causes these kettles to flash.

Q. Have you any more cases?

A. On April 12th I tried a new burner—do you want that—just to see if it would be as good as the one we had in operation; this was on a Sunday, and we were not boiling that day.

Q. Have you any more dates when you had trouble when you were operating?

A. No, sir: that is all.

Q. Now, I want to call your attention to an occasion when Mr. Allison was down there; he said that occasion was on the 22nd of November of last year, I think, and you had some trouble; do you remember the occasion that he refers to?

A. I remember seeing the gentleman on the stone wall; I did not know who he was at the time.

Q. Do you recognize him now as being the man?

A. Yes, sir.

Q. Now, what date was that?

A. Well, he said November 22nd.

Q. Is that right?

A. I did not boil on that day; that is on a Saturday.

Q. Do you remember an occasion when there was a man up on the wall when you had had some trouble, and one of your men did have a handkerchief on his face?

A. Yes, sir; I think that was the fire that occurred December 3rd.

Q. Upon that occasion you did see this Mr. Allison there?

A. Yes, sir.

Q. And that was an occasion when there was a fire in that kettle.

A. Yes, sir.

Q. Now, have you given, to the best of your ability, from your memorandum, all the dates upon which you had any trouble with this plant since your record commenced?

A. Yes, sir; to the best of my knowledge and belief.

Q. Mr. Barrett, what days do you run your plant, that is, run this feature of the plant, the boiling of the linseed oil?

A. Monday, Tuesday, Wednesday, Thursday and Friday.

Q. Why don't you run on Saturdays?

A. I use that day to take these hoods off the kettles and scrape them out—to clean the accumulation of soot off them, and clean out this chamber; that is, put new fire brick wall inside of that furnace there—consumer—fix that in shape.

Q. Since this plant has been completed in the manner you have described, have you operated it a single Saturday or Sunday?

A. No, sir.

Q. How about holidays?

A. Then we shut down.

Q. Legal holidays?

A. Yes, sir.

Q. After this trouble arose with Mrs. Harrigan, and you were aware of it, have there been any days when you have had what I will call, for brevity, fake runs, of your boiling plant?

A. Yes, sir; I have.

Q. What have you done on these fake runs?

A. Well, I have had the kettles entirely empty of oil.

Q. What else have you done?

A. And I have called witnesses in to examine the kettles to see that they were entirely empty.

Q. Then, did you have a fire?

A. No, sir; not underneath the kettles, but I started the fuel oil burner going to let a little puff of white smoke go out, to let them think I was boiling the oil.

Q. What days are they?

A. I have a record of them here.

Q. Please give them.

A. On Friday, June 6th, 1914, I had a fake run.

Q. No oil at all?

A. No, sir; not a particle of oil in any of the kettles, but the consumer was going.

Q. Proceed.

A. Monday, June 9, 1913. Thursday, June 26, fake run. There is also a fake run on January 28, 1914. I think I have others here; I think I have skipped some on that other sheet—

Q. You may go over it again, if you wish.

A. On January 20, 1914, I had a fake run. On January 28th I had a fake run.

Q. You gave that.

A. On February 3rd I had a fake run.

Q. What year is this?

A. 1914, February 3rd.

Q. Proceed.

A. That is about all that I can find.

Q. That is all you have?

A. That is all that I can find.

Q. Mr. Barrett, you are familiar with the odor that comes from the boiling of linseed oil?

A. Positively.

Q. Is it a distinct odor?

A. Yes, sir; it is a very distinct odor.

Q. Have you smelt it in and about your plant when you were in and about your plant on days when you were not boiling linseed oil?

A. I have, quite often.

Q. Can you designate any times when you did so smell it?

A. I could not tell you the exact dates, but I smelled it quite frequently when the wind was from the South.

Q. Have you any recent dates when you smelled this odor, when you were not operating?

A. Yes, sir; I have; on April 18th—that was on

a Saturday. There was not any oil anywhere on that plant; the plant was shut down. At 9:15 P. M., one of the members of the Board of Health came down to our plant and asked the watchman—

MR. GOURLEY.—No, no; we object to that.

Q. What about the stench — what was the stench?

A. There were fumes in the town that night.

Q. What kind of odors?

A. Odors in that town that night.

Q. So that a man came to your plant about it?

A. Yes, sir.

Q. And you were not operating that night?

A. Not a particle of oil in the kettles.

Q. Do you remember the occasion that Mr. Hilliker referred to yesterday?

A. Yes, sir.

Q. Can you tell us about the time that occurred?

A. I believe about July or August of the year 1912—the summer of 1912.

Q. You were not operating at that time?

A. No, sir.

Q. (BY THE COURT) Who was this member of the Board of Health that came down there?

A. Mr. Mulligan.

FURTHER DIRECT:

Q. Were you there at the plant the day that Dr. McKenna and Dr. Olsen were there?

A. Yes, sir.

Q. Will you state what time Dr. McKenna reached there, about?

A. He came in about 8 o'clock, I believe, that morning.

Q. Had you started the fires before he came?

A. No, sir; we had not started anything at all.

Q. What have you to say, Mr. Barrett, as to your experience as to any smell or odor from that boiling oil that day that Dr. McKenna and Dr. Olsen were there?

A. I positively could detect no odors at all that day he was there.

Q. (BY THE COURT) What locality do you refer to?

A. I was all around the plant.

FURTHER DIRECT:

Q. Do you mean that out in the yard you could not detect anything?

A. That is right; and I went up the ladder myself, too, and I could not detect any by putting my head over the stack, and I did not detect any odor.

Q. That is the time that Dr. Olsen had the same experience?

A. Yes, sir.

Q. Did Dr. McKenna speak of a headache to you?

A. Not a word.

Q. Did he speak of smelling any odor to you?

A. Not a word.

Q. Dr. Rogers was there—the gentleman who just left the room?

A. Yes, sir.

Q. Was the general operation of the plant normal that day, as far as you know?

A. Yes, sir.

Q. How many kettles did you have going?

A. That day we had two kettles going.

Q. Now, you said on certain occasions you ran four kettles, extra occasions; what did you mean?

A. On one occasion, where I understood that Dr. Rogers was coming over there, I put four kettles on to give them the full test of the capacity of that burner.

Q. Now, when I was out there on Easter Monday, you gave me the full blast?

A. Yes, sir, I did.

Q. Do you just such occasions as that?

A. Yes, sir; I have had it with the full capacity when I did not know any visitors were coming.

Q. What kind of occasions would they be?

A. There was an occasion when I heard that any day I might expect Dr. Thompson over there, and I did not know what day he was coming, so I made up my mind to give him the full capacity.

Q. Now, as a matter of fact, Mr. Thompson, who sits behind me here, did come out there?

A. Yes, sir.

Q. Did you know what day he was coming?

A. I never heard a word about it.

Q. The first thing you knew was, that he was on the premises?

A. Yes, sir.

Q. Did you have all the 24 barrels going then?

A. Yes, sir.

Q. How long were you operating these four kettles—how many days?

A. Maybe three days a week, and maybe four days a week.

MR. McCARTER.—We are going, before

the case closes, to put in our daily record of barrels of oil.

Q. Mr. Barrett, Mrs. Harrigan, the complainant here, has described an interview that she claims she had with you early in the history of this enterprise?

A. Yes, sir.

Q. Will you please describe any interview or interviews that you have ever had with Mrs. Harrigan touching the matter of this boiling of linseed oil, or the conduct of your plant?

A. Well, in the fall of 1911—I was new with the plant then—I was around the yard, and Mr. Borch was in charge, and I saw a lady coming in the yard; I did not know her at the time; she wanted to know who was the superintendent over there who had charge; so I referred her to Mr. Borch and he turned around and told me to talk to her; so I went over and said, "What can I do for you?" and she was all excited, and she said, "Put out those fires underneath those kettles; you are driving us out of our homes;" I said, "If you have any grievances, go to New York to our main office; we cannot extinguish the fires unless we get orders from our main office;" and I directed her to the main office, and I told her she would find the proprietors of the shop over there.

Q. Is that all that occurred that day?

A. Yes, sir.

Q. In what stage of operation was your boiling apparatus at that time?

A. Then Mr. Borch was boiling the oil without any consumer at all.

Q. Now, what other interviews, if any, have you

ever had with Mrs. Harrigan, outside of this court room, touching the matter?

A. Then again in the spring of 1912, there was a telephone message—Mr. Borch was still in charge at that time; it was around April, I think, because in May he left us; there was a telephone call, and I went to the telephone and answered the telephone for Mr. Borch, and this lady said she would like to have the superintendent come around to her house that she would like to talk to him; and Mr. Borch said to me, "You go around and see her;" so I went to her house and I rang the bell, and she said, "I don't want to see you, I saw you before, last fall, but as long as you are here, come upstairs," and she showed me through her apartment where all her windows on the South side were all closed, and she showed me her furniture, rubbing her hand over the furniture, and she said they were all full of soot; she said that she had cleaned them early in the morning. I told her, I said, "Madam, we don't burn soft coal over in our place." And she said, "Can you smell your plant?" and I said, "Well, Madam, I cannot smell anything;" and I went on the back stoop with her, and she said again, "You smell it now?" and I said, "No; we have no oil in operation." This was Saturday morning, and I said to her, "If you will come around with me now, I will show you that we are getting ready to start up on Monday morning;" and she said, "You are driving us out of our homes; we cannot live here; we cannot exist;" and she said, "Either you have got to get out, or you have got to buy me out;" and, furthermore, she said, "How would you like to come some day and see a pile of brick in River Road?" I said, "Go to 129th Street

if you have any complaints, but I will report it;" and I did report it.

Q. Now, mention has been made of two or three open kettles in the yard, near by this building where you boil oil?

A. Yes, sir.

Q. What do you use those kettles for?

A. For resin varnishes; there is no linseed oil in them, and never has been.

Q. Are you able to notice any stench or odor coming from your lpace when you are boiling linseed oil, when the plant is in operation?

A. I go all over the locality myself, personally, visiting every quarter where the wind is blowing, to see if there is any particle getting away at all, and I do not discover any.

Q. How far is it from your plant to this new public school that is being erected over there?

A. I should judge about 700 to 750 feet.

Q. How do you reach that conclusion?

A. I stepped it off myself two or three nights ago.

Q. What new buildings have gone up in this locality within the past two years?

MR. GOURLEY.—I object.

THE COURT.—Objection is overruled.

A. To the best of my recollection and belief, I judge there is a two-family house on Undercliff Avenue, directly in the rear of our plant.

THE COURT.—During what period of time are you directing the witness's attention to, Mr. McCarter?

Q. Will you point out on the map produced by

the complaint the location of those two new houses; here is your plant, and this is Edgewater Avenue (indicating) and this is Undercliff Avenue?

A. There is one there (indicating Lot No. 19 on Undercliff Avenue); that is either a four or five-story house, two apartments on each floor, four or five stories in height.

Q. Now, are lots three and four next to the Catholic Church?

A. Yes, sir; there is a great big apartment going up there, four stories high, and four families on a floor, right in there.

Q. Any others, that you can recall?

A. Over in the rear, on Undercliff Avenue, about opposite, directly West of our plant, in the rear there of Lot No. 11, there is a frame house there, a one-family house.

Q. Now anything more that you recall?

A. I am not sure.

Q. Now, you have said that Saturdays you close up for the purpose of putting in repair your chamber or consumer?

A. Yes, sir; and cleaning out the hoods.

Q. What is this thing that I show you?

A. That is a fire-brick, inside that chamber—taken out of this top chamber—the consumer chamber; that is what is left of it—burnt up like that.

Q. A week's run?

A. Yes, sir.

Q. What is this thing (indicating)?

A. That is a piece of a bar that is underneath those perforated bricks, that the bricks rest on; the flame does not come in direct contact with that

iron at all; the heat is over the brick; this is underneath these brick.

Q. Anything more here?

A. This is a piece of Henry Mauer's fire-brick that has become fused with the heat.

Q. Now, I understood Mr. Hilliker to say yesterday, that while you and he were at work in the construction of that chamber and the apparatus connected therewith, for the purpose of taking care of the fumes, you would experiment by going up to the top of the chimney, and seeing whether, under the then condition of things, you had or had not succeeded, and finally completed the structure and pronounced it satisfactory by that brick demonstration; is that right?

A. Yes, sir; by going up the stack, and also by going round to the surrounding territory, too.

Q. At Mr. Ullman's plant over in New York, you said there was no arrangement for the consumption of the odors?

A. No, sir.

Q. How does the top of the Ullman stack compare in height with the windows of houses near by?

A. I should judge, as near as I could look over there, probably the fourth or fifth story of a house on Mott Avenue would be above their stack.

Q. And how near are those houses to the stack?

A. About two blocks.

Q. And what character of houses are they?

A. There are some elegant houses there.

CROSS-EXAMINATION by Mr. Gourley:

Q. What becomes of the odor at the Ullman place?

A. Goes up the stack and disappears in the air.

Q. Of course, the odors are just the same there as they would be in your place?

A. Yes, sir.

Q. They are offensive odors?

A. Yes, sir.

Q. They are very disagreeable?

A. Yes, sir.

Q. Affect your throat very seriously?

A. Some people it might affect their throats, and it might affect different people different ways; it don't affect my throat much.

Q. Does it affect your eyes?

A. No, sir.

Q. Does it affect other people's eyes?

A. I could not speak for others.

Q. You never heard that it affected the eyes?

A. Never in my life, until yesterday.

Q. Does it affect your health?

A. Well, I am going on 47, and I have not been sick very much in my life; I cannot speak for others; I don't know how it would affect others.

Q. You never were impressed with that fact that it, at that time, did affect the health?

A. No, sir; but I have brought up a large family around that plant—around the Ullman plant.

Q. Then you never smelled these smells over in Ullman's?

A. My wife has smelt them.

Q. Your family smelled them over there?

A. They never complained to me about it, and I only lived two blocks away.

Q. What diameter is this stack?

A. I could not tell you; I have no idea—it might be three or four feet.

Q. Do you know anything practically about it?

A. No, sir.

Q. You have not examined it?

A. No, sir.

Q. Is it a bigger factory than yours—Sinclair and Valentine's?

A. It is a five-story factory.

Q. How many gallons of oil do they burn a day?

A. Possibly 100 gallons.

Q. How many barrels?

A. Two barrels.

Q. So they only burn two—

A. Yes, sir.

Q. How high is your stack?

A. I don't know the dimensions of our stack, but I should think it is around 30 feet.

Q. How high is it above the embankment?

A. I should think, possibly, around 20 feet—15 to 20 feet.

Q. Nearer 15 feet than 20 feet?

A. It may be.

Q. Do you know the diameter of it?

A. Of our stack?

Q. Yes.

A. No, sir.

Q. Now, how frequently does Ullman boil the oil?

A. Every day in the week.

Q. How large is his kettle?

A. About two barrel capacity.

Q. Does he use one kettle?

A. They used one when I was there.

Q. How many kettles had he when you were there?

A. One when I was there—boiling linseed oil—when I was there.

Q. He boiled out in the open?

A. No, sir; it was the enclosed room.

Q. And the gases were run up the stack?

A. Yes, sir; with the exception of those that came in the room, and sometimes you could cut it with a knife; when the weather was oppressive, sometimes it would back down the stack and come in the room where you were boiling it, and you could cut it with a knife—the vapor.

Q. Offensive vapor?

A. Yes, sir, it would cloud the room.

Q. How long would that continue to cloud the room?

A. Sometimes it would last for three or four hours; it all depended on the atmospheric condition.

Q. If the wind carried it horizontally, it would go about the neighborhood?

A. Yes, sir.

Q. Now, you are not at all familiar with these gases, except smelling them?

A. Not in any professional terms.

Q. You don't know about what degree of heat is needed for a certain quantity of gas?

A. I know what degree is needed to boil linseed oil.

Q. Do you know what degree of heat is required in this consuming chamber to consume a certain quantity of gas?

A. No, sir.

Q. Have you made any experiments to ascertain that fact?

A. In a practical way, yes, sir.

Q. Except as you have stated, have you made any other examination to ascertain that fact?

A. Only working on that cahmber there, constantly, since we inaugurated that system.

Q. Didn't you say the result of that chamber was the result of Mr. Hilliker's and Mr. Klein's investigations; was this chamber the result of Mr. Hilliker's and Mr. Klein's investigations?

A. Mr. Klein and Mr. Hilliker tried the experiments in their laboratory to see if the gases would burn, and then Mr. Hilliker talked to me of burning the gases, and asked my opinion about it, and I gave my opinion that it looked favorable to me.

Q. Although you had made no experiment up to that time?

A. No, sir.

Q. Then, the construction of this chamber was the result of the information given to you by Mr. Hilliker and Mr. Klein from their experiments?

A. From their little experiment in the laboratory that the gases would burn.

Q. Now, give us again, if you please, the date when the change was made, from the boiling the oil in the open air to the first time you boiled it and sent the fumes through the consumer?

A. I don't know when they boiled the oil in the yard.

Q. What was going on when you went with that concern?

A. They were boiling the oil and sending it up through these pipes, through the roof of this boiling house.

Q. Give me the date of that.

A. That was in the fall of 1911.

Q. And the change to the use of the present system was when?

A. From this we changed to a coke fire in about January; we made the coke consumer then; and then changed to this system of fuel oil consumer in August of 1912.

Q. You said something about the kettle being of copper and not of cast iron?

A. Yes, sir.

Q. Of course, the copper or cast iron had no effect upon the fumes; that was merely for the purpose of making a better product?

A. Yes, sir.

Q. But it did not cut any figure as to the acrolein?

A. I hardly think so, no, sir.

Q. It is not a factor in the case?

A. No, sir.

Q. And so, also, Mr. Barrett, the cover was of cast iron?

A. No, sir, galvanized iron.

Q. That, of course, cut no figure, or was not a factor in the problem as to the acrolein?

A. So far as my practical knowledge goes, it made no difference.

Q. After the first change was made, you then tried to condense the vapors?

A. I spoke about condensing the vapors on the same principle as we condense resin oil vapors, to Mr. Klein, at that test over in his laboratory.

Q. You did not put anything on the ground?

A. No, sir; I left that to our chemists; that is what we paid them for.

Q. And the third—of a pipe to the big chimney, was that tried?

A. No, sir, it was only a suggestion, it was not tried.

Q. Let me ask you on that phase of the subject; point out to the Court what was the difficulty of carrying these fumes to the large chimney and putting them up a hundred feet in the air; by the way, how high is that big stack?

A. 100 feet.

Q. What do you say as to the first part of my question?

A. It was the opinion of several people.

Q. What was your opinion?

A. In my opinion, it would be unsuccessful, because those pipes leading from that boiling house, around the yard, to that main stack, would accumulate a substance from these fatty acids of the oil, and become clogged, and would stop the circulation of the stuff going through them.

Q. Then, could you boil your oil here?

A. There is no necessity of boiling it there.

Q. Could you?

A. I presume if they had planned out the lots differently in the beginning there, they could have done.

Q. Could you have put your large stack at the West end of building "A" on this diagram and used it for both purposes?

A. If the architect had made the plans accordingly, it could have been done.

Q. Now, if these fumes were carried up this chimney, it would materially help the situation?

A. Yes, sir.

Q. It would lift them higher in the air and give the air waves a chance to carry it away?

A. Yes, sir.

Q. That was not done, and you used this small stack?

A. Yes, sir.

Q. Was this small stack used for that purpose—the small stack?

A. That was on the premises when I came into their employ.

Q. Was that built by them?

A. I don't know.

Q. You said something about the air being admitted to atomize—

A. Yes, sir.

Q. What did you refer to about that?

A. I referred to compressed air to atomize the fuel oil to make a flame.

Q. That air is emitted in the same pipe—the two ends of the pipe come together; explain that to his Honor.

A. One line enters the air, and the other enters the oil into this burner.

Q. How near are the two ends of the pipe together?

A. I don't know.

Q. Now, then, in your judgment, the air was used for this flame only, is that right?

A. I don't know, I am only a practical man.

Q. Did you know that more air was needed than merely to have the flame burned?

A. I know that there must be a sufficient quantity of air to blow through that to atomize those inter-particles so it will burn; that is all I know.

Q. You don't know, then, that any more air was needed than that, just to give the proper degree of heat?

A. 25 pounds' pressure, I know it requires that.

Q. You say 25 pounds' pressure?

A. Yes, sir.

Q. What significance has that, if there is only a needle hole in the pipe?

A. Well, you are coming to a detail that I could not answer.

MR. McCARTER.—This witness does not

pretend to know anything more about the maximum of that burner than I do.

THE WITNESS.—All I can answer is, that it takes 25 pounds' pressure to keep that chamber in the condition that I wanted it for burning those fumes.

Q. By that you mean the force at which this air goes through these small holes?

A. I could not answer that question.

Q. Now, on these days when the air broke down, you used live steam?

A. Yes, sir.

Q. Did you get enough air for the purpose of making it flame?

A. We used live steam; we did not get any air.

Q. Did that help to make the flame burn or not?

A. Yes, sir.

Q. Was it as good as the air?

A. Yes, sir, the live steam atomized the oil the same as the air, and makes that chamber just as hot.

Q. Did you ever hear what oxygen is?

A. I have heard the term; I suppose it means air, but I am not a chemist.

Q. You said that you were most successful in August?

A. I mean that I found that this, as it is constructed there at the present time, that this place that I have already referred to was a success, and it has been so, and it is so established.

Q. (Question read).

MR. McCARTER.—He did not make any such statement.

Q. Did you say or not, that you were most successful in operating this plant in August?

A. I do not recollect that I said that.

Q. Then, I will appeal to the record; I have it down. When did you start your fires?

A. It varies—Monday morning we started them at 7:30.

Q. With wood and kerosene and coke?

A. Yes, sir.

Q. That produces a black flame?

A. It produces a sort of resinous flame.

Q. That is what shows this yellow flame from the top of the chimney?

A. Yes, sir.

Q. Then, after that is burned, the yellow disappears from the top of the chimney?

A. The coke then ignites.

Q. What color of smoke do you get then?

A. A darkish color at the start.

Q. The yellow does disappear from the top of the chimney when the wood is burnt?

A. Yes, sir.

Q. When the fire is properly ignited, there is no smoke appearing?

A. No, sir.

Q. You started at six o'clock in the morning?

A. Every day but Monday.

Q. And Monday, what hour do you start?

A. 7:30 A. M.

Q. Now, what time do you arrive at the works?

A. Generally 7 o'clock, sometimes 7:10.

Q. These fires, then, are going before you arrive?

A. Yes, sir, from Tuesday on to Friday.

Q. Is the oil in the kettles at those times?

A. Yes, sir.

Q. Who puts it in?

A. It is pumped in and run in by gravity the day before.

Q. I thought the kettles did not cool until two o'clock in the morning?

A. That is the reason we use two one day and two another.

Q. Who fills the kettles actually?

A. A little Italian fellow, generally.

Q. Is there any mark on the kettles as to the quantity required—any way of measuring the quantity?

A. We go by rule, 14 to 15 inches from the flange of the kettle; that makes six barrels.

Q. That is put in the afternoon before it is boiled?

A. Yes, sir.

Q. What time in the day is that put in?

A. He alternates—it varies.

Q. So that—is the fire prepared the evening before?

A. No, sir, not until morning.

Q. Who does that?

A. Mr. Klein pours the oil.

Q. What are Mr. Klein's hours?

A. He is there all the time and lives on the place.

Q. Has he any particular hours for work?

A. He works from six o'clock in the morning, when he starts his kettle, until the kettle cools down.

Q. Does he stay there until two o'clock in the morning?

A. He sleeps there.

Q. He cannot go to bed—

A. The watchman wakes him up when the time comes for him to shut this burner down.

Q. You don't know that, except by report?

A. That is all; I left at six or seven.

Q. When you arrive there, the fire is going; have you anything more to do with the fire after that?

A. I don't have anything to do with the fire.

Q. Your duties comprise what?

A. I am in charge of that plant—not the big plant; that is under the jurisdiction of Mr. Klein.

Q. What duties have you?

A. I have charge of all the oils and varnish branch of the business.

Q. Have you anything to do with the large plant?

A. Only to change the time clock.

Q. Have you anything to do with the operation there?

A. No, sir.

Q. How many men do you employ there?

A. About thirty.

Q. How many of the thirty are under you?

A. Possibly six directly under me; if I want more, I can have them—constantly under me, I mean.

Q. Still you only have six men in the plant?

A. Yes, sir, that is, permanent men, but I can have all the men I want.

Q. How many men have you under you?

A. I said in the varnish plant, six.

Q. In all the plant, top and bottom, how many men are under you?

A. Six men.

Q. Under whom are the other men?

A. Mr. Klein is one.

Q. Is Mr. Klein the general superintendent over the remaining men in the plant—who is in charge of the plant?

A. I could not tell you; maybe he is; I could

not answer the question; there is a superintendent over in New York; I could not answer that question.

Q. Is it part of your duties to attend to this boiling in any way?

A. It is under my supervision; therefore, it is part of my work to see it is turned out.

Q. But it is daily routine of work that goes along wthout much supervision on your part?

A. Running 12 barrels of litho varnish is not a simple process.

Q. Now, what is there that requires in that process any particular attention on your part?

A. That fuel oil consumer takes my attention; that is the greatest source of my attention, care; on account of the comment in that town, that has been my special object, to keep that a success.

Q. You have not bothered putting down the comment of the town in your notes?

A. I could not enumerate them all; there are too many; I have possibly a dozen down there.

Q. How far apart in time?

A. Maybe a dozen, since 1911, that is, that I have enumerated.

Q. Why did you put them down and omit others?

A. No particular reason for it at all.

Q. Well, do I understand that every day you turned on the flame?

A. Most every day I turned on that fuel oil burner myself.

Q. The other days it is turned on by whom?

A. By Fred Klein, the one that boils the oil, but most of the time by me.

Q. Now, then, is it your experience that you

found that that flame had to be turned on at a particular time?

A. It is my experience in handling linseed oil, that I know just about what degree of heat that there are obnoxious fumes coming from the oil, and I know it is necessary to get that chamber in condition so that it will burn up those gases.

Q. Did you learn from your experience, at what time, after the fires were lit, that you had to light the fire in the heated chamber?

A. Yes, sir, I learned when I first started those kettles there, I learned how long it took to arrive at 250 degrees of heat.

Q. You said 250 degrees?

A. Yes, sir.

Q. Was that so of all oils of every grade?

A. All oils are not the same, oils differ.

Q. But your period of starting is always the same?

A. At 250 degrees; I started at that degree.

Q. What degree do you say these offensive odors come out?

A. About 325 and 350 degrees Fahrenheit; I know that from my practical experience in handling oil at Ullman's, and also over here—it don't make any difference whether it is in an open kettle or in an enclosed kettle; the action of the oil in those kettles is the same.

Q. Do you have thermometers in the open kettles?

A. Yes, sir, and in these closed kettles, too.

Q. Now, do you know or not, when these fumes are given out?

A. I am positive that they give off at 325 to 350 degrees, light fumes.

Q. Do you mean by sight or by smell?

A. I mean by both.

Q. Are they both at the same time; in other words, when you see the vapor arise from the boiling oil, is that the first you begin to smell it?

A. No, sir, you can smell raw linseed oil when they are pressing the seed; the offensive odors would be from 350 to 400 degrees of heat.

Q. I want to know whether or not the offensive odors were given out from the oil before you saw the change in the color of the oil; in other words, did you first detect it by sight or by smell; if my question is not plain, just tell me.

A. I detect it by sight and smell both.

Q. Are both at the one time, or can you smell it before you can see it?

A. No, sir; when you see the vapor coming off that oil, you will smell it; when it is perceptible enough you see it, too.

Q. May I take your answer as meaning, that as soon as you see the vapor you smell it for the first time?

A. When you can see it perceptibly, then it will commence to smell, between 350 degrees and 400 degrees of heat.

Q. You started the consumer at 250 degrees?

A. Yes, sir.

Q. You gave it as your opinion that from 325 to 350, the fumes became offensive?

A. I said the fumes commence to give off linseed oil—

Q. When 320 arrived in the thermometer, are the fumes that come off pleasant or unpleasant?

A. They are not so unpleasant.

Q. To the average person?

A. Yes, sir, they are not obnoxious at that heat.

Q. Now, when do they become so?

A. Around 400 degrees, I should say, in my experience.

Q. That is, to you they are offensive by that time?

A. To anybody.

Q. To you when are they offensive?

A. About 400 degrees of heat, but they do not annoy me.

Q. I find on the report made by Dr. McKenna in visiting your plant, that at ten o'clock the temperature was 265—

MR. McCARTER.—I object to a reference to Dr. McKenna's report.

MR. GOURLEY.—I move to strike out the word "report," and insert the word "testimony."

MR. McCARTER.—All right, then.

A. Yes, sir.

Q. Do you remember that at ten o'clock on that day, when this examination was made, the temperature was 265 degrees Fahrenheit?

A. I don't remember; I took no record of it myself.

Q. Do you remember that at 10:20 the temperature was 325?

A. I don't remember the hour nor the specific readings of the thermometer.

Q. In other words, in 20 minutes it won't be 60 degrees, do you know that?

MR. McCARTER.—Objected to; he says he does not know anything about it.

A. No, sir, I did not, there were too many there took records that day; I did not do it.

Q. Do you say yes or no, that in the orderly operation of that plant it will go up 60 degrees in 20 minutes?

A. No, sir, I don't think it will; I think, maybe, there might have been a mistake on Dr. McKenna's part.

Q. Have you any record of the degree of heat in the consuming chamber?

A. No, sir, I have not the slightest.

Q. I want to know whether or not the heated chamber is heated as speedily as the increase in temperature in the boiling oil?

A. I can heat that chamber in 15 minutes' time to a white heat.

Q. Have you any record of the temperature in the heated chamber?

A. No, sir, only this illustration (indicating two pieces of fire-brick in a piece of cast iron grate bar), the heat inside that chamber is 1500 degrees Fahrenheit, in my opinion.

Q. Now, do you know whether it must be 1500?

A. To the best of my knowledge and belief it must be 1500 degrees.

RECESS TO 2 P. M.

AFTER RECESS

SEYMOUR BARRETT resumes the witness stand.

CROSS-EXAMINATION (continued) by Mr. Gourley:

Q. Was there any reason for the night watchman wakening up Mr. Klein, except to have Mr. Klein shut off the oil burner?

A. No reason only to close this burner off at night.

Q. In closing it off, was there anything to do but turn the wheel of the valve?

A. Shut three valve wheels—the oil valve, the air valve and the burner valve.

Q. These valves regulated by a small wheel?

A. Yes, sir.

Q. You shut this and then pull the lever on the switch; that shuts off the current from the town, that is, the electric current?

A. Yes, sir.

Q. That was done how?

A. By pulling a lever down.

Q. Had you noticed when you were using steam instead of air, what the effect of steam was upon the combustion chamber, as to whether it diminished the heat?

A. In operating the steam I can get exactly as much heat inside that chamber as I can with compressed air.

Q. Do you know whether or not the effect of using steam in that form is to lower the temperature?

A. I could not tell you about the temperature;

I could only determine that by the appearance of the heat in there.

Q. You spoke of April 12th this year, of trying a new burner?

A. April 12th?

Q. Yes.

A. I believe that was the day I tried out a new burner.

Q. What new burner was it?

A. The burner on a similar plant, a fuel oil burner on a similar plant that is in operation, only from a different concern.

Q. Did you use it?

A. I wanted to see if it was as effective as the one we have now.

Q. Did you use it?

A. I did, on a Sunday, and I took it apart again and put back the old one ready for Monday morning.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. This burner gets into the chamber how—through what?

A. Through an opening in the front of that furnace, that consumer.

Q. What is the size of the burner itself—the diameter of the burner as it goes through the opening into the chamber?

A. About one inch.

Q. What is the size of the orifice through which it goes?

A. About three inches wide and six inches in length.

Q. Now, what goes through into the chamber around the pipe?

A. Air.

Q. The open space is always there?

A. Yes, sir.

Q. That is there whether you are using steam or air?

A. Yes, sir, it is always there, because steam goes through the steam valve as the air does.

Q. Look at your record and tell us whether, on the 10th of June, 1913, your plant was in operation?

A. That was on a Tuesday; no, sir, we did not boil oil that day; that was the day of the trial.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. You spoke something in your direct examination about putting out the fires promptly; were there not several occasions when the fire department was called out?

A. Not for linseed oil fires, only in Mr. Borch's time—not in my time.

Q. Do you know the fact that the fire department was at that plant several times to put out fires?

A. They were there one night to put out a rag fire on the fifth floor.

Q. How many times were they there?

A. Only once in my time, and that was to put out the rag fire on the top floor.

Q. How long ago was this?

A. About a month ago; I don't know the exact date.

Q. You spoke about not burning on the 10th of June, 1913?

A. That is right.

Q. Were you burning on the 9th?

A. On Tuesday, the 10th, no, sir; on Monday, the 9th, no, sir.

Q. Were you boiling on the 11th?

A. Yes, sir.

Q. That is the day that the experts were present?

A. Yes, sir.

Q. When did the fires go out that day?

A. The coke fires or the fuel burner?

Q. The fire under the kettles.

A. I could not tell you exactly.

Q. Now, on Saturday when you were cleaning the plant out, did you take the pipes down?

A. Yes, sir, and scraped them out.

Q. How thick is the soot?

A. Some weeks there is hardly any on; we only do it to keep on the safe side.

Q. How thick is the soot upon the side of the pipe?

A. There is no soot.

Q. Whatever it may be that is formed by the action of these vapors?

A. How thick is it?

Q. Yes.

A. Sometimes there is none at all on there.

Q. Do you mean there is never any on?

A. There are some on.

Q. How thick is it when it is on; when it is on, how thick is it?

A. Well, it would not be more than one-eighth or one-sixteenth of an inch thick.

Q. Why did you clean it out?

A. Because we did not want any accumulation in there; if the oil flashes it would get beyond our control.

Q. Do you clean, also, the inside of the combustion chamber out?

A. Yes, sir, we put a kerosene oil blaze underneath in that bottom chamber there, to burn out any accumulation in that chamber.

Q. Can you blacken your hand by putting it inside the consuming chamber?

A. No, sir, there is no soot in there at all.

Q. Are you speaking of the chamber where the flame of gas is?

A. Yes, sir, the top chamber.

Q. Now, I understand you to say there is no accumulation there that requires any cleansing?

A. No, sir.

Q. But every Saturday you do put a fire in the gas oven?

A. Yes, sir.

Q. For the purpose of cleansing it out?

A. Because there is a little of that accumulation there; there is a little of that in there, not much; the majority is caught in the hoods.

Q. Now, then, that goes up this small chimney and out in the atmosphere?

A. What does?

Q. Whatever goes up?

A. Nothing but kerosene oil.

Q. Whatever the result of that flame may be—the draft carries it up that stack?

A. Yes, sir.

Q. And whatever may be encrusted inside the stack goes up?

A. Yes, sir. There might be a little go up with a kerosene fire.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. How long does that take?

A. Not five minutes.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. Do you know how long it takes to be effective, that is to say, how long after that can you notice anything?

A. I never noticed anything when I was burning it.

Q. Did you ever try?

A. Yes, sir.

Q. Why did you go up on Saturday?

A. I wanted to see if I could detect any smell from the cleaning of those hoods or that bottom chamber there.

Q. Then you were in doubt before you went up?

A. I wanted to be positive that no odor could get out while I was burning that out.

Q. You said before that you went up on various days?

A. Yes, sir.

Q. An these days when you were boiling, when you went up there, you found no different state of things than you found on Saturday?

A. No, sir, I found the same conditions, there was no smell around there.

CHARLES BRANDT, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. Mr. Brandt, do you work at Edgewater at this plant of the Sinclair and Valentine Company?

A. Yes, sir.

Q. How long have you worked there?

A. About a year; it might be a few days more or less.

Q. What position do you have there?

A. Night watchman.

Q. As night watchman, do you go around to different parts of the plant?

A. Yes, sir.

Q. How often does your regular practice take you out to the little building where they boil oil, boil linseed oil?

A. Every hour, the same as the rest of the building.

Q. Now, what do you do about calling Mr. Klein at night; what do you do about that; tell us what your practice is.

A. Well, I am instructed to look over the degrees of the thermometer, to a certain extent, that is, 250 degrees, and when I find that 250 degrees I call Mr. Klein.

Q. Do you know about what rate the thermometer drops per hour, from your experience there?

A. About 25, a little over 25—25 I call it.

Q. (BY THE COURT) What period of time?

A. Per hour.

FURTHER DIRECT:

Q. Suppose you come into the little building there where they boil oil, and you look at the thermometer, and you find it around 350 or 275, then what do you do?

A. It has to go down to 250.

Q. So you come back again?

A. Yes, sir.

Q. You judge the time and come back again, and when it is about 250, then you call Mr. Klein?

A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. Well, Mr. Brandt, what does Mr. Klein do when he comes there; do you see him, or do you go about your business?

A. Well, sometimes I stay and look at him, but if I have to ring up more clocks, I go away.

Q. Well, all he does is to turn the little wheels and shut off the valve?

A. That is more than I can tell you, because he is a practical man and I am not; I am only the watchman there.

Q. Did you see what he did?

A. Yes, sir, I saw what he did, but that did not concern me at all.

Q. Where does he sleep?

A. Down in the engine room there.

Q. How far from this little shed?

A. About half a minute's walk.

Q. How many feet?

A. Just across.

Q. Does he sleep in the big building?

A. Just about as far as over to that door there (indicating).

Q. Does he sleep in the big plant?

A. Yes, sir.

Q. Which floor?

A. In the engine room—in the back part of the building.

Q. And you go in there and call him?

A. Yes, sir.

Q. You had no occasion to go back with him to the little boiler house?

A. If I don't have to ring the clock up I go with him, sometimes.

Q. You have nothing to do further?

A. No, sir.

Q. And there is no occasion, except your own pleasure, for you to go back with him to see him do that thing?

A. That is so.

Q. Now, have you ever done that yourself?

A. Not so long as Mr. Klein has been there.

Q. Did you ever do it before?

A. Before he slept there, I used to turn it off.

Q. How often did you turn it off?

A. When it reached 250 degrees.

Q. Who told you to turn it off?

A. Mr. Barrett.

Q. How many times have you turned it off?

A. Just a few times.

Q. How long were you there before Mr. Klein came?

A. He was there before me, and he did not sleep the whole year there.

Q. Now, you turned that off yourself until Klein slept in the building, didn't you?

A. Yes, sir.

Q. Is not that right?

A. Yes, sir.

Q. And you knew how to do it, of course, when Klein was there?

A. Yes, sir, when I was instructed how to do it.

Q. And any time Klein wanted to sleep, you could shut it off as well as he could?

A. No, sir; I had orders to call him.

Q. And you always called him and wakened him?

A. Ever since he came there.

Q. You never helped him out by doing it yourself and letting him have a sleep.

A. It is not necessary for me to do it.

Q. Did you ever help him out?

A. No, sir, not after he came there, I never did it; I woke him up.

Q. What time did you usually waken him up.

A. When the time came to turn it off.

Q. That might be as late as two o'clock?

A. From 11 to 2.

Q. That was the usual time?

A. Yes, sir.

Q. Was Mr. Klein generally in bed at that time?

A. He generally used to go to bed at 8 or 9 o'clock.

Q. Would you go and waken him up?

A. Yes, sir, I was supposed to do it, and did do it.

FREDERICK KLINE, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. How long have you worked over at Edgewater?

A. Going on two years.

Q. What do you do in the morning in regard to burning the oil; what are your first duties and what do you first do?

A. My first duty is to start my fires at six o'clock at the latest.

Q. When did you prepare your fires?

A. Six o'clock, sharp, in the morning.

Q. And after you have started the fires, what is the arrangement that you have with regard to being called at night for the purpose of doing anything?

A. You mean when the watchman wakens me?

Q. Yes.

A. I go to bed at seven, and even at nine o'clock, and then the watchman calls me when it is 250 degrees, or sometimes 260 degrees; then I close her off.

Q. How much will it drop an hour cooling?

A. 20 to 25 degrees.

Q. Before you turn it off, what do you do?

A. Look at the thermometer.

Q. At what point do you turn it off?

A. At 250.

Q. Now, in order to turn it off, what do you do?

A. In case I use steam, I turn off the steam valve, and then the center wheel, and if I use the air compressor, I shut off the compressor.

Q. What do you do to do that?

A. That is in a little side room there, and I pull down a lever, electric power, and it stops itself.

Q. Then, what other valves do you turn?

A. Inside, I open the air valve and let the air out.

Q. Is there any other valve you open?

A. No, sir.

Q. Are there one or two valves that you turn?

A. One.

Q. One for the air valve?

A. Yes, sir.

Q. How do you shut the oil off?

Q. How do you shut the oil off?

A. I get hold of the wheel on this side and shut that off first, and then I walk over to the compressor and shut off the valve on the oil, and then the air.

Q. Now, at what stage of this operation do you turn off the power by pulling the lever; when do you do that?

A. When it is 250 degrees.

Q. After it gets 250 degrees—after your ther-

mometer registers 250 degrees, what do you first do?

A. In the morning?

Q. You are called, and you find the thermometer registers 250 degrees?

A. I close her off.

Q. What do you first close?

A. If it is compressed air, I shut that off first.

Q. We are talking about air—let the steam alone; now, you are using your air—your thermometer is 250 degrees, isn't it?

A. Yes, sir.

Q. Tell the Vice-Chancellor what you do first?

A. Shut off the power.

Q. Then, what is the next thing you do?

A. Then I shut off the air.

Q. How about your oil?

A. That is all done at once.

Q. Well, I know you have got three things to do—

A. The oil is the first thing I shut off.

Q. Which do you do first?

A. I shut off the oil.

Q. What do you do next?

A. I shut off the air, and then I shut off the compressor.

Q. Now, when you have the steam, you have already described that?

A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. That is two valves and a lever, I understand; am I right; you turn two valves and one lever?

A. Yes, sir.

Q. Or is one valve and one lever?

A. Two valves and one lever.

Q. How often do you have steam on?

A. That depends on the compressor.

Q. How often does that happen?

A. Very seldom.

Q. Once a week or a month, or what?

A. That happens so seldom, I could not keep track of it.

Q. You can tell us whether you use steam once a week?

A. I could not tell you that; at least once a month.

Q. You use steam?

A. Yes, sir.

Q. Now, have you anything else to do than turn these two valves and the one lever?

A. That is all I have to do.

Q. You just get out of bed to do that?

A. Yes, sir.

Q. Why don't you let the watchman do it?

A. Because I was placed there to shut it off.

Q. But is there anything that you do that he could not do?

A. He could do it if he wanted to.

Q. He called you out of bed as late as two o'clock in the morning from your sleep, to do the thing that he could do as well as you could?

A. Yes, sir.

Q. Is there anything that you sign when you do it; do you sign anything to let your people know the next morning that it was done by you?

A. Yes, sir.

Q. Now, I show you a sheet of paper which counsel on the other side has handed me, and which

he says is the paper that shows the time when that is shut off; is that right?

A. Yes, sir.

Q. What period does that cover?

A. Those are my figures.

Q. Where did you get this paper?

A. That is in Mr. Barrett's care; the report comes in every morning.

Q. When do you hand it to Mr. Barrett?

A. I don't hand that paper to Mr. Barrett at all.

Q. Is that your handwriting?

A. Yes, sir.

Q. When do you sign that?

A. Sometimes 9:30 and maybe ten, and maybe 11 o'clock in the morning.

GEORGE R. HOWELL, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. Now, I am going to stand back here and I want you to talk loud enough so that I can hear you here. Where do you live, sir?

A. New York.

Q. What is your business?

A. Ink making and varnish making.

Q. With what enterprise are you connected?

A. Sigmund Ullman Company.

Q. Where is that plant?

A. 146th Street and Park Avenue, New York City.

Q. How long have you been connected with that plant?

A. 17 years.

Q. And what particular function do you perform in that plant?

A. I am superintendent of the whole plant.

Q. Do they make varnishes there, and ink?

A. Yes, sir.

Q. And do they boil linseed oil?

A. Yes, sir.

Q. How long, to your knowledge, have you been boiling linseed oil over there?

A. 17 years.

Q. What plant have you for boiling?

A. Simply copper kettles and a truck and an open fire.

Q. And is it connected also with a chimney?

A. Right under the chimney.

Q. Under the stack?

A. Yes, sir.

Q. How high a stack is it?

A. About 60 feet.

Q. Now are there any houses or buildings of any kind that are occupied near by, or adjacent to, that factory, whose windows are as high or higher than the stack?

A. Yes, sir.

MR. GOURLEY.—On this branch of the case, is the purpose to show that there are no offensive odors arising from oil boiled under such circumstances?

THE COURT.—I don't know.

MR. McCARTER.—We propose to show that that business is carried on there in that way, without any trouble or complaint.

MR. GOURLEY.—I don't think that is suf-

ficient; what other people may endure is not a question for us; it is a question whether or not these odors arise as the complainant says they do; now, whether it is injurious at one place, I think we have nothing to do with that.

THE COURT.—The objection will be overruled.

Q. Describe them.

A. About 250 feet away there are a number of apartment houses.

Q. These apartment houses,—of what type are they?

A. Well, they are ordinary types; apartment houses—about $30.00 or $40.00 a month, I should think; then on that same street, right there, there is the Morris High School; and right alongside, there is a number of factories where there are a great many people employed; I think the windows are on a level with our chimney, about 50 feet away.

THE COURT.—Of course, it must be offered for the purpose of showing it is not deleterious or harmful to their health.

MR. GOURLEY.—I don't think that is the point for which it is offered.

MR. McCARTER.—That is one of the purposes of this offer.

Q. Mr. Howell, how many children go to that Morris Heights school?

A. I am sure I don't know, some hundreds.

Q. Have you had any trouble or complaint from anybody in regard to this matter?

A. Not for the last 16 years.

Q. You did have before?

A. One complaint, that is all, and it lasted about two hours.

Q. Do you know Mr. Barrett?

A. Yes, sir.

Q. Did you ever go over to the Edgewater plant of the defendant company?

A. Yes, sir.

Q. Was that the day the experts were there?

A. Yes, sir; I was there that day.

Q. Did you see Dr. McKenna?

A. I don't remember.

Q. Is that the day they were there, too?

A. I don't know; I saw Mr. Rogers there, but I don't remember Mr. McKenna.

Q. Did you see Dr. Olsen?

A. No, sir.

Q. What time did you get there?

A. I think about ten o'clock.

Q. And how long did you remain?

A. Until shortly after lunch.

Q. Did you walk around the premises?

A. Yes, sir.

Q. And was the oil being boiled while you were there?

A. Yes, sir.

Q. What aroma did you notice?

A. Not any.

Q. My atention has been directed to a fact that escaped my attention, that you raised your stack at your place in New York; why did you raise your stack?

A. For to raise the buildings—put three stories

on the buildings; we had to raise the stack to get our draft.

Q. It was not on account of the odor?

A. No, sir; before that our stack was only about 25 feet high.

Q. How long were you at the factory of the Sinclair and Valentine Company that day?

A. From 10 o'clock till half-past one or two o'clock.

Q. Were you inside or outside?

A. Yes, sir.

Q. How far were you outside from the factory?

A. I went up on the wall, back of it, and on to the ground back of it, and all around; then I walked around.

Q. Were you up on the chimney?

A. Yes, sir.

Q. On the ladder?

A. Yes, sir.

Q. Did you put your head over the opening?

A. As far as I could get it.

Q. Did you smell anything?

A. No, sir.

Q. Did it have any effect on your throat while you were there?

A. No, sir.

Q. Mr. Howell, I want to direct your attention now to a Sunday that you were over at the Edgewater plant with Mr. Sinclair.

A. That was Saturday afternoon, I think, if I remember right.

Q. (BY THE COURT.) How many of these factories, these ink factories, are there around?

A. There are any number of them around Brooklyn and New York, more in Brooklyn than in New York.

Q. Where they boil linseed oil?

A. Yes, sir.

FURTHER DIRECT:

Q. This Saturday that you speak of, what Saturday was that, with regard to the day that you were there, when the experts were there?

A. I think the Saturday I was there was about the first Saturday in June, 1913.

Q. And was it the following Monday that the experts were there?

A. Yes, sir.

Q. Now, was the boiling plant in operation on this Saturday?

A. No, sir.

Q. What was going on that day?

A. I went over there with Mr. Sinclair to see the burner; he started the burner up to show me how it was working, and he wanted my opinion as to whether it was all right.

Q. What was your conclusion about that?

A. That it was all right, as far as I could see.

Q. Have you ever seen a similar burner or system used?

A. I have the same burners in my factory, but not burning oil, not for that purpose—the same kind of a burner, but used for another purpose.

Q. Have you ever seen a system like this anywhere?

A. No, sir.

Q. Have you ever seen any arrangement in any place where linseed oil is burned, for the consumption of the fumes?

A. No, sir, I never have.

Q. Your experience, then, has been in other

places, that the fumes are permitted to burn up the chimney?

A. Yes, sir; always permitted to go up the chimney.

CROSS-EXAMINATION by Mr. Gourley:

Q. What quantity of oil do you boil?

A. Linseed oil, about two barrels a day, sometimes four.

Q. Sometimes four?

A. Yes, sir; sometimes two kettles full and sometimes one.

Q. How many times do you burn four barrels?

A. That does not happen very often.

Q. When was it?

A. Four or five times a year.

Q. Otherwise, it is two barrels a day?

A. Yes, sir.

Q. You light your fires when?

A. At seven o'clock in the morning.

Q. When do you draw them?

A. Any time from 12 o'clock on to 5 o'clock.

Q. Why should one varnish take five hours longer than the other?

A. Because one varnish is very thin.

Q. How long does it take to cool off?

A. I never paid any attention to that; it stays there all night, and it is cool in the mroning.

Q. You don't use those kettles again, do you, on that next day?

A. No, sir; we have other kettles.

Q. You wheel them off and wheel them on?

A. Yes, sir.

Q. Now, how close are you to your stack?

A. Right under it.

Q. And how high is your stack?

A. About sixty feet.

Q. The suggestion was made this morning that it was 100 feet?

A. That stack. no; it is not over 60 feet.

Q. How wide is it?

A. It is a only a little over our roof, and our roof is only four stories high.

Q. It is above all the buildings around the place?

A. No, sir; the buildings next to us are higher.

Q. Are some parts of your building higher?

A. No, sir; but it is higher than ours.

Q. The draft took the fumes?

A. It took the fire, too.

Q. Do you mean there were no fumes?

A. No, sir; I don't mean that.

Q. Well, there are fumes?

A. There certainly are.

Q. And noisome fumes?

A. But not the way it is there; we don't get any complaints.

Q. Never mind the complaints, it is a question of the noxious odors we are after; now, are there noxious odors or not, from burning oil?

A. Yes, sir.

Q. Very irritating to the nose and throat?

A. It certainly is, if you get it.

Q. If you get it, it is bad?

A. Yes, sir; if you get it.

Q. The point is, not to give it to the other fellow?

A. Yes, sir.

Q. It affects your eyes, too?

A. Well, it never did mine.

Q. It makes you cough?

A. Very seldom.

Q. It makes you sneeeze?

A. Not unless I am right in it.

Q. Well, you are copper lined, I suppose, yourself?

A. I presume I am by this time; I ought to be.

Q. But it is not an agreeable smell that you would want around your family and in your home?

A. I would not want it anywhere, of course not.

Q. What do you mean, then, that there are no complaints—if it does give out that stuff?

A. We have never had a complaint since the first year.

Q. But the air is polluted?

A. I do not see it, and I don't smell it.

Q. In other words, you removed the bad odors?

A. It must go up—

Q. The quantity of oil boiled is not much?

A. No, sir; it is two barrels.

Q. And your draft is very great?

A. Yes, sir.

Q. So that air entered in that way you get no complaints?

A. We get no complaints.

Q. What is the diameter of your chimney?

A. About three feet square.

Q. Now, this first Saturday in June that you were there, did they operate the plant that day?

A. No, sir.

Q. You had what demonstration given to you?

A. Of the oil burner only.

Q. You did not have the whole plant in operation?

A. No, sir.

Q. Were you there when the other experts were there?

A. Yes, sir.

Q. You saw what they did?
A. Yes, sir; I saw what they did.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Have you any idea of the temperature of the gas in your stack?
A. What temperature—no, sir, I don't think the temperature, however, is very high.
Q. And you need very much more of a draft to get that up?
A. Yes, sir.

DR. ALLEN ROGERS, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. What is your full name?
A. Allen Rogers.
Q. And what age are you?
A. 38; I was born in 1876; I shall be 38—
Q. Give us a statement of your education?
A. I was graduated from the University of Maine in the chemistry course, in 1897; then I taught three years and took a graduate course in Pennsylvania, getting the doctor's degree in 1902; and I was Senior Fellow in Pennsylvania in 1902-1903; and instructor in organic chemistry in the following year; leaving there in 1904 to take a positon with a manufacturing company in Long Island City as research chemist. I was with them until the next September, a year from the next September, when I went over to Pratt Institute, to take charge of he industrial chemistry. That work con-

sists in teaching young men different industries by means of minature plant, in which we have paint factories with varnish works, among other industries represented.

Q. So that you actually make varnishes at this Pratt Institute?

A. Yes, sir.

Q. And in making these varnishes, do you make and boil linseed oil?

A. Yes, sir.

Q. Do you make lithographic varnishes?

A. Yes, sir.

Q. Do you use in making them the same methods that are in use in a commercial enterprise?

A. Just the same, only on a smaller scale.

Q. Have you ever visited the works of Sinclair and Valentine?

A. Yes, sir.

Q. Are you able to tell us when was the first occasion you visited there?

A. The first time I went up there was, I think, the summer of 1912, in July, if I remember rightly. It was the time they were working with the coke burner, and at that time it was, I think, when this case was started.

Q. Just briefly as you can, describe the method they had in use for consuming the vapor at that time.

A. They had a line of kettles, and then the pipes ran underneath this square box now designated as the consumer, and the gases went under there and up through the coke fire, and then off into the stack.

Q. Do you consider that a satisfactory method?

A. Yes, sir; it seemed to be satisfactory; there was no odor came off, and no smoke came from the stack.

Q. What objection was there to it?

A. I should say there would have been no objection, if the men were careful in keeping the fire up; and then there were times when they would renew th fire, and of course, it would go down, and during that time I would expect that some fumes would get through the fire bed; when the fire was working, it was all right.

Q. How much of an examination did you make for the purpose of seeing about the odors when you were there at this time?

A. We went around the place up way back under that (indicating), and over to those houses, Mrs. Harrigan's house, and over back by the stables, and all around, and up on top of the stack?

Q. You detected no odors at all?

A. No, sir.

Q. I don't know that it is necessary at this stage of this case, but, as a matter of fact, what is there about the boiling of linseed oil that does make a smell?

A. Well, it is the acrolein that is given off, which has that odor similar to when you fry a nice juicy steak, and it is burned on the stove and gives you a nice appetite.

Q. At this first visit that you refer to, they were, of course, boiling oil?

A. Yes, sir.

Q. Do you remember how many kettles were in operation?

A. I think they were boiling twelve barrels that day; that would be two kettles.

Q. Now, at that time, do you know whether they had under consideration the substitution of any other fuel for the coke?

A. They had, yes, sir; at that time they were

experimenting with the same equipment that they later installed.

Q. What experimentation work was being done at that time?

A. They had a pipe running up one of the kettles, or through a little gas heater, with the flame going in there, and they were letting some of the gases go in there, and seeing if it was consumed; that was on one side of the kettles; but they were using the other furnace and shut-off to pass the gas through this little experimental thing.

Q. When next did you visit the plant?

A. The next time, I think, was the next June, about the time that this came up for trial again; it was before the day that the other gentlemen, Dr. McKenna and Dr. Olsen, were there, about the 3rd or 4th of June.

Q. Now, going back to that day, which was the fall, anterior to the time when Drs. Olsen and McKenna were there, had the new oil fuel plant been substituted?

A. Yes, sir.

Q. Now, just describe that.

A. That plant was the same; it looked to me like the same box that was on there before, maybe a little larger, and in the front of the box was an opening with the regular fuel oil burner in it; this was heated to a white heat, and I think they were boiling that day twenty-four barrels; the fumes, of course, were very heavy on top of the kettles, and at the top of the stack you could not see anything. I climbed to the top of the stack and went all around the plant and did not get any odor at all.

Q. Now, on this day did you observe any odor of the products of the decomposition of linseed oil coming from the stack, or about the furnace?

A. I did not, no, sir.

Q. What conclusion did you reach that day with regard to the effectiveness of the equipment installed for the consumption of the gases going off from the boiling of linseed oil?

A. I thought it was exceptionally well constructed and very efficient.

Q. With that appartus in operation, such as you saw it that day, would it be possible for any fumes to pass through the fuel oil flame, unconsumed?

A. No, sir.

Q. Why not?

A. Because the temperature was sufficiently high to decompose any organic matter given off from the oil, and there was draft enough to get a complete combustion of the oil, and then, if there had not been a complete combustion, you certainly would have seen some vapor coming from the top of the stack.

Q. Now, what was the effect with regard to the possibility of any vapor?

A. There was no vapor at all; you could see the heated air.

Q. Have you visited the plant since that occasion?

A. Yes, sir.

Q. The following Monday?

A. On June 11th.

Q. You knew that upon that day the experts on the other side were to be there?

A. Yes, sir.

Q. What time did you get there that day?

A. About ten o'clock.

Q. Dr. McKenna was already there?

A. Yes, sir.

Q. Had Dr. Olsen arrived yet?

A. He was there a few minutes later.

Q. Did you notice any fumes escaping from the stack that day?

A. No, sir.

Q. You are familiar, of course, with the odor of acrolein?

A. Yes, sir.

Q. And that is the chemical substance that passes off from boiling linseed oil?

A. Yes, sir.

Q. Did you smell any acrolein that day at all?

A. No, sir; absolutely none.

Q. You, of course, know Dr. Olsen and Dr. McKenna?

A. Yes, sir.

Q. They are old friends of yours?

A. Yes, sir.

Q. When was it either one of them mentioned to you the fact that he smelled any such odor?

A. No, sir; they did not.

Q. Did you hear from Dr. McKenna that day, that he had a headache?

A. Not at the plant, no, sir.

Q. How much oil was being boiled that day?

A. Twelve barrels.

Q. Did you get the temperature?

A. Yes, sir; but I took no record; it seemed to be normal, and as Dr. Olsen and Mr. Sinclair and Dr. McKenna were taking temperatures, I did not think it was necessary for me to take temperatures.

Q. Here is a rough sketch which I think you can use to explain the front view of the apparatus; does this illustrate a front view of the plant?

A. Yes, sir; it does.

Q. Now, just explain what these four things protruding on the top of the lower brick work are.

A. Over each of these kettles there is a hood, and these pipes in the back show the connection of these hoods; then where the jet of oil goes here, and the vapors which are given off are drawn through there, and up the stack; of course, there is a certain amount of draft by these doors.

Q. Where are the thermometers?

A. These are the thermometers here.

Q. So there is a thermometer plainly visible over each kettle?

A. Yes, sir.

Q. Have you heard the description of the maximum of the consuming chamber, as described by Mr. Hilliker and Mr. Barrett?

A. Yes, sir.

Q. Now, in view of that evidence, as well as upon observation, what would you say as to its effectiveness for the consumption of oxidation of the fumes?

A. I can say it is entirely satisfactory.

Q. Did you go up to the top of the stack the day these other experts were there?

A. Yes, sir.

Q. What did you find in the way of odors?

A. None.

Q. How about there being any appearance of smoke or gases?

A. No smoke, no fumes; of course, there was the hot air coming out.

Q. Did you put your head over—

A. Yes, sir.

Q. Did you test the gases coming off from the top of the stack?

A. Yes, sir; by an Orsat gas apparatus.

Q. Describe how you used it?

A. This is an apparatus consisting of a series of bulbs; in the first bulb is a solution of sodium

hydroxid. In the second bulb is a solution of alkaline pyrogallic acid; and in the third bulb is a solution of cuprous chloride.

Q. Now, how do you use it?

A. From the top of the stack I run a glass tube down into the stack with a bend in it, and connected that with a rubber tubing to my apparatus. It was not very convenient to work on top of the stack, so I did it this way; now, by doing that the rubber tubing would have to contain some air, so I filled and refilled my apparatus ten times with this vapor coming out from the top of the stack, and that was sufficient to fill my rubber tubing.

Q. Was it practicable then to so fill it?

A. Yes, sir.

Q. Now, what then occurred?

A. Then on the side of this bulb there is a measuring tube in which you take in 100 cubic centimeters of the gas, and the first thing you do is, you run the gas into your soda solution.

Q. There is a method by which you can analyze the vapors?

A. Yes, sir.

Q. Did you analyze it?

A. Yes, sir.

Q. What was the result?

A. The result was, that I found in the gas 2 per cent. of carbon dioxide; 18½ per cent. of oxygen, and no carbon monoxide; the rest of it was nitrogen.

Q. What did that indicate?

A. That indicates that the air itself contains 21 per cent, roughly of oxygen—20 92-100 per cent of oxygen; the oxygen of the air combined with the carbon, and when combustion is complete it forms carbon dioxide; if combustion is not com-

plete, then you form carbon monoxide, because you have only half enough oxygen. Now, the carbon that was there was enough to form 2 per cent. of C O-2 gas.

Q. What is this carbon dioxide?

A. Gas that we breathe out from our lungs in respiration.

Q. Did anybody assist you in that chemical test?

A. Yes, sir.

Q. Mr. Kline?

A. Yes, sir; Mr. Kline held the tubing.

Q. Have you ever been any other times at the plant since then?

A. Yes, sir; I think I have been there twice since then; I went with Mr. Thompson.

Q. Now, did you come to the plant—did the plant know of the fact that you were coming with Mr. Thompson?

A. No, sir; they did not.

Q. Did anybody at the plant know?

A. No, sir; they did not know I was coming.

Q. When was it that you went with Mr. Thompson?

A. I remember that as the 27th of March, because I happened to look at the date awhile ago.

Q. The 27th of last March?

A. Yes, sir.

Q. How many barrels were being boiled that day?

A. Twelve barrels.

Q. Are you sure of that?

A. No, sir; I am not sure.

Q. Now, how long were you there that day?

A. About half an hour.

Q. What about the odors?

A. There are no odors; there was no gas coming from the stack.

Q. Did you go to the top of the stack that day?

A. No, sir.

Q. What other time were you there?

A. I don't remember definitely of any other time; I had an idea that I went up later in the fall.

Q. Are you familiar with any plants where linseed oil is boiled?

A. Yes, sir.

Q. Do you know of any plant where any arrangement exists for the consumption of the acrolein?

A. Outside of the Sinclair and Valentine plant, no, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. What do they do with this awful smell where you come from?

A. Over in Brooklyn?

Q. Anywhere; what do they do with the stench where you come from?

A. It does not affect me.

Q. Do you say there is no stench?

A. No, sir.

Q. What do they do with it?

A. It goes into the air.

Q. Suppose it gets into the houses, then what?

A. I never heard any complaints where I lived.

Q. You would have if it got into the house—

A. I would not want it in my house.

Q. Then it is a mere question of getting rid of it somehow?

A. Yes, sir.

Q. If it exists, it is deleterious?

A. I would not say it is deleterious, but I would say it is objectionable.

Q. Isn't it unwholesome?

A. I am not a physician so I cannot say that.

Q. Are not you chemist enough to know that anything that affects the lining of the throat affects digestion—

A. I cannot answer the question.

Q. Now, have you the slightest doubt of it, doctor, that it will affect the health?

A. I would say that I would not care to put my head in a kettle and live in it, but that is evidently not the condition in Brooklyn; Brooklyn seems to be a pretty good place to live.

Q. Give us the places where they are?

A. The Valentine Varnish Company—the Murphy Varnish Works, they have a plant at Green Point; and then the Curtis people have a plant in Brooklyn, and Mollen and Schumann.

Q. How many of them have you visited?

A. I never visited one, except the Valentine plant, in Brooklyn.

Q. Then you don't know anything about the conditions in the plants?

A. No, sir.

Q. You have had no practical experience in visiting these plants as to their method of destroying acrolein?

A. Not in Brooklyn, but I have in other places.

Q. Give us the other plants.

A. The De Voe-Reynolds, Newark, New Jersey; the Standard Paint Company, Long Island City; Tock Brothers, Long Island City—

Q. Do any of these make printer's ink—that is what I am after?

A. These I mentioned to you do not make printer's ink, but they make a varnish.

Q. Have you ever visited a place where printer's ink is made?

A. You mean outside of the Sinclair and Valentine plant?

Q. Yes.

A. I have visited where printer's ink was being made, yes, sir; I have visited the Levey Company of Brooklyn; they make some varnish over there, too.

Q. Have you examined their plan for the destruction of the acrolein?

A. Yes, sir.

Q. Now, these other places of which you have spoken, except the last, are makers of varnishes?

A. Yes, sir.

Q. That is not the same as making ink, of course?

A. In the making of the varnish it does not make any difference whether you are making lithographic varnish or an oil varnish; you have to boil the same way.

Q. Do you increase to the same temperature?

A. Practically the same, only it is worse.

Q. Are not those alcoholic varnishes?

A. No, sir.

Q. How many places, doctor, have you named, where you have visited the plant in respect to their method of destroying the acrolein?

A. Just one plant, Sinclair and Valentine.

Q. Now, how many of these plants have you visited where you are able to state their method of disposing of the acrolein?

A. That is one—Sinclair and Valentine's.

Q. Have you visited any of these other plants where you say that linseed oil was boiled for the

purpose of making the varnish; have you visited them and are you able to tell the Court how they dispose of the acrolein?

A. Yes, sir.

Q. Now, what plants have you observed that you can tell the Court how they disposed of the acrolein?

A. Those that I have mentioned, the Levey Ink Works, and the list I gave there—the Valentine Works.

Q. (BY THE COURT) Have you visited all these?

A. Yes, sir.

Q. Proceed.

A. Levey, Valentine, and the Tock Brothers, De Voe-Reynolds and the Standard Paint Company—

FURTHER CROSS:

Q. How many plants have you been inside of and observed their method of disposing of the acrolein?

A. That is right—these are the plants that I have named.

Q. Now, this list still stands?

A. Yes, sir; and I have besides that visited a great many patent leather works.

Q. When did you visit the Levey plant and observe their method of disposing of the acrolein?

A. Sometime last fall.

Q. Did you visit these plants, or some of them, for the purpose of comparing their method with what you had been asked to examine the Sinclair and Valentine Works for?

A. No, sir.

Q. Had your visits to any of these plants any-

thing to do with the probability of your testifying in this case?

A. No, sir.

Q. Then tell us why you visited the Levey plant?

A. Because I took my students on trips of inspection to different places, and in the course of my trips we visited all these places.

Q. Then you were with a class going through?

A. Yes, sir.

Q. Did you take a class to Reynolds'?

A. Yes, sir.

Q. And to Tock's?

A. No, sir; I went through there alone.

Q. Did you take a class to the Standard?

A. Yes, sir.

Q. So, to three of these places, Levey's, Reynolds' and the Standard you took classes?

A. Yes, sir.

Q. Of course, during such a visit as that, you could give no professional study to the method of disposing of the acrolein?

A. Well, you could observe.

Q. As any visitor could observe, that is all?

A. Yes, sir.

Q. That, of course, would not give you high technical knowledge?

A. You could observe

Q. How many barrels of oil did Levey boil while you were there?

A. I should say, probably, one barrel, or two barrels.

Q Did you make any investigation to ascertain whether it was one barrel or two?

A. No, sir.

Q. Do you know whether they boil once a week or once a month?

A. No, sir.

Q. Now, then, as to that, where is this Levey works situated?

A. It is somewheres near the Erie basin in Brooklyn.

Q. How near to the stack is the oil boiled?

A. Their oil boils under a hood and goes directly back into the stack—I should say, maybe five or ten feet from the stack.

Q. Do you recall distinctly?

A. No, sir.

Q. How is it carried to the stack?

A. By means of an open hood.

Q. What sized pipe leads to the stack?

A. Those pipes were, I should say, one foot in diameter.

Q. How many were there?

A. I think there were three.

Q. How many boilers were in use at the time?

A. Two, if I remember rightly.

Q. How high was the stack?

A. I could not tell you that; I would not say.

Q. Then you were not interested?

A. No, sir.

Q. Then we will pass on to the Valentine plant at Brooklyn; you had no class there?

A. I do censory work, to find out the truth.

Q. You were on that trip at the Valentine Company?

A. Yes, sir.

Q. What did you find at Valentine's?

A. That the condition around the plant is—that there was no odor of acrolein at all.

Q. You will throw in remarks like that; answer my questions. How many barrels did they boil at Valentine's?

A. I cannot tell you that.

Q. While you were there?

A. No, sir.

Q. Why cannot you tell?

A. Well, they boiled, if I remember rightly—your statement is that they boiled—

Q. No, no—

A. Well, then, I don't know.

Q. Did you notice that day what they boiled?

A. No, sir.

Q. How many kettles were going?

A. I cannot tell you.

Q. Were they boiling any that day?

A. No, sir.

Q. Now, the Reynolds' plant you visited with a class?

A. Yes, sir.

Q. Where is their place?

A. Near Railroad Avenue, Newark, New Jersey.

MR. McCARTER.—It is just about 200 yards from my house.

Q. What were they boiling?

A. Well, I should say they were boiling—in fact, I know they were boiling two kettles, and I should say there was about three barrels in a kettle.

Q. Had you, at that time, any occasion to observe, for the purpose of refreshing your memory, about the conditions?

A. No, sir.

Q. Simply a casual—

A. At the time, that was before this case came up; that is about two and a half years ago.

Q. When you were simply passing through?

A. Yes, sir.

Q. You were concerned more about the production of the varnish?

A. Yes, sir.

Q. How near were they to the stack?

A. They were right underneath it.

Q. How high was the stack?

A. 30 or 40 feet high.

Q. What diameter was the stack?

A. Well, I should say maybe 1½ or 2 feet this way, and maybe four feet the other way.

Q. 4 feet by 2½ feet?

A. Yes, sir.

Q. Do you know how often they boil; do you know of your own knowledge?

A. No, sir.

Q. How long did you visit there?

A. In that varnish house I was there, probably, an hour.

Q. You mean you were an hour where they were boiling?

A. Yes, sir.

Q. Was the boiling process a part of that which you wished to see?

A. Yes, sir.

Q. Was that an appreciable part of what you wanted to see?

A. Yes, sir.

Q. Now, take the next case of Tock's plant, that was a personal visit?

A. Yes, sir.

Q. Where is his place?

A. Long Island City.

Q. And on the day you visited it, what was your purpose?

A. I went over there to make a visit to see Mr. Tock on some other matters relative to his plant,

and so then he took me down and showed me his stacks.

Q. Had your visit anything to do with this question of the disposition of the acrolein?

A. No, sir.

Q. The method of disposing of it?

A. No, sir.

Q. You then passed through that place?

A. Yes, sir.

Q. Did you remain anywhere near this varnish house?

A. Yes, sir.

Q. How many kettles were going there?

A. I cannot remember, but I would say, maybe two kettles; I don't remember correctly.

Q. Now, the Standard plant, that was a class visit?

A. I think at the time I visited this varnish works that I was alone.

Q. When was that?

A. 1½ or two years ago, possibly.

Q. Before your association with this case?

A. Yes, sir.

Q. At that time there was nothing present in your mind about observing any conditions?

A. No, sir.

Q. Now, that covers, outside your own laboratory work, your knowledge of the working operations of these oil works at this point?

A. Yes, sir.

Q. A varnish factory is not a laboratory?

A. No, sir; but we have regular kettles the same as are used in a regular varnish factory; we make it under a hood, and we carry the fumes off.

Q. That is simply an illustration like any other illustration in laboratory work?

A. It is an illustration on a pracitcal scale.

Q. That is only in conjunction with the great mass of information given to students of various forms of laboratory work?

A. The work is different than most schools; we try to give the boys practical instruction in certain lines of industry.

Q. Do I understand that you have classes that specially prepare for any work of this kind?

A. There are boys who come there with special ideas, but we do not have any special two years' course in making varnish.

Q. As you are giving it to us, Dr. Rogers, that fairly embraces your knowledge of this subject, the source of knowledge—

A. Except for the varnish used in patent leather, which is practically the same as a lithographic varnish.

Q. That is not a very material point in this inquiry, is it?

A. Except that the boiling is done in the same way; there is more varnish made for patent leather.

Q. I suppose a very thin coating would do on leather; now, what quantity have you seen boiled at some leather works?

A. They boil three, four and five barrels at a time, and the works where I have more especially done work, are the Beggs and Cobb Company, at Woburn, Massachusetts.

Q. Where else?

A. And at the Riverside Japannery, at Mansfield, Massachusetts.

Q. Well, in varnish and japanning, are those products the result of heating linseed oil to over 500 degrees?

A. Yes, sir.

Q. Now, if you have any knowledge obtained in that way by which you observed these plants, kindly state it now, and the quantity that you saw boiled.

A. At the Beggs and Cobb plant, they boil about, I should say, five barrels a day, five barrels of linseed oil a day; they boil in an open kettle, under a stack, and under an open fire; their particular method of heating is by means of an oil flame. That oil is used in making patent leathe varnishes in the dark coats and finishing coats—

Q. Now, any other place that you have mentioned?

A. The Beggs and Cobb Company and the Riverside Japannery are the only two in which I have ever done any work.

Q. How near is the stack to their boilers?

A. The kettle is under the stack.

Q. How high are the stacks in these places?

A. About 30 feet.

Q. What diameter?

A. I should say 1½ feet or 3 feet.

Q. Any high buildings near?

A. The Woburn plant, that is in a small county town.

Q. Are any of their own buildings higher than their stack?

A. Yes, sir; they are.

Q. Where?

A. That is, the Beggs and Cobb plant, and the other plant, too—

Q. The second place is what?

A. The Riverside Japannery.

Q. What do you say they boiled?

A. Varnish.

Q. In what quantities?

A. I don't know.

Q. What quantity of evaporation is there in a barrel of oil raised to a temperature of 600 degrees?

A. I could not tell you.

Q. Don't you know how much it shrinks in weight or volume?

A. It varies, of course, with the temperature, with the time of heating—how long you hold it at your temperature of 600 degrees; there is a lot of factors come in there.

Q. We will assume for the present, that there are twelve barrels of oil destroyed a day, six in each—do you know what that would make in weight of oil?

A. Six barrels, 50 gallons to a barrel, and a gallon weighs about 7½ pounds; that would be 50 times 7½.

Q. Over two tons, wouldn't it be?

A. If you say so; I did not figure it out; 2,250 pounds to a kettle—over a ton to a kettle.

Q. Now, then, boiling these two tons of oil per day, what is left after the process is done, after it is heated to that degree, 600 degrees, and cooled?

A. I could not tell you the amount.

Q. Have you not any knowledge?

A. No, sir; I have carried on experiments to find the loss, and I have read the loss, but I do not carry it in my mind.

Q. Is not the loss at least one-third?

A. I don't think so; I don't believe the loss is over 10 per cent. of loss at Sinclair and Valentine's plant; I should not say it would be more than 10 per cent.

MR. McCARTER.—We will give it to you exactly, if you want it.

MR. GOURLEY.—I will give it to you exactly, if you want it.

MR. McCARTER.—All right.

Q. Where does that difference go?

A. In the atmosphere.

Q. So you get one-quarter, a ton a day, thrown into the air?

A. Yes, sir.

MR. McCARTER.—No, no.

THE COURT.—We shall have to adjourn today.

Adjourned to Friday morning, April 24, 1914.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on Friday the twenty-fourth day of April, 1914, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances as heretofore noted.

DR. ALLEN ROGERS resumes the witness stand.

FURTHER CROSS-EXAMINATION by Mr. Gourley:

Q. You spoke yesterday of having taken some observations by machine at the top of the stack?

A. Yes, sir.

Q. What was the date of that?

A. That was on June 11th.

Q. And what hour of the day?

A. Half-past one.

Q. Did you know how long that was after the oil had been at the boiling point?

A. Yes, sir, the fire was drawn about 11:30 and this was 1:30.

Q. The fire was drawn at 11:30?

A. I think so, if I remember rightly; I have no memorandum showing that, but that has been testified to.

Q. But it had not been when you made this examination?

A. No, sir; that was about 1:30.

Q. Were the fires then at their highest point?

Yes, sir.

Q. That was the most effective time to take it—if you sought to show that there was a little acrolein in he amosphere?

Yes, sir.

Q. If you had sought to show there was acrolein in the atmosphere, it would have been taken at an earlier or a later hour?

A. No, sir.

Q. Why not?

A. Because this was at the highest heat, and the most gas was being given off at that time, and naturally, it would have been the time when more acrolein would have been drawn into the air than any other time.

Q. You are speaking of the kettles now?

Yes, sir.

Q. But if the heated chamber had not, at that time, attained its highest efficiency, would it have been a good or bad time to have taken the observation?

A. I don't understand.

Q. If you sought to show, would you find in the atmosphere—be more likely to find in the atmos-

phere—traces of acrolein, if the heated chamber had not reached its highest state of efficiency?

A. Yes, sir; I would say yes.

Q. So that, in making that observation, if you sought to prove that there were few traces of acrolein in the air, would you naturally take it at the time when the heated chamber was at the highest point of efficiency?

A. Yes, sir.

Q. Now, what instrument did you use?

A. Orsat's.

Q. Is not that a crude device?

A. No, sir.

Q. Do you say, as a chemist, that is regarded in the highest degree by men of your profession?

A. Yes, sir; for that kind of work.

Q. You had some chloride, I think?

A. Yes, sir; cuprous chloride.

Q. Is that an efficient agent—

MR. McCARTER.—You mistake the object of the experiment.

Q. Do you know what the Emple apparatus is?

A. Yes, sir.

Q. It is much more convenient to handle, but not as accurate?

A. Yes, sir.

Q. Have you tested both?

A. Yes, sir.

Q. Where and when?

A. Hundreds of times.

Q. For atmospheric conditions?

A. No, sir; for tests in boiler tests, and instruction in gas analysis.

Q. I am speaking of atmospheric work?

A. We did not test that; we test for gases.

Q. Have you tested gas for acrolein?

A. No, sir.

Q. Did you make any test to ascertain the presence of acrolein?

A. I made a test to determine whether combustion was complete.

Q. Your apparatus, was it designed to register acrolein?

A. No, sir; no apparatus is designed for that.

Q. There is no apparatus with which you could go up there and take a sample of the atmosphere and determine the presence of acrolein in it?

A. No, sir.

Q. You have to depend on your smell for that purpose, or the effect of it upon your body?

A. You can determine hydro-carbons, organic matter, illuminates, etc., but for this test, if that combustion was complete—

Q. That is argumentative.

A. No, sir; that is a fact; if combustion was complete and acrolein was present during that time, there could have been no acrolein present if—

Q. But if acrolein were present, it could not be determined by the fact that that acrolein itself would register?

A. Yes, sir; it would be absorbed, it would be washed out in the first test in the water.

Q. Do you say, then, that the acrolein would be apparent by the use of such an instrument?

A. No, sir.

Q. Did you repeat that analysis?

A. Yes, sir.

Q. How did you repeat it?

A. I made three checks—three distinct analyses.

Q. At the same time?

A. Yes, sir.

Q. Was Dr. McKenna there?

A. No, sir.

Q. Was Dr. Olsen there?

A. No, sir.

Q. You did it when they were away?

A. Yes, sir.

Q. Why didn't you do it while they were there?

A. I had no authority over them; they left early.

Q. But you were there when they were there?

A. Yes, sir.

Q. You knew what they were there for?

A. Yes, sir.

Q. You did not suggest to them: "Now, gentlemen, I have an Orsat here, and I am going to make the test, and I desire you to observe the test?"

A. I thought they knew what they were there for; I made no suggestions to them; I did not have the Orsat at the time they were there; I sent for it at about 11:30 A. M.

Q. While they were there?

A. Yes, sir; they were there.

Q. Was there any acrolein vapor in your gas sample?

A. No, sir.

Q. And you made that examination where?

A. At the stack; I smelled no acrolein?

Q. Was there any acrolein vapor in your gas apparent on the test?

A. No, sir.

Q. Was it upon the ladder that Dr. Olsen had gone up, the second ladder, upon which you stood when you made this test?

A. Yes, sir.

Q. How high did that carry you above the top of the chimney?

A. The second ladder reached to about two feet below the top, if I remember rightly.

Q. Two feet below the top?

A. Yes, sir.

Q. And on what rung of the ladder from the top did you stand?

A. About the second or third.

Q. How high was your head above the chimney top?

A. About up to my breast; I had the tube bent and let it hang down in the stack.

Q. How many openings were there to take in the air?

A. One opening in the tube.

Q. Now, I ask you, inasmuch as no trace of acrolein would be registered in your apparatus, was there or not, in your experience, the rush of air up the chimney, would it have any effect on determining the presence of acrolein or not, by smell?

A. I don't get you; do you mean if the rush of air up there, whether that would disperse it so that I could not have smelled it?

Q. I mean, whether the great rush of air coming up, such as it was, whether you would be less likely or more likely at such a place to determine whether acrolein was present, than when it began to settle in the atmosphere outside?

A. I think you could smell it better on the stack than you could 100 feet away where it is diffused.

Q. Do you know it?

A. Yes, sir.

Q. Where have you made any test or experiment to ascertain—

A. By analogy; put your nose to a hydrogen sulphide generator, it comes out in a stream and it

would knock you down; 10 feet away you can smell it perceptibly.

Q. You could not tell from your own experience, whether or not you were more or less likely to get it at the top of this stack?

A. I know from common sense, that the more concentrated the thing is, the more it smells.

Q. Does not common sense teach you that air would carry it away?

A. Yes, sir.

Q. The point is, that you have no practical experience on that point?

A. I don't understand you.

Q. I mean you have made no observation particularly about acrolein under such circumstances?

A. No, sir.

Q. Now, you said something about this chamber, combustion chamber; what space is in the chamber?

A. The inside dimensions of that, do you mean?

Q. I want to know how many square feet of service the fumes come in contact with in the heated chamber?

A. I could only give that from memory.

Q. How many feet?

A. I should say maybe two or 2½ feet wide and 3 or 4 feet tall, and possibly 4 or 5 feet deep.

Q. 26 or 27 feet—

A. Square feet—that would be 20 feet on a side and 15 feet on the bottom and top, that would be about 90 feet—

Q. The torch was what opening?

A. In the pipe itself?

Q. Yes.

A. That comes out of a very small opening, maybe ⅛ of an inch, and then it spreads; it is more like a long flame until it impinges on the fire brick.

Q. In other words, it rushes out straight and then breaks against this wall?

A. Yes, sir.

Q. And that throws it back some?

A. Yes, sir.

Q. Now, that flame was the distance from the jet to that little wall, does it strike the wall solidly?

A. Part of the flame impinges on that wall and then spreads.

Q. Did you test how long it was necessary to use that before you heated the chamber red hot?

A. No, sir.

Q. You saw the apparatus?

A. Yes, sir, but I did not see it started.

Q. I suppose this was the first one you saw, and, therefore, you have no practical experience to give his Honor as to the time required that that gas was lit before the chimney inside became red hot?

A. No, sir.

Q. And you have no information yourself, from your own experience, of the length of time required to heat those bricks red hot?

A. No, sir.

Q. You did not notice on that day how long it took?

A. I know that the burner had been started and the temperature had not reached 350 degrees when I got there, and the chamber was white hot when I got there.

Q. Now, then, what part of the chamber did you see?

A. In looking through that peep-hole, do you mean?

Q. Yes.

Q. You can see the baffle-bricks, and you can see back to that baffle-brick (indicating).

Q. Baffle-brick where?

A. There (indicating).

Q. Could you see any here?

A. You could see a little way, but your flame is too intense.

Q. When you say it was red hot, do you mean it was red hot in the back portion of the combustion chamber, nearest the stack?

A. It was white hot, you cannot see in there?

Q. So that, of course, it would be necessary to have it white hot all the way back there before the proper conditions would be present to consume gases?

A. Yes, sir.

Q. I will ask you this question; have you any information or knowledge to give the Court as to whether, in your judgment, that flame, as much as you saw of it, was capable of heating the rear of the chamber near the stack, white hot?

A. In my judgment, it does.

Q. Now, is that gathered from any fact?

A. If it is hot, if the baffle-plate is hot, white hot, and all the walls around it white hot, as far as you can see, why, the probability is, that it is hot back of it; if the top of that is white hot, and the plate there is white hot, and those flames are deflected down off that baffle-plate, you can assume—there is no proof—no one can see it.

Q. Now, doctor, if we assume that acrolein vapor escapes from that stack in such quantities as to cause the neighborhood very largely to be seriously affected by it, what would you say was the cause of it?

A. If it did escape from that chimney?

Q. Yes.

A. I should say then, there was incomplete combustion.

Q. Would you say due to a defect in the chamber, or due to a defect in the work?

A. No defect in the work, no, sir; you mean defect in boiling the oil?

Q. Yes.

A. No, sir.

Q. Would you say it was due to the defect of the workmen?

A. It could be due to the defective chamber or to the defective workmanship.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Dr. Rogers, I show you an exhibit that has been stated by Mr. Barrett to be one of the firebrick that he picked out every week or so from the rear of the chamber right by the stack; please look at that specimen, and tell us from it, if you can, whether that indicates a high degree of temperature at the rear of the chamber?

A. Yes, sir, it shows that the brick has been fused.

Q. Which can only be at a high, intense heat?

A. Yes, sir.

Q. Do you know at what temperature?

A. I can only roughly tell you; probably somewheres around 2,000 degrees.

MR. McCARTER.—This piece ought to be marked as an exhibit.

Q. Now, something was said yesterday by Mr. Gourley with regard to the boiling of linseed oil for printer's ink, as distinguished from the boiling of linseed oil, we will say, for patent leather or the

arts, I will ask you whether or not the boiling of linseed oil is generic in character, with certain well known characteristics, and that the particular application of the oil makes no difference in such general boiling?

A. No, sir, in making varnish for patent leather, the linseed oil is boiled in the same way as for manufacturing lithographic varnish, and the only difference is, that they use it drier in that case, and it is thinned with benzine, while lithographic varnish is not thinned with benzine and no drier is used.

Q. Then, is there any distinction between this manufacture and any other manufacture where linseed oil is boiled, with regard to the liberation of acrolein?

A. No, sir.

Q. Now, assuming that the product, after the boiling process is complete, has lost, we will say for the purpose of this question, one-tenth of the quantity of the original oil, is all that has gone off acrolein?

A. No, sir.

Q. What else goes off in the process of boiling linseed oil besides acrolein?

A. There is water given off; there are polymeric compounds of unknown composition, and acrolein, and possibly a good many other things may be found, but it is, of course, supposed to be usually due to the acrolein from which you get the odor.

Q. Can you give any idea of the amount of oxygen necessary to consume the acrolein given off at this particular plant?

A. Yes; may I refer to a note? I just figured that out last night for comparison, in relation to this question. Those kettles contain 5,000 pounds

of linseed oil, and it lost during heating 10 per cent; that would mean a loss of 500 pounds; assume it is all acrolein, for the sake of argument, that would require 1600 pounds of oxygen to completely oxidize it; that would mean 25,600 cubic feet of oxygen; or 121,000 cubic feet of air; now, if you should burn 5,000 pounds of coal, and assume that the coal contains about 75 per cent of carbon, that would require 10,000 pounds of oxygen to consume it, which would be equivalent to 160,000 cubic feet of oxygen, or 762,000 cubic feet of air—that is, it would take to burn 5,000 pounds of coal—it will consume somewheres around four times as much oxygen as the assumed 10 per cent of acrolein.

Q. I omitted to ask you whether you had edited a work on industrial chemistry?

A. Yes, sir, I published one book, a laboratory guide of industrial chemistry, dealing with these manufacturing processes on a small scale.

Q. Is the work that you do in your class at the Pratt Institute in the way of industrial instruction different from what is known as the ordinary laboratory work?

A. Yes, sir.

Q. In what way?

A. In the respect that we have small kettles which hold from three to five gallons of oil, and these kettles are placed on gas burners under a hood, and the oil and gums are heated to the temperatures required in making different grades of varnish.

Q. So that you have a complete miniature plant?

A. Yes, sir.

Q. Now, in the preparation of this book of yours

—is this the book on industrial chemistry for the students in practicing?

A. Yes, sir.

Q. Edited by Allen Rogers?

A. Yes, sir.

Q. That is you?

A. Yes, sir.

Q. Did you have to familiarize yourself with standard varnish manufactories of this country?

A. Yes, sir; this book is in collaboration with men who are well known; there are in that book 37 co-workers; in the new edition which I am now preparing, there are 42.

Q. This odor that comes from volatilized acrolein, is that an acid smell?

A. No, sir, you would not call it an acid smell, no, sir.

Q. Is there any acid odor that comes off from boiling linseed oil?

A. Not to my knowledge.

Q. Do you know whether or not the temperature was higher—I am not asking you to give the exact height, but whether or not the temperature shows on the boiling vats their height at the time you made your experiments?

A. Yes, it was over 500.

Q. Assuming the temperature to have been about 500, what do you say with regard to the extent of the liberation of the acrolein?

A. The fumes are very intense on the top, over the kettles.

Q. The higher the temperature then, the more the liberation?

A. Yes, sir.

Q. Is there a degree, doctor, beyond which you cannot go safely in the temperature?

A. Yes, sir.

Q. Can you state what that is?

A. No, sir.

Q. It cannot go too high, or you would have a fire?

A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. How long, from your experience, is oil heated to the highest point, kept at that temperature?

A. That depends entirely on what kind of varnish you want; the longer you hold it at the high temperature, the thicker it gets, and so it is brought to that temperature and held there for a definite length of time.

Q. What is the minimum and maximum, in your experience?

A. The minimum is to bring it to a temperature of 540, if you want that temperature, and then draw your fire.

Q. As soon as it reaches 540, then you draw the fire?

A. Yes, sir.

Q. And in the maximum case?

A. In the maximum case, from my own experience in my small way, is to hold it at that temperature around about half an hour to an hour.

Q. Then, how long after the fires are withdrawn does it contain that degree?

A. It depends on the volume of your oil; in my particular case, I cannot hold that temperature as long as you could in a large kettle; my oil will cool down in three or four hours, because I had smaller kettles, but it does depend entirely on the size of the kettle.

Q. How long will the oil retain this high temperature after it has reached it, if the fire is immediately withdrawn when that is reached?

A. I do not have any practical knowledge.

Q. Your book says from one to two hours?

A. Well, that happened to be a gum varnish.

Q. It says, "On boiling—"

A. That is a gum varnish; it is not a hard and fast rule.

Q. And your heat is 500 in your book?

A. Yes, sir.

Q. Now, this larger book of which you have spoken, there are 32 other contributors?

A. 32 or 36, about that.

Q. Of this you are the editor, and you contributed some of the chapters?

A. Yes, sir.

Q. Your counsel asked you something about whether the method of boiling oil was different at Sinclair and Valentine's than the other places mentioned, or a question something like that; now, that would depend; the results in such cases depend on the quantities boiled, as to the noxious effluvia?

A. Yes, sir.

Q. That is a relative question, of course?

A. Yes, sir.

Q. Now, I omitted to ask you something about these pipes; what have you to say, if you have any knowledge on the subject, about the pipes that lead into the chamber from the boilers; is there any residuum, after a week's work, upon those pipes, of any kind?

A. I have never seen them in one week's run.

Q. Have you any knowledge to advise us about that?

A. No, sir.

Q. Resting your reply upon your knowledge of other things analogous, can you tell us whether or not there would be some resin in those pipes after a week's work?

A. I would not expect there would be.

Q. You would not expect, then, that they would have to be cleaned?

A. No, sir, I would not expect so.

Q. Do you know, then, why they do it?

A. I suppose as a mater of precaution.

Q. Although you would not think it would have to be done?

A. No, sir.

Q. Is that so with the smoke stack itself; would you expect to find, in the smoke stack lining, soot, defective gases going up?

A. Not in that smoke stack.

Q. Why?

A. Because your draft is—you have such a free draft in there that there is not much chance for anything to deposit on the inside of the stack if it was there, because the rush of air is so great it would take it out.

Q. The draft in this small chimney?

A. Yes, sir.

Q. You think that this aperture as given here, that that creates enough air to carry anything away?

A. Yes, sir.

Q. So that, inside this chimney you think there is not anything?

A. No, sir.

Q. Did you see whether there was or not?

A. No, sir.

Q. So that I take it from you, so far as your ex-

perience goes, that this taking out these pipes and all that, would be unnecessary, for cleaning purposes?

A. That is my view of it.

Q. I assume your view is, from this starting the chamber on fire on Saturday to clean it out, would not give out any odors in such a cleaning?

A. No, sir.

Q. But you have no experience on that?

A. When any organic substance burns there is no odor from it.

Q. But if it does not all burn, you would find it there?

A. Yes, sir.

Q. And if it was not wholly consumed during the week, and a fire was started and heated up on Saturday, it would give out that noxious vapor, if they existed?

A. Yes, sir.

Q. That you would expect to find if it existed—

A. An odor, no, sir—I say the combustion was complete; if it was not complete, then there might be an odor.

Q. Please think of what I am saying now; please remember what I say and answer my question; now, I say, if, during the week some of these gases were unconsumed, would you expect to find them on Saturday when the chamber was heated again for the purpose of cleaning; would you expect to find those gases liberated and discharged into the air?

A. Gases, of course, do not condense; acrolein boils at 42 degrees but vapors are volatile.

Q. I want you to give it to me; do you say that then there would not be any, although there were unconsumed gases or traces of acrolein in the

pipes during the week, unconsumed; do you say that on Saturday, if it were lit, as Mr. Barrett says they were, would you or not expect to find those gases liberated?

MR. McCARTER.—Objected to; Mr. Barrett did not say they were there.

MR. GOURLEY.—I said if they were unconsumed, and the gas was heated as he said. The point is this, that if they were liberated, if they were unconsumed and in this place, if that is the fact. Mr. Barrett only comes into it when I put in his testimony as to lighting on Saturday. The question is absolutely technically flawless.

Q. If there were, during the week's work, some unconsumed gases or vapors of any kind—traces of acrolein in that chamber or in the pipes, and if, as Mr. Barrett says, on Saturday he lit his fire there, as he has described it, would you expect that fact would liberate the unconsumed gases and discharge them into the air?

A. I say they would burn.

Q. You said, Dr. Rogers, speaking of the point of the gas jet entering into the chamber, that there was a gas jet, an opening where air was admitted; was that observable readily, that opening?

A. Yes, sir.

Q. Did you not have to stoop down to look through it?

A. Very slightly, yes, sir.

Q. And was not the opening very slight?

A. About two inches or three inches wide, and maybe that long (indicating), three or four inches long.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Can you imagine a situation where liberated acrolein could remain in a chamber with a chimney from which it could escape, and only be liberated by some burning process on Saturday?

A. No, sir.

Q. Why not?

A. Because acrolein is a gas, or it is a very low boiling liquid, which, at 42 degrees, or 52 4-10 degrees, boils, so that it would not remain in the stack; it would pass off.

Q. What does acrolein boil at?

A. 52 4-10 degrees, I think.

Q. Centigrade?

A. Yes, sir.

Q. What is it Fahrenheit?

A. About 100; 126 3-10 degrees Fahrenheit.

Q. Then, while these pipes are cool, the acrolein will liquify?

A. Not in ordinary temperatures.

Q. You have said now at what it boils?

A. Yes, sir.

Q. Do you say, as a Doctor of Chemistry, that that acrolein will not liquify without it cools?

A. It is practically the same as ether, and if you dump ether in the stack it will form a vapor.

Q. Now, answer this question; it is a simple question; do you say that in these pipes leading from the hood into the fire chamber, that after those pipes cool, and the fire is out, and the pipe is cold, the acrolein will not liquify?

A. At ordinary temperatures, no, sir.

Q. When the pipe is cold to that degree of temperature that that pipe naturally attains, will it not liquify?

A. Yes, sir.

Q. Now, what temperature do you say it will liquify at?

A. I cannot give you the exact temperature, but you would have to cool that down lower than room temperature.

Q. Did you take into consideration that in winter time that might be ice cold?

A. Not at the time that the gases were giving off.

Q. Don't you see you are not answering my question?

A. It cannot get ice cold with 230 degrees in the kettle.

Q. Suppose the fires are out?

A. There is no vapor given off of the kettle.

Q. Is there any residuum in the pipes by which that acrolein will liquify when it is cold?

A. I don't believe so.

JOHN CLAHAN, JR., sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. Edgewater.

Q. What part of Edgewater.

A. In pretty near the center of the village.

Q. What street?

A. Undercliff Avenue.

Q. What number?

A. 198.

Q. Where do you work in the day time?

A. In the lower section, in the extreme South end of the borough.

Q. Is that the part known as Shady Side?

A. Yes, sir.

Q. Do you hold any official position in Edgewater?

A. Yes, sir.

Q. What?

A. Mayor of the borough.

Q. When were you Mayor of the Borough?

A. From 1910 to 1914.

Q. Mr. Clahan, can you tell us whether Edgewater is a smelly place or not?

MR. GOURLEY.—I do not like to interfere with Mr. McCarter so early, but I suggest that that question should be reframed.

Q. What can you say of smells in Edgewater?

A. Edgewater is more or less of a manufacturing town; there are several manufacturing places there, and there is not any of them but at times some kind of odors come from them.

Q. Are you familiar with the plant of the Sinclair and Valentine Company?

A. Yes, sir.

Q. Do you remember when it was first built?

A. Yes, sir.

Q. Do you remember when they first came there, before they built?

A. Yes, sir.

Q. What can you say with respect to odors coming from the Sinclair and Valentine plant when it first came there?

MR. GOURLEY.—It is not apparent so far, that he knows.

THE COURT.—Objection overruled.

A. There were odors of cooking of linseed oil, linseed oil smells that were pretty strong.

Q. Now, have you noticed any change with respect to those odors since they first came there?

A. Yes, sir.

Q. What?

A. Why, it is altogether different now than it was at the first time they started to manufacture there.

Q. In what way is it different?

A. You don't get the same odors from the place.

Q. When did this difference begin?

A. Oh, I should judge around one and a half years—eighteen months.

Q. A year and a half ago?

A. Yes, sir, as near as I can remember.

Q. Mr. Clahan, while you were Mayor, was your attention as Mayor called, in the form of complaints, to the existence of odors in Edgewater?

A. Yes, sir.

Q. Was it called to the existence of odors from other plants than the Sinclair and Valentine plant?

A. No, sir.

Q. It was not?

A. No, sir.

Q. By whom was your attention called to these odors from Sinclair and Valentine's?

A. Mrs. Ellen Harrigan.

Q. By anyone else?

A. No, sir.

Q. Have you had occasion, Mr. Clahan, the last eighteen months, to go down to the Sinclair and Valentine plant?

A. I go by it quite often.

Q. What can you say as to having noticed any odors therefrom at those times?

A. I don't notice any more since the time I mentioned, about eighteen months ago.

Q. Mr. Clahan, what other plants in Edgewater, if any, emit odors at the present time.

A. At times, as I said before, there are not any of them that odors do not come from.

Q. Name some of them, please.

A. One is the General Chemical Company; that is in the Southern section of the town; the other is the Midland and Linseed Oil; the other is the Barrett; the New York Glucose.

Q. How about the sugar factory?

A. There is a smell there; I don't know whether you could call it—it is a simple odor—a sickening smell; you can find that when the atmosphere is heavy around a foggy time.

Q. What about Higgins' Dye Works?

A. The same condition exists there, at times.

Q. There is a smell from there?

A. Yes, sir.

Q. What about Spencer Kellogg's?

A. That is a linseed oil smell; that is what they manufacture there; at times you will get that; that is at the extreme South end of the borough.

CROSS EXAMINATION by Mr. Gourley:

Q. These all give out odors except the Sinclair and Valentine Company?

A. At times.

Q. The Sinclair and Valentine Company gives out no odors?

A. I did not say that; I have not smelled it in the past eighteen months.

Q. Have you smelled the Kellogg people in the last eighteen months?

A. Yes, sir.

Q. And the Higgins' Dye Works?

A. You can get that.

Q. I mean during this last eighteen months?

A. No, sir.

Q. The sugar house during the last eighteen months?

A. Yes, sir.

Q. And the New York Glucose, do you smell that?

A. Yes, sir.

Q. And the Linseed Oil Company?

A. Yes, sir.

Q. And the Chemical Company?

A. Yes, sir.

Q. So I say, as far as your experience goes, they all give out odors except the Sinclair and Valentine Company and the Higgins' Dye Works; that is your statement here, isn't it; do you say that or not?

A. Yes, sir, I said that,—at the present time.

Q. For this last year and a half, all these manufacturers give out odors except the Sinclair and Valentine factory?

A. Yes, sir.

Q. Where do you live?

A. In the middle section of the borough—very near the middle section.

Q. You are living now at Shady Side?

A. No, sir, I am living at Edgewater.

Q. How far away from Sinclair and Valentine?

A. A little over a half a mile.

Q. What factory are you nearest?

A. The General Chemical—the factory that I am living nearest to is the Midland Company; that is South of my home.

Q. That is about half a mile from Sinclair and Valentine's place?

A. Yes, sir.

Q. Do you know what they do at the Linseed Oil place?

A. Yes, sir.

Q. What do they do?

A. Manufacture linseed oil.

Q. They crush it from the flax seed?

A. Yes, sir.

Q. They do not boil oil there?

A. Yes, sir, they boil the seed.

Q. They do not boil linseed oil?

A. Not there.

Q. The General Chemical. where is that?

A. That is further South in the Borough of Edgewater.

Q. That is three-quarters of a mile from Sinclair and Valentine's?

A. That is a mile—a mile and a quarter, I should say.

Q. And the Glucose?

A. That is about a mile.

Q. That is simply pressing seed?

A. That is products from corn.

Q. Now, you don't say there is anything in the Higgins' Dye Works?

A. There used to be some time ago; I don't know whether there is any there now or not.

Q. And the Kellogg people?

A. When they are manufacturing, yes; they manufacture castor oil and linseed oil.

Q. They don't boil linseed oil?

A. No, sir.

Q. How far away is that?

A. From where?

Q. Sinclair and Valentine's?
A. A mile and a half.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Mr. Clahan, whereabouts in Edgewater is the Borough Hall, or whatever you call it, where your office as Mayor was?
A. That is about a distance of a quarter of a mile North of Sinclair and Valentine's plant on the River Road.
Q. Corner of what street?
A. Corner of Hilliard Avenue and River Road.
Q. While Mayor, how much of your time would you be in the Borough Hall?
A. I generally would spend two or three hours every day in the Borough Hall.
Q. Now, going out from your house to the Borough Hall, how near did you pass to the Sinclair and Valentine plant?
A. About 100 feet from the back of the plant.
Q. Did you go along Edgewater Place?
A. Yes, sir.
Q. At the time you received the complaint from Mrs. Harrigan in reference to the smell at the Sinclair and Valentine plant, did you go down to the plant to look it over?
A. Yes, sir.
Q. What did you find in regard to the smell?
A. I did not find any smell at the time that I went down.
Q. Did they know you were coming?
A. No, sir.
Q. Was anyone with you at the time?
A. No, sir, but I met other officers there on the ground.

Q. Whom did you meet there?

A. Two or three members of the local Board of Health.

Q. Name them.

A. One was Mr. Fitzgerald, I believe, and the other was Mr. Mulligan, and I consulted another gentleman named Bradley, who said he had been down there before those two were down there.

Q. While you were Mayor of Edgewater, did you receive any complaints from the New York side of the Hudson River in regard to smells coming from some of these other factories?

A. No, sir, I did not.

EDWARD M. FITZGERALD, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. River Road, Edgewater, New Jersey.

Q. How long have you lived in Edgewater?

A. I live now in the house I was born in, something like 47 years ago.

Q. Do you hold any official position in the Borough?

A. Yes, sir.

Q. What?

A. President of the Board of Health.

Q. How long have you been President of the Board of Health?

A. I am going on my fourth year; I have been a member nearly six years.

Q. Are you familiar with the plant of Sinclair and Valentine?

A. I will not say that; I have seen a part of it.

Q. You know it; you know the plant, where it is?

A. Yes, sir.

Q. (BY THE COURT) How near is your home to it?

A. I should judge about one and one-eighth miles, North.

FURTHER DIRECT:

Q. As President of the Board of Health, did you receive a complaint with respect to a smell coming from the Sinclair and Valentine plant?

A. Tell me when—we did sometime before this Court proceeding, and since then, we have received two, that I know of.

Q. (BY THE COURT) Since the Court proceedings?

A. Yes, sir.

FURTHER DIRECT:

Q. You have mentioned, I believe, three complaints, when were they received—give the dates of each of them.

A. I cannot say; I know this, that one complaint was made at a meeting in January of this last year; the other complaint was a verbal one made by Mrs. Harrigan to myself and another member of the board.

Q. When was that?

A. I should judge about in October.

Q. Of 1913?

A. Yes, sir.

Q. Now, pursuant to the October complaint, first —did you visit the plant?

A. I did, yes, sir.

Q. What did you find there with respect to the smell?

A. Why, there was a gentleman there in charge as superintendent, I think; Mr. Mulligan and I were there, and he started up this burner for us, generated quite a heat, and showed us that the fire-brick at the bottom part would fuse.

Q. Did you notice any odor?

A. No, sir; I did not, that is, nothing more than I would notice about any factory.

Q. Did you ever get any odor coming from this place when they first started up, or any time?

A. I did at first, yes, sir.

Q. Have you in mind what that odor is; would you know it if you smelled it again?

A. Yes, sir.

Q. Did you get that odor this day you went down there?

A. I did not, and if I might add, before the Court proceedings I lived a mile and an eighth North of that, and I could detect it in my rear yard, but I never have since.

Q. Now, can you fix approximately, the time since when you have noticed this odor?

A. I have not noticed that odor since the Court proceedings.

Q. What Court proceedings do you refer to?

A. The one in Hackensack—at the County Court.

Q. The indictment?

A. Yes, sir.

Q. When did you smell the odor last?

A. It was a long time ago.

Q. (BY THE COURT) How long ago?

A. I know this, I know it is more than two years, I think so; it seems so to me, but I won't be sure about that.

Q. Have you been down to, or near the plant more than once or twice since then?

A. Yes, sir.

Q. About how often?

A. I go down just behind the plant every Sunday when I am well.

Q. How about week-days; how often do you pass it during the week?

A. About twice or three times; I go down when I am called down that way.

Q. What time of day; do you remember?

A. All times.

Q. Which is the most frequent time?

A. That I could not say, because I am a newspaper reporter and represent the Standard News Association, and if there is a murder or a killing down in Shady Side, I go down, and I cannot tell when they will be.

Q. How about your passing this factory; what would be the likely hour of your passing?

A. Whenever there is something happens in Shady Side—of course, I have been called in Board of Health matters through the day down there; if I was called in a case of that kind I would go down at probably eight or nine in the morning, or one or two in the afternoon.

Q. So that would be the most likely time for you to pass on Board of Health matters?

A. Yes, sir.

Q. Now, Mr. Fitzgerald, did you visit Sinclair and Valentine's plant, pursuant to the complaint you said you received in January?

A. Yes, sir.

Q. Do you remember the day you made that visit?

A. No, sir; I do not.

Q. Do you know whether they knew you were coming?

A. That I don't know; I could not say.

Q. Did you go alone?

A. No, sir; Mr. Mulligan was with me.

Q. Did you tell him you were coming?

A. No, sir.

Q. What did you find in the way of smells that day?

A. I found nothing out of the ordinary.

Q. What time of day was it?

A. About two in the afternoon.

Q. Was the plant in operation?

A. No, sir.

Q. They were not boiling oil?

A. No, sir; they started the burners just to show me.

Q. Did they go through the whole process?

A. I was there an hour and a half; I could not say they were going through the whole process.

CROSS-EXAMINATION by Mr. Gourley:

Q. Mr. Fitzgerald, where do you live?

A. On the River Road, sir.

Q. How far from the Sinclair and Valentine plant?

A. About a mile and one-eighth North.

Q. And you office as member of the Board of Health, is where?

A. We have an office in the Municipal Building, but we never go there unless we hold a meeting.

Q. How often have you meetings?

A. Why, last year we had meetings, I guess, every two weeks, on an average.

Q. In the evening?

A. Yes, sir.

Q. What hours?

A. 8:30.

Q. And lasting how long?

A. Why, I have seen them after midnight—lots of business to do.

Q. It depends upon the disagreements among the members, I suppose; what is your business?

A. Newspaper reporter.

Q. Are you connected with any office?

A. I represent the Standard News Association.

Q. That means you have to go about considerably?

A. Yes. sir.

Q. Now, then, you say that you smell this odor at your place one and a half miles North?

A. Yes, sir.

Q. Tell the Court how you distinguish it as the Sinclair and Valentine odor?

A. Well, I know what linseed oil smells like.

Q. Do you mean boiling linseed oil?

A. Yes, sir.

Q. Is that all you have to say?

A. I am not an expert; I am not satisfied it was boiling linseed oil.

Q. How do you know it was Sinclair and Valentine's place?

A. That was the only place we had complaints about relative to the smell of oil, and I judged it was that.

Q. So it was because previous complaints had reached you—am I right—that you assumed it was Sinclair and Valentine's?

A. I did, for that reason; we had no complaints about the smell of oil from any other plant.

Q. It was not because you knew it came from there?

A. I won't say that, no, sir.

Q. Well then, apparently complaints had reached you before a year and a half ago?

A. That was before the Court proceeding.

Q. Now, Mr. Fitzgerald, when was it you said that you smelled this odor at your house?

A. Somewhere about two years ago.

Q. Then, I say, complaints had reached your department before two years ago—more than two years ago?

A. Yes, sir.

Q. Is that correct?

A. What I said was this, that since the Court proceedings at Hackensack, I had not detected that odor in my back yard; that is what I said.

Q. You also said that you smelled it in your back yard more than two years ago, and that you assumed it was from this factory, because a previous complaint had reached the Board of Health; now, is that right or wrong?

A. That is right.

Q. Now, I ask you what complaints were made and who made them, two years ago?

A. Over two years ago—I could not tell you

Q. Were they verbal or written complaints?

A. Over two years ago? They were mostly written complaints; the matter was taken up in Council, and taken to Court.

Q. Have you a record of those complaints?

A. Our Secretary has.

Q. Do you know who made them?

A. No, sir.

Q. Do you know how many persons made them?

A. No, sir; I don't recall that.

Q. Do you know what the substance of them was?

A. Yes, sir; I know the substance.

MR. McCARTER.—I object; this is no way to prove the complaints; if you want to prove the complaints they should be brought here in the regular way.

MR. GOURLEY.—That is not my purpose.

Q. (BY THE COURT) Is the Secretary here?

A. I have not seen him.

FURTHER CROSS:

Q. Those complaints were about boiling linseed oil?

A. Yes, sir.

Q. Had you, at any time before this one occasion in your yard, smelled this odor?

A. I did not say that I smelled it on one occasion.

Q. I asked you had you smelled it before this time?

A. A number of times I noticed it in my yard, and it was noticed along the road.

Q. Speaking about the yard, how many times did you notice it in the yard?

A. I don't remember.

Q. Between what times?

A. I could not say what times; I was out in the garden.

Q. How long a space of time was the first time you smelled it in your yard, until the last time?

A. That I could not say.

Q. Two months or six months?

A. I could not say.

Q. Did you assume it was from their place; did you make an investigation at all, except as you have stated?

A. Before the Court proceeding in Hackensack?

Q. Did you make an investigation yourself?

A. No, sir.

Q. You were not called to Hackensack at all?

A. No, sir; I was not.

Q. Now, then, after you got this late complaint, was it in January that you went and visited the place?

A. No, sir.

Q. What month was it?

A. It was before October that I went there—some time before October.

Q. Do you remember receiving this letter which has been offered in evidence? What is that? (Showing witness "Exhibit C. A. J. 2"). Do you remember getting that letter?

A. I do, yes, sir.

Q. Had there been a complaint?

A. Yes, sir; there had.

Q. I show you carbon copy of a letter of January 12th—

(Mr. Gourley addresses the counsel).

MR. GOURLEY.—Gentlemen, if you have that letter from the Board of Health, will you kindly produce it?

A. Yes, sir; that is true.

Q. Do you remember that letter being sent by the Board of Health?

A. I presided at the meeting, and I know that was ordered sent.

Q. Do you remember one being sent on December 16th, of which I hand you a carbon copy?

MR. McCARTER.—I object; you cannot prove these complaints in this way.

MR. GOURLEY.—I want to know whether those are the three complaints you refer to.

MR. McCARTER.—They are not the complaints; they are said to be copies, and I object—

MR. GOURLEY.—The complaint is the letter.

MR. McCARTER.—This is a letter from the Board of Health to Sinclair and Valentine Company.

THE COURT.—The witness has testified that there is a written complaint on file, as I understand—a memorandum of the written complaint—in the Secretary's book.

THE WITNESS.—Yes; previous to this proceeding in Hackensack.

Q. (BY THE COURT) Is there any record of these complaints?

A. There is no year mark.

MR. McCARTER.—I object to confronting this witness with what is said to be a copy of a complaint, and asking him about that.

MR. GOURLEY.—The suggestion is this: the question here is, whether complaints have

been made before the Board of Health; it did not appear whether those had been sworn to and signed, and a gentleman had gone down there with the warrant; the complaint may have been verbal or in writing; now, I am entitled to know what it was; I am entitled to know whether the dates were right.

Q. Was it in writing or verbal?

A. The complaint made was by one of the members of the Board in January.

Q. Was the complaint in writing?

A. It was a member of the Board that made the complaint.

Q. In the meeting?

A. Yes, sir; in session.

FURTHER CROSS:

Q. Was the Sinclair and Valentine Company informed of that complaint?

A. They were; yes, sir.

Q. Do you know when, how long after the complaint was made?

A. No, sir.

Q. Did you go there in consequence of that?

A. No, sir.

Q. When did you go there?

A. I was there long before that time. I was there before October of last year.

Q. Do you remember the date of your visit?

A. No, sir.

Q. Now, when you went there, I understand you to say the oil was not boiled; am I right? You said they were not operating when you went there?

A. I said they showed me how they did the boiling.

Q. Do you say they were operating when you arrived or not—on either occasion?

A. No, sir.

Q. They started up for you?

A. Yes, sir.

Q. What did they start up for you?

A. To show me just how the thing operated, I suppose.

Q. Tell us what you saw done?

A. I saw the burner started and compressed air, and saw bricks fused in the bottom of the furnace.

Q. That is the exhibition they gave you?

A. Yes, sir.

Q. And on the other visit what was done, anything?

A. No, sir.

Q. How far were these visits apart?

A. That I cannot say—a year apart, I guess.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Who was the member of the Board of Health that made this oral complaint you have spoken of?

A. George W. Allison.

BY MR. GOURLEY:

Q. Is he the present Health Inspector?

A. Yes, sir.

JOHN E. MULLIGAN, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. I live on the River Road at Edgewater.

Q. Whereabouts on the River Road?

A. Just South of Hilliard Avenue, about 800 feet North of Sinclair and Valentine Company's plant.

Q. South of Hilliard Avenue?

A. Yes, sir.

Q. How far South of Hilliard Avenue?

A. I should say, presumably 75 feet.

Q. How long have you lived there?

A. In the neighborhood of six years.

Q. Do you know the factory of the defendant here?

A. I do.

Q. Do you pass it often?

A. Very frequently.

Q. How often, probably, in the week?

A. I have occasion to pass it sometimes eight and ten times a day.

Q. Do you hold any official position in Edgewater?

A. I am a member of the Board of Health.

Q. And how long have you been such?

A. In the neighborhood of seven years.

Q. Do you recall when the Sinclair and Valentine Company first began to operate on that property?

A. I do, yes, sir.

Q. What can you say with reference to any smell coming from that place then?

A. At the time they started operations there, I should say the smell was very rank.

Q. Would you remember that smell if you smelled it again?

A. I believe I would.

Q. How long is it since you have smelled it?

A. Approximately 18 months.

Q. You say you have passed this factory ten or twelve times a day?

A. Yes, sir; I am there back and forth.

Q. Now, tell me what time in the day you pass it?

A. Any time from eight in the morning until ten at night.

Q. What is your business?

A. Plumbing and heating.

Q. That is your business in Edgewater?

A. Yes, sir.

Q. Now, within the last 18 months, have you been on the premises of the Sinclair and Valentine Company?

A. Yes, sir; I have.

Q. When were you last there?

A. Why, I believe it was about a week ago was my last visit; no, sir, Saturday night was my last visit.

Q. What time were you there then?

A. At 9:30 or 9:25, that is when I came out of the Sinclair and Valentine plant.

Q. Were they operating then?

A. No, sir; they were not operating; it was to satisfy myself as to where the smell was coming from; the town seemed to be developing an odor on last Saturday night; there was an odor in the town.

Q. And you went down to the defendant's plant?

A. Yes, sir.

Q. What time of night do you say it was?

A. It was twenty-five minutes past nine.

Q. What did you find when you got there?

A. I went down to ascertain whether the odor was coming from the Sinclair and Valentine plant,

because I wanted to satisfy myself as to whether Mrs. Harrigan was being wronged or not, and if there was anything that I could ascertain there, I felt as though Mrs. Harrigan should have the benefit of the doubt. I hailed the watchman of the plant and asked for permission to go in the plant, and he objected to allowing me in, and I told him that I was a member of the Board of Health, and that I thought I had a right to go through the plant at that time, and he said that it was contrary to the rules of the company. However, I went through the plant, and I asked him if he had any fires on, and he said—

MR. GOURLEY.—Objected to.

Q. What did he show you?

A. He showed me through the plant.

Q. Did he show you the boiling room where they sometimes boil linseed oil?

A. Yes, sir.

Q. Was this oil burner going?

A. No, sir; there was nothing going at all.

Q. Did you notice any odors around the plant?

A. Nothing more than the familiar odor of oil that is used in machinery.

Q. Did you notice this odor which you said you noticed when they first began in business there?

A. No, sir; not that odor.

Q. (BY THE COURT) Now, this Saturday night you speak of, what was the odor in the town? Was that odor similar to the odor you had smelt two years ago?

A. No, sir; it was not similar to that odor; in fact, I recognized the odor as a combination of the

General Chemical Company vapor—the combined odors of the different factories; the Midland Linseed Oil—

FURTHER DIRECT:

Q. Let me ask you whether this odor that you smelled—what effect did it have on you?

A. No particular effect, no more than that it was a disagreeable smell.

Q. Is there anything that you can describe it as resembling?

A. No, sir; no more than hearsay—

Q. Do you recall any odor that resembles it?

A. Yes, sir; the smell of linseed oil intermingled with it; it was a similar smell.

Q. (BY THE COURT) Have you detected this same odor that you smelled April 18th, Saturday night, recently in Edgewater; I mean for the last few weeks or the last year or so?

A. Yes, sir; in different sections of the borough when I have been down in the neighborhood of the Chemical yard and the Linseel Oil plant.

Q. You detected a similar odor to the one you detected on April 18th?

A. Yes, sir.

FURTHER DIRECT:

Q. Have you been there before Saturday, the 18th?

A. Yes, sir; I have been there along in October; I visited the plant with another member of the Board.

Q. With another member of the Board?

A. Yes, sir.

Q. Were you over there on the 15th of April of this year?

A. I am not certain as to dates; I have been in the factory, I should say, about five or six different times.

Q. Were you there during the month of April, except this Saturday night?

A. I suppose I was, yes, sir; I know I was.

Q. What time of day was it?

A. I could not recall the time.

Q. Was it daytime?

A. Yes, sir.

Q. Were they boiling oil that day?

A. Yes, sir; the plant was in operation.

Q. Do you know how many kettles were boiling?

A. If I remember right—I am not certain of that, but I think all the kettles were on that day, because I tried to get a line on the thermometers about what the temperature was.

Q. Do you remember what the temperature was?

A. It was about 150 at that time on the kettles; I am not familiar with what temperatures they use; I am not a chemist, but I believe it was showing about 150 degrees.

Q. Was the fuel oil burner, between the kettles, going?

A. Yes, sir; the consumer was in operation.

Q. Did you find any odors?

A. Nothing more than looking at the stack to see the rising of the heated vapor.

Q. Did you notice any odors, I said?

A. No, sir.

Q. Do you remember whether it was morning or afternoon when you were there?

A. I believe that was in the morning.

Q. You think that was in the morning?

A. Yes, sir.

Q. Now, had you given them any warning that you were coming that day?

A. No, sir.

Q. When were you next before that?

A. Well, I had been in the plant, I should say, a month before that.

Q. What time of day was that?

A. That was merely on a business proposition of my own, asking Mr. Barrett here if it was possible for me to cut some threads down there.

Q. What time of day was that?

A. That was along in the forenoon, about 11 o'clock.

Q. Were they boiling oil all day?

A. I don't know.

Q. Did you notice any odors?

A. No, sir.

Q. Now, when next before that?

A. I think prior to that was October, when M. Fitzgerald was with me.

Q. Did you notice any odors that time?

A. No, sir; on that occasion they were not boiling.

Q. Did they start it up for you?

A. They just started the consumer to show us about what they might be able to generate as a destroyer of fumes.

Q. Did you look in?

A. Yes, sir.

Q. What did you observe in it as to the heated condition of the consumer?

A. The condition of the consumer seemed to me that it would practically destroy anything that it

would come in contact with; it was glowing to a white heat.

Q. They started in your presence?

A. Started the consumer.

Q. Do you remember how long it took the consumer to reach a white heat in the factory?

A. A very short period.

Q. You did not take the time of it?

A. No, sir.

Q. How long were you there?

A. I should say we were there in the neighborhood of an hour and a half or an hour and a quarter.

Q. (BY THE COURT) When was the first time you went to this factory; do you remember that? Were you ever there when there was an odor there?

A. I was on the ground; that was when they were in the crude form, before they had constructed any boiling house.

Q. Where were they boiling then?

A. In the yard.

Q. You were there then, eh?

A. Yes, sir.

Q. Now, that must have been how long ago?

A. I should say it was over two years ago.

Q. And then what did you detect in the atmosphere?

A. A very rank smell of burning oil.

Q. Have you since that time, ever smelled this odor?

A. No, sir; not the same odors; never got that since.

CROSS-EXAMINATION by Mr. Gourley:

Q. Mr. Mulligan, you are a member of the

Board of Health and have been for how many years?

A. About seven years.

Q. You have never voted to investigate this building?

A. Yes, sir.

Q. You have always been opposed to any investigation of the Sinclair and Valentine plant?

A. No, sir; on the contrary, I was not.

Q. Have you ever, at any time, voted to investigate it?

A. Yes, sir;—

Q. Did you?

A. Yes, sir; I voted that we appoint a committee to investigate it.

Q. When did you so vote?

A. That was in the neighborhood of two years ago, when the complaint first was offered about the plant.

Q. Since that time have you?

A. I cannot say that I voted; we sent a communication to the Sinclair and Valentine people, that is, through a verbal statement of our Health Officer, and I did not feel then, under the conditions, that we should act on it, being as it was in Court.

Q. You have been very friendly with them?

A. On the contrary, I have not.

Q. You have not been friendly with Mr. McGarry, the brother of Mrs. Harrigan?

A. Well, I am sure I have nothing for or against him.

Q. Do you say you have been friendly with him?

A. There is no difference between Mr. McGarry now and the first day I met him.

Q. Do you say you have been friendly or unfriendly with the Sinclair and Valentine people?

A. I have not been friendly or unfriendly with them.

Q. You live where?

A. About seven or eight hundred feet North of this factory.

Q. Seven or eight hundred feet?

A. Yes, sir.

Q. What is the number of the house?

A. You have kind of got me on that.

Q. How near to Hilliard Avenue?

A. Seventy-five feet South of Hilliard Avenue.

Q. And on the West side of the road?

A. Yes, sir.

Q. Now, there are some buildings between your house and their factory?

A. Yes, sir.

Q. About one dozen?

A. No, sir.

Q. Then the maker of this map is wrong; how many are there?

A. There are about eight houses, that is not houses, buildings—

Q. They are on the same side of the street as your house, and the same side of the street as Sinclair and Valentine?

A. Yes, sir.

Q. And on the same level of the road?

A. Practically.

Q. The road does not rise or fall very much?

A. Not a great deal.

Q. Your business is what?

A. Plumber and steamfitter.

Q. Did you go to their works to thread their pipes?

A. No, sir; only on one occasion I had a piece of pipe to cut that I did not have dies of that size, and in preference to bringing it to New York, I asked Mr. Barrett if my man could cut the pipe there.

Q. Did you use their machinery for cutting pipes before that?

A. Only on that one occasion.

Q. You said that on a Saturday night—was it Saturday night that you noticed an odor in the town?

A. Yes, sir.

Q. Well, then, I take it that it was unusual for an odor to arise at Edgewater?

A. No, sir; but it seemed to be very distinct on Saturday night.

Q. What was very distinct?

A. This odor.

Q. Where were you when you noticed it?

A. On my back porch.

Q. What did you do then?

A. I went down to the Sinclair and Valentine factory to ascertain if it was from there, because there had been so much talk of odors coming there, and I wanted to assure myself whether it was from there.

Q. What do you mean by "so much talk?"

A. This case in particular, has been the talk of the town—of this odor.

Q. And outside of this case, you never heard anything about it?

A. There has been very little comment about any odors.

Q. Then it was only this complaint that led you to go down?

A. Yes, sir.

Q. What had you to do with this case?

A. I was summoned here as a witness on this case.

Q. When?

A. About the date of the summons here.

Q. Just look at it and tell us.

A. (No answer).

Q. (BY THE COURT) What is the date of the subpoena?

A. I think I got this last week.

Q. What is the date of the subpoena?

A. I do not seem to have the date of the subpoena.

Q. You know when you got it?

A. I got it one day last week.

FURTHER CROSS:

Q. That was before you went to this plant, was it?

A. Yes, sir.

Q. You were a witness here last summer?

A. No, sir.

Q. Were you not notified that you were to be a witness the last time this Court sat?

A. I was never down here before.

Q. Were not you notified that you were to be here?

A. No, sir; I was told that the Board of Health was going to be called on—that was at the Health meeting; it was discussed up there that the chances were that we were all to be called on to—

Q. When you noticed this odor you went down there?

A. Yes, sir.

Q. At that time had you been subpoenaed?

A. Yes, sir.

Q. And you went to their place before going anywhere else?

A. Yes, sir.

Q. Why did you do that?

A. Because I wished to ascertain whether there was any odor coming from there.

Q. Was it the kind of odor that came from there before?

A. No, sir; I was not familiar with that odor.

Q. You knew very well, didn't you, the kind of odor that came from Sinclair and Valentine's works?

A. Yes, sir; the first odors that it gave out when they first started the plant; that impressed me wonderfully.

Q. You could not be deceived in it?

A. No, sir.

Q. And when you smelled it again, you were quite aware that you had smelled it before?

A. Yes, sir; I would.

Q. Now, if this smell was not that particular kind of odor, why did you go to Sinclair and Valentine's plant?

A. I wanted to see if there was any change; I thought, probably, that the consumer might have changed the odor from the crude form that they did have.

Q. Was it an oily odor?

A. Yes, sir; I went South of the factory, and the odor was stronger the further down you went.

Q. You did not follow it on?

A. No, sir.

Q. After passing Sinclair and Valentine's, then you stopped?

A. Yes, sir.

Q. Were you acting then as a witness, or as a member of the Board of Health?

A. As a member of the Board of Health.

Q. Why didn't you follow it up?

A. I did not think it was my duty to walk two or three miles alone to find out where it was coming from; it is a mile and a half down there.

Q. You could not tell before you started from your house where it came from?

A. I could not tell where it was coming from.

Q. And then you determined it was two miles below?

A. I did not say that.

Q. Why did you say that the smell was two or three miles below Sinclair and Valentine's?

A. I did not say that; I said I did not feel as though it was necessary for me to walk down, because the smells are coming up there all the time; and we have no jurisdiction over them.

Q. You mean that the smell was two or three miles off?

A. No, sir; I said I did not feel as though I cared to walk two or three miles.

Q. Do you mean to say, that when I asked you why you did not go, that you did not mean to imply that the smell was two or three miles off?

A. No, sir; I did not mean to imply that it was two or three miles to the smell.

Q. Now, I am going to ask you again; how far were the smells down the road beyond Sinclair and Valentine's place, so far as you know?

A. I cannot say as to how far they were down.

Q. They were too far for you to walk to see?

A. There was a combination of smells from the

the different factories, and I could not say as to which they were--

Q. But as long as they were not at Sinclair and Valentine's plant, you came back?

A. Yes, sir.

Q. Have you made any personal investigation of the plant yourself, as a member of the Board of Health?

A. Yes, sir; I have been in the plant.

Q. You have?

A. Yes, sir.

Q. How many times in all?

A. I think I have been there a half a dozen different times.

Q. Sometimes when they were operating, and sometimes when they were not?

A. Yes, sir.

Q. How many times were you there when they were operating?

A. Only once.

Q. That was the once you have given us?

A. Yes, sir.

Q. Did you go back along Edgewater Place behind this plant at any time to make an investigation?

A. Yes, sir.

Q. When and where?

A. I have been along Edgewater Place and have been back on the terrace there.

Q. For the purpose of making an investigation?

A. On two occasions, I went there to see if I could ascertain any distinct odors from that plant.

Q. Two occasions in how many years?

A. Probably eighteen months.

Q. The last eighteen months?

A. Yes, sir.

Q. Up to the last eighteen months, you never went behind the place to see it?

A. I said in the last eighteen months.

Q. Before that you made no investigations?

A. No, sir—that is, up in that portion.

Q. Then, as a member of the Board of Health, you heard these complaints—the complaints of which you have spoken, and I take it from what you say, also other complaints in the neighborhood?

A. No, sir; the only complaints that I have really received was at the meetings of the Board, outside of Mrs. Harrigan's personal complaint.

Q. Didn't you know that the people in the neighborhood of Mrs. Harrigan's and the people who lived on Undercliff Avenue, were complaining?

A. I know it by hearsay.

Q. Didn't you know that the best place to ascertain whether any offensive vapors came from that stack, was close to the stack on the bank?

A. I went there when complaint was offered to the Board.

Q. That was the best place to ascertain?

A. It would be a question in my mind; if the wind happened to be in the right quarter, I suppose it would.

Q. It would be better than it would be in the yard?

A. I should not think so; we often get it worse in the yard than at other points.

Q. Can you give us the time in the morning when you visited the place on April 15th, the hour in the morning?

A. Around 11 o'clock, I think; I did not take the time on those occasions.

Q. Do you remember Ash Wednesday last?

A. Yes, sir.

Q. That was, I think, February 25th?

A. I remember that day, yes sir.

Q. Did you see Mrs. Harrigan that day?

A. I could not swear as to that.

Q. Did Mrs. Harrigan say to you, sir, on that day—

MR. McCARTER.—I object to what Mrs. Harrigan said to this man; it is not competent against us.

MR. GOURLEY.—I want to rebut the witness; if Mrs. Harrigan made the statement to him, he can say whether—

THE COURT.—Ask him if he had a talk with Mrs. Harrigan on that day?

Q. Did you have a talk with Mrs. Harrigan on that day about these odors?

A. I could not say; it does not strike me that I saw Mrs. Harrigan on Ash Wednesday.

Q. Did Mrs. Harrigan, on last Ash Wednesday, call your attention to the noxious smell coming from that factory?

A. I cannot swear to that; there was one day that Mrs. Harrigan spoke to me—one evening when I was returning from labor; but I could not say as to what day it was; she asked me if I ascertained—

MR. McCARTER.—I object—certainly, what Mrs. Harrigan said to this man in our absence, cannot be proof in this case.

MR. GOURLEY.—I say, that is a statement which Mrs. Harrigan is entitled to put

in evidence on cross-examination of this witness.

THE COURT.—I will rule it out.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Mr. Mulligan, you testified on Mr. Gourley's cross-examination, that after a complaint you made an investigation of the factory on one occasion back near Edgewater Place?

A. Yes, sir.

Q. Now, do you mean to say that you have walked through Edgewater Place, back of this factory, only once during the last eighteen months?

A. No, sir; I walked through more than once.

Q. Do you go along Edgewater Place frequently?

A. Very frequently, yes, sir; I am back and forth all the time.

Q. In what way do you pass there?

A. As a rule, I pass it on the River Road as Edgewater Place has no outlet.

Q. Do you go by sometimes on Edgewater Place?

A. Yes, sir; I have gone by on Edgewater Place —across lots.

Q. Is your work all done in Edgewater?

A. Not altogether.

Q. Where else is it done?

A. Well, I take a contract in any place I can get it.

Q. Between your house and Sinclair and Valentine's place on River Road, are there any vacant lots?

A. Yes, sir.

Q. Now, what vacant lots are there, and where are they?

A. The only one I can consider practically vacant, would be the one which is South of my house, between that and Mr. McCurry's property.

Q. How many lots are there in that plot?

A. I think there are three 25 foot lots.

Q. How near are you to Mrs. Harrigan?

A. I should say I was about 400 feet, something like that, North, Northeast.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. When was your last contract South of the factory?

A. I guess the last job I did there was about three days ago—that is, on jobbing; I am not always on contract.

Q. And before that, when?

A. I am up and down jobbing all the time.

Q. Jobbing eight or ten times a day down there —you don't go North at all, apparently?

A. Oh, yes; I am up and down all day long through the borough.

Q. You employ journeymen?

A. Occasionally.

Q. You don't walk up and down ten times a day yourself, do you?

A. Yes, sir; I do.

Q. I wonder when you work?

A. What?

Q. That is all.

SEYMOUR BARRET, recalled:

DIRECT EXAMINATION by Mr. McCarter:

Q. You have your records there?

A. Yes, sir.

Q. Do you remember the day that Mr. Mulligan came to your place in the forenoon when you were burning four kettles?

A. I do.

Q. Have you got a record of it?

A. Yes, sir.

Q. What day is it?

A. April 15, 1914.

Q. What time did he get there?

A. My record shows—

MR. GOURLEY.—Let me ask him a question.

CROSS-EXAMINATION by Mr. Gourley:

Q. What records are these?

A. My own personal records that I make every day.

Q. Were they made at the time?

A. Every day I make them.

Q. Did you write these at the time?

A. Yes, sir; whenever a visitor comes to the plant, I always put it right down.

Q. Was this written at the time each day?

A. On this very day,—probably an hour after he left the office this record was put down.

Q. Have you any particular hour of the day when it is done?

A. If anything should happen at 11 o'clock at night, I may not put it down before 7 o'clock the

next morning when I get there, but if anything happens during the day, I put it down immediately.

Q. But some of it is what people told you, I suppose?

A. There is a remark on here of where Mr. Warner told me he smelt a smell at 9:15 A. M., one morning, but we did not start a fire under the kettles until 8:40 that very morning.

A. And that you put down at the time?

A. Yes, sir.

Q. Is that the only one you are using now?

A. Yes, sir.

MR. McCARTER.—Are you through with the witness? I will offer the whole record, if you want it, but I am not through with the witness.

Q. What is the purpose of this record?

A. Because there has been so much complaint about our plant causing a nuisance, and I made up my mind, as my own idea, to keep a record of every incident, that transpired, and put it down here, so that in case I wanted to use it I could refresh my memory.

Q. There was no duty to put it down against yourself; you were not obliged to do so?

A. Nobody requested me to put anything down.

Q. Answer that question.

A. I don't understand the question.

Q. Were you in any way bound to put down anything against yourself; suppose you discovered there were fumes rising?

A. Yesterday I swore to different things that had transpired that are down on these records.

Q. Was there any duty resting on you in keeping this book, to show anything against yourself?

A. There is no duty either for or against, but I put down the things that transpired either for or against.

FURTHER DIRECT EXAMINATION by Mr. McCarter:

Q. Now, have you also a record showing your temperature at that day?

A. I have.

Q. Kept and made at the time?

A. Yes, sir, every day this is made.

Q. Please refer to the record of the temperature on the 15th of April, which I understand is the day Mr. Mulligan was there?

A. On April 15, 1914, that was a Wednesday; we boiled—we started the fires under the kettles at 7:45 A. M., we started the consumer at 9 A. M., high heat on the kettles at 10:45 A. M.; four kettles in operation—temperatures—one 550 degrees, two kettles 500 degrees, and the fourth kettle 550 degrees—extinguished at 1:30 A. M. next morning.

Q. (BY THE COURT) Who wrote "1:30 extinguished?"

A. I did myself.

Q. Were you there at the time?

A. No, sir.

MR. GOURLEY.—Then, I ask that that be stricken out.

MR. McCARTER.—All right; strike it out.

FURTHER DIRECT:

Q. What time did Mr. Mulligan arrive?

A. At 10:45.

Q. Did you know Mr. Mulligan was coming?

A. No, sir.

JOSEPH A. SKELLEY, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. Edgewater.

Q. Whereabouts?

A. 387 Undercliff Avenue.

Q. Do you hold any official position?

A. Yes, sir.

Q. What is it?

A. Clerk to the Borough of Edgewater.

Q. How long have you done that?

A. For the past four years.

Q. Now, come to the map and point out on this map, Undercliff Avenue, where you live.

A. (Witness points to a lot No. 27, South of Hilliard Avenue).

Q. That is on the East side of Undercliff Avenue?

A. Yes, sir.

Q. Are you acquainted with the location of the plant of Sinclair and Valentine?

A. Yes, sir.

Q. Do you remember when they first began to operate there?

A. Yes, sir.

Q. What have you to say whether or not, when they first began to operate, there were any odors coming from that plant?

A. Yes, sir, there were.

Q. What was the odor like?

A. A very sickening odor, such as the odors you would get from burning oil.

Q. Do you still get that odor?

A. No, sir.

Q. Since when have you not got it?

A. The past two years.

Q. Are you around Edgewater in the day time?

A. Yes, sir, all day.

CROSS EXAMINATION by Mr. Gourley:

Q. When did you notice this change, Mr. Skelley, of which you speak?

A. About two years ago.

Q. To be precise, when was it?

A. Between 18 months and two years ago, between that time.

Q. You keep no memorandum?

A. No, sir, I have not.

Q. Are you a married man?

A. Yes, sir.

Q. What family have you?

A. Just my wife.

Q. How long have you been married?

A. Five years.

Q. Have you lived in this house during the greater part of this time?

A. No, sir.

Q. A considerable part of it?

A. I have lived in this house two and one-half years.

Q. Where did you live before that?

A. In a Hilliard house, on the corner of Hilliard Avenue and River Road.

Q. You moved from there two and a half years ago?

A. Yes, sir.

Q. When?

A. In October.

Q. 1911?

A. Ithink it was 1911.

Q. At any rate, you did not notice any smells when you were there?

A. In the Hilliard house I did; that was two and a half years ago.

Q. You noticed them there?

A. Yes, sir.

Q. How long had you noticed them there?

A. I was only living there a short time when the plant was first in operation, but particularly when I moved to where I am now.

Q. You noticed them when you moved up to Undercliff Avenue?

A. No, sir, never got any smell up there.

Q. Was it down below you got them?

A. Yes, sir.

Q. Was it very bad down below?

A. Yes, sir.

Q. How bad?

A. We could not open our windows on the South side of the house.

Q. That was what number, if you remember, again?

A. That was the Hilliard house, 863 River Road.

Q. Of course, I presume you have heard of these complaints in the neighborhood since that time?

MR. McCARTER.—I object; this witness has been examined purely with regard to his experience when he lived down on the corner, and also when he moved to Undercliff Avenue; now, he is asked if he has heard of complaints; they cannot cross-examine him with regard to complaints of other people in the meantime; you cannot prove this case by rumors, and it is not cross-examination of his testimony.

THE COURT.—His testimony was that he had smelled these odors.

MR. McCARTER.—You cannot prove this case by a rumor; and it is not cross-examination of this witness's testimony, which has been confined entirely to personal experience, to find out whether or not he has heard rumors, since he says he did not experience any smells.

THE COURT.—I will allow it to stand for the present; but I am inclined to think it is incompetent; I will deal with it on the final argument.

Q. (BY THE COURT) Have you heard any remarks about complaints of late?

A. No, sir.

FURTHER CROSS:

Q. You have not noticed it in your house?

A. No, sir.

Q. During the summer time?
A. No, sir.
Q. Where do you work?
A. In the Municipal building.
Q. In the Town Hall?
A. Yes, sir.
Q. You are the Borough Clerk?
A. Yes, sir.
Q. And have been how long?
A. Going on five years.
Q. Your duties require you to stay in the Town Hall during the day?
A. Yes, sir.
Q. That Town Hall is where?
A. Right at the corner of Hilliard Avenue and River Road; it faces River Road.
Q. Now, then, in going home you go up Hilliard Avenue?
A. Yes, sir.
Q. And coming down, you reach the Municipal Building from there?
A. Yes, sir.
Q. Have you occasion to go to the back of this place, back of the Sinclair and Valentine place at any time?
A. Yes, sir.
Q. I mean as a matter of duty?
A. Yes, sir.
Q. What duty requires you to go there?
A. In seeing the houses are properly numbered; in the town of Edgewater I have been instructed to see that all houses should be properly numbered, and they have got me a number map, and people either come for their numbers or they telephone for them.
Q. Do you put them on the houses?

A. No, sir; they either come for them, or telephone; some people have been putting their lot numbers on instead of their house numbers.

Q. What had you to do with putting the numbers on the houses?

A. Nothing at all; but it is my duty to see that the correct number is put on the house.

Q. It is your duty by law or by practice, when you give a number out, to go to the house to see that it is properly put on?

A. No, sir.

Q. There is no duty then about it?

A. No, sir, not exactly a duty.

Q. Now, Edgewater Place is largely on vacant land, isn't it?

A. Right in and around that factory, yes, sir.

Q. Around the Valentine and Sinclair factory?

A. Yes, sir.

Q. The nearest houses, then, are the houses on Undercliff Avenue, behind the factory?

A. Directly behind it, yes, sir.

EDWARD D. WALSH, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. Where do you live?

A. Edgewater.

Q. Whereabouts?

A. Hilliard Avenue and River Road.

Q. The North or South corner?

A. The South corner.

Q. And your place of business is there, too, isn't it?

A. Yes, sir.

Q. Are you familiar with the location of the Sinclair and Valentine plant?

A. Yes, sir.

Q. How long have you lived where you now live?

A. In 1907; I have had my place of business there since 1907, and I have lived there in the house for three and a half or four years.

Q. Do you recall when the Sinclair and Valentine people first began to boil oil at the Edgewater Place?

A. Yes, sir.

Q. What have you to say with regard to any odors coming off at that time?

A. I smelled some odors through my South windows the summer before last, that is, the summer of 1912.

Q. What was the odor like?

A. It was a very sickening odor; at times I had to close the window or remove my meals.

Q. Do you still get this odor?

A. No, sir.

Q. Since when have you not gotten it?

A. I did not notice it all last summer; I have not noticed it for at least a year.

NO CROSS EXAMINATION.

OLIVER E. SMITH, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. What is your business?

A. I am in the electrical inspection business.

Q. Where do you live?

A. 16 Hudson Terrace.

Q. In Edgewater?

A. Yes, sir.

Q. How long have you lived there?

A. Since October 15, 1913.

Q. Where did you live before that?

A. At 335 Undercliff Avenue.

Q. Now, will you show on this map just where 335 is on Undercliff Avenue?

A. There (indicating a lot No. 16 in the yellow spot).

Q. How long did you live there, Mr. Smith?

A. Since November 1st, 1911.

Q. That is on the East side of Undercliff Avenue?

A. Yes, sir.

Q. In what direction does it lie from the Sinclair and Valentine plant?

A. Practically a straight line.

Q. West?

A. Sinclair and Valentine's plant would lie to the East of my house.

Q. Do you remember when the Sinclair and Valentine Company first began to operate at that place?

A. I do, yes, sir.

Q. Did you get any smell from them?

A. Yes, sir.

Q. Describe the smell.

A. Very similar to the odor produced by a painter burning the paint off to get ready to paint.

Q. Did you continue to get that smell during all of your occupancy of that Undercliff Avenue house?

A. Not all of it.

Q. Since when have you got it?

A. I should think in the winter between 1912 and 1913—it has simply vanished.

Q. And since then you have not received the smell?

A. Not that I could say, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. You don't seem to remember, Mr. Smith, since when you have not got it?

A. I moved out of the neighborhood.

Q. You mean from Undercliff Avenue?

A. Yes, sir.

Q. When did you leave there?

A. The first of October, 1913.

Q. That is last October?

A. Yes, sir.

Q. Do I understand you did not get any smell around that time before you left?

A. The smell did not exist when we were living there in the house—you mean the time we left the place?

Q. Yes?

A. It did not exist.

Q. Let me ask you this: from the winter of 1912-1913—

A. To when?

Q. That winter, any time that winter of 1912-1913, did you get any smell?

A. That is when it vanished.

Q. What time of that winter did it vanish?

A. I could not state whether it was December or January.

Q. Was it one month or the other?

A. I could not say.

Q. Was it December or January?

A. I could not say; it is in that winter; I made no note of it, and hence, I don't know.

Q. Before that, what did you notice?

A. Before it vanished?

Q. Yes.

A. The odor resembling when a painter is removing the paint with flame.

Q. You knew the smell of burning oil?

A. Yes, sir.

Q. Was it agreeable or disagreeable, then?

A. I never argued that question with myself at all; I simply smelled it and recognized it as such, and went on.

Q. Did you have any trouble in your house about it?

A. With my family—how do you mean, in the house?

Q. With your family, before it vanished.

A. It did not affect us at all.

Q. Did they notice it?

A. Yes, sir.

Q. Was it pleasant or unpleasant?

A. They made no comment on it.

Q. Was it pleasant or unpleasant?

A. It is a smell that you cannot draw the line on and determine; you have it every time the painter burns the paint from your house.

Q. Do you mean to tell us you cannot tell whether that burnt oil giving out these fumes, is agreeable or disagreeable?

A. I am telling you that the smell that I smelled was not either disagreeable or agreeable to me; you can take it either way.

Q. Was it agreeable or disagreeable to your wife?

A. She had no comments to make.

Q. Did she indicate in any way whether it was agreeable or disagreeable to her?

A. No, sir.

Q. Did you tell Mrs. Harrigan in this case, that if she desired your wife as a witness to say that it was disagreeable, that she could call her?

MR. McCARTER.—Give us the time and the occasion.

MR. GOURLEY.—The place we can assume was Edgewater.

MR. McCARTER.—I object to the question unless the time is given. The rule of evidence is, that before a question can be put to a witness as to whether he has made a declaration, the purpose being to contradict him if he says he did not, he is entitled to have his attention directed to the time and place.

THE COURT.—He says, "Did you have a conversation with Mrs. Harrigan, and state to her that if she wanted" his wife as a witness, she could have her.

THE WITNESS.—That is practically the conversation.

Q. (BY THE COURT) When was that?

A. You gentlemen can easily determine the date; it was right after the hearing that was held in Hackensack, whenever that date was.

FURTHER CROSS:

Q. Was that after this suit was started?

A. I could not say.

Q. Do you know when the month was?

A. It was in the summer.

Q. What summer?

A. I should say 1912.

Q. Now, was that conversation in August or September or about that time, 1912; was it in August or September of 1912?

A. It would have had to be in July.

Q. Did you say in August or September, or about that time, of 1912, did you say that to Mrs. Harrigan; "Yes" or "No?"

A. I said it was in July, 1912, it must have been in July, 1912; my wife was away in Ohio.

Q. When did she leave for Ohio?

A. I should think the middle of the second week in July; that is the period she generally goes.

Q. When did she return?

A. Always the very last day before school.

Q. Did you say in that conversation that she could send the affidavit out to your wife in Ohio?

A. I think she did.

MR. GOURLEY.—That fixes the time. That is all.

WILLIAM F. INGOLD, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. You are, I believe, chief of the fire department of the Borough of Edgewater?

A. Yes, sir.

Q. Have you ever been down to the plant of Sinclair and Valentine Company?

A. Yes, sir.

Q. When did you go there last?

A. The last time they had a fire down there.

Q. When was that?

A. I just don't remember now; it was three or four weeks ago.

Q. Did you ever go there and inspect their plant?

A. Yes, sir.

Q. When did you do that?

A. Possibly two or three months ago; I don't remember the date.

Q. Was it in the month of January?

A. I could not tell you.

Q. What time of day did you go there?

A. I suppose it was in the afternoon about three o'clock, two or three o'clock.

Q. Did you go in the boiling house where they have kettles for boiling linseed oil?

A. Yes, sir.

Q. What did you find there?

A. I found they were in operation.

Q. That is, there was oil or some substance in the kettles, and this blower was working in the stack.

A. Yes, sir.

Q. What could you detect in the way of odors?

A. Not any more than you would in any plant of that kind, or any other plant—ordinary odors that would be around.

Q. Were they very disagreeable odors?

A. No, sir.

Q. How long have you lived in the borough?

A. 34 years.

Q. Do you remember when Sinclair and Valentine Company first began to work there?

A. Yes, sir.

Q. Did you get any odors from them then?

A. I never did, no, sir, not that I know of; there are many odors around there—you cannot tell where they come from.

CROSS-EXAMINATION by Mr. Gourley:

Q. Of course, the odors would not damage you any, Chief?

A. I would not say that.

Q. Well, when you visited there, it was for fire purposes?

A. Yes, sir.

Q. You knew that this oil was being burned with a cover over it—there is a pipe from the cover into this fire chamber?

A. Yes, sir.

Q. And then the fire chamber went into the stack?

A. Yes, sir.

Q. You did not expect down here to have any smell or odor?

A. I was not looking for anything like that.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Did you notice any odors out in the yard going to andf rom the plant?

A. No, sir.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. You live about a mile away, Chief?

A. Yes, sir.

RECESS TO 2 P. M.

AFTER RECESS

JOHN A. KERR, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. 72 Edgewater Place, Edgewater, New Jersey.

Q. How long have you lived there?

A. Since September 30, 1913.

Q. Where did you live before that?

A. 329 Undercliff Avenue.

Q. Is that building owned by Mr. Fitzner?

A. Yes, sir.

Q. How does that lie from the Sinclair and Valentine Ink factory?

A. Due West.

Q. How long have you lived there?

A. From December 21, 1912, to September 30, 1913.

Q. Until you moved to 72 Edgewater Place?

A. Yes, sir.

Q. Where did you live before December, 1912?

A. 26 Hilliard Avenue.

Q. How long did you live there?

A. I lived there about thirty months.

Q. Do you remember when the Sinclair and Valentine Company began to operate at their property in Edgewater?

A. Yes, sir.

Q. When they began, did you get any odors that you can recall?

A. It was shortly after they commenced to manufacture.

Q. What kind of odors are they?

A. They are offensive odors; it was a kind of an oily smell.

Q. Would you know it if you smelled it again?

A. I certainly would, sir.

Q. Do you get that odor now?

A. No, sir.

Q. How long is it since you have gotten that odor?

A. 16 or 18 months, I should judge.

Q. What is your business?

A. I manufacture metallic belting.

Q. Where is your place of business?

A. 114 Liberty Street, New York City.

Q. How much time do you spend in Edgewater?

A. Considerable time.

Q. What time do you return from your business?

A. It is generally about four o'clock in the afternoon.

Q. Then you go off in the morning, when?

A. I generally get the 7:45 boat.

Q. You use the Fort Lee ferry?

A. Yes, sir.

Q. When you used to get this smell, as you testify, what time of day was it you used to get it?

A. The first time my attention was drawn to it was about 11 A. M. in the morning; that was the first time; and I was walking down Hilliard Avenue when I smelled the offensive odor; and somebody was walking down with me and I asked them what it was—

Q. Never mind what they said; can you remember what time of day it was?

A. I never smelled any at night.

CROSS-EXAMINATION by Mr. Gourley:

Q. Now, you returned home at what time?

A. Generally about 4 P. M.

Q. I understand, before, even when you lived on Hilliard Avenue, you did not smell it at night?

A. No, sir.

Q. It was, then, during the day time, at such times as you would chance to be in Edgewater?

A. Yes, sir.

Q. You usually left at 7:45 on the boat?

A. Yes, sir.

Q. And then returned in the evening?

A. Yes, sir.

Q. And all the time you were away, there were no smells?

A. If I finish my work at 12 o'clock, my work is done for the day, and I would go back.

Q. Didn't you say that after 12 o'clock there was no smell at any time that you noticed?

A. Not lately.

Q. I understood you to mean always?

A. Oh, previous to 18 months ago, there was an offensive odor.

Q. Was that in the evening?

A. No, sir.

Q. In the evening there was not any at any time in the evening?

A. No, sir.

Q. So that when you did smell it, it was at such times as you chanced to be in Edgewater in the morning?

A. Yes, sir.

Q. But your daily work takes you away at 7:45?

A. Generally at 7:45, yes, sir.

MRS. SARAH J. JACKSON, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. Edgewater.

Q. Whereabouts in Edgewater?

A. 368 Undercliff Avenue.

Q. Now, which side of Undercliff Avenue is that?

A. The West side.

Q. Where is that with reference to the Catholic Church?

A. Right opposite, right across the street, nearly opposite.

Q. You say nearly opposite—a little bit to the South?

A. Yes, sir.

Q. Where, with reference to Mrs. Ryan?

A. Right next door to Mrs. Ryan.

Q. Mrs. Harrigan's sister that is?

A. Yes, sir.

Q. Do you know the location of the Sinclair and Valentine factory in Edgewater?

A. I do, yes, sir.

Q. How long have you lived in your present house?

A. Two years in March, the second day of March.

Q. Where did you live before that?

A. At Valley Place; there was no number on the house at that time.

Q. Valley Place is on the hill, isn't it?

A. Yes, sir.

Q. Can you tell us exactly, or as closely as you can, when you moved into your present house?

A. The second day of March, 1912.

Q. When you first moved into this present house of yours, did you notice any smells in particular?

Q. Yes.

A. Did you say smells?

A. I have noticed different smells ever since I have lived in Edgewater.

Q. Do you remember any smells in particular, when you first moved there?

A. Not in particular; I noticed different odors in the air, and paid no attention to them.

Q. (BY THE COURT) How long have you noticed these various odors?

A. Ever since I have lived in Edgewater.

Q. You notice them today, do you?

A. Certainly.

Q. Are they similar to the odors you have always smelled there since you have lived there?

A. Yes, sir.

FURTHER DIRECT:

Q. Since you have lived in your house, Mrs. Jackson, have you noticed any change in the smell, coming, apparently, from the Sinclair and Valentine factory?

A. I have, yes, sir.

Q. What?

A. It is very much better.

Q. Well, now, describe it to us, the change.

A. It was a pretty bad smell, but I never worried over it.

Q. Was it a smell you could distinguish and recognize?

A. Yes, sir.

Q. (BY THE COURT) What was it like?

A. I cannot describe it.

Q. Have you ever smelled it anywhere else?

A. No, sir.

BY MR. GOURLEY:

Q. Indescribable, is it?

A. (No answer).

FURTHER DIRECT:

Q. Now, what has been the change since this change you spoke of?

A. It was very seldom that I smelled it, and then it was just for a moment, and then gone; I had forgotten all about it.

Q. When did this change take place?

A. About a year and a half ago.

Q. That would be about November, 1912?

A. I could not tell you the date; I paid no attention to it; I did not think anything more about it.

Q. Did you take any steps to find out where the smell came from when you smelled it first?

A. No, sir.

Q. So you don't know actually where it came from?

A. I simply asked what that was in the air, and I was told it came from the ink plant; that is all I know.

Q. You are around your house generally during the day, are you not?

A. Yes, sir.

CROSS EXAMINATION by Mr. Gourley:

Q. Now, Mrs. Jackson, you were asked whether

any odors were there, and you said there were some odors?

A. Yes, sir.

Q. Didn't you know we were inquiring about this ink factory odor?

A. I did.

Q. Do you mean that you had not noticed that particularly at any time?

A. I have noticed it.

Q. You had noticed it very considerably, hadn't you, from time to time?

A. I had not, no, sir.

Q. Now, let me see; before a year and a half ago, how frequently did you notice it?

A. I paid no attention to it, because I never cared; it did not bother me.

Q. I know; but you don't mean that you did not smell it.

A. I smelled it, but it did not bother me.

Q. How frequently did you smell it?

A. I don't know.

Q. I know you did not note it down in a calendar, but give it to the best of your recollection, please.

A. I don't know.

Q. I am sure I do not, Mrs. Jackson; cannot you help us?

A. No, sir, I cannot.

Q. Was it once a week?

A. I cannot tell you.

Q. Mrs. Jackson, was it every other day?

A. I cannot tell you.

Q. You would not deny it was every other day, would you?

A. I certainly would.

Q. Would you deny it was once a week?

A. I cannot tell you.

Q. Well, twice a week?

A. I could not tell you.

Q. You don't know?

A. No, sir.

Q. But it was a penetrating nasty smell, wasn't it?

A. It did not bother me much, and never has.

Q. But I am asking you that question; you may be constituted so that you cannot smell at all.

A. I can smell.

Q. I don't know, but I am just asking whether it was a disagreeable odor?

A. It was not a pleasant odor.

Q. Was it unpleasant?

A. If it was not pleasant, it must be rather unpleasant.

Q. Then I may take it, it was not pleasant?

A. It was not pleasant.

Q. Was it always unpleasant when you smelled it?

A. Yes, sir.

Q. Was it sharper at one time and more penetrating?

A. I did not notice.

Q. You had no occasion at any time to close your windows?

A. No, sir; I never have in my life.

Q. You moved there two years ago in last March; you moved there in March, 1912?

A. Yes, sir.

Q. Do you mean in March, 1912, and April, 1912, and in May, 1912, it was not very bad?

A. If it was, I did not know it.

Q. If it was, you did not notice it?

A. No, sir; it was not bad to me.

Q. Have you any family?

A. A son and husband.

Q. What time did they get home?

A. Mr. Jackson gets home at 4:45, and my son works in the city, and he gets home about six o'clock some times; it is according to how the business is.

Q. What time does he leave in the morning?

A. My son leaves at 6:30, and Sundays whenever he gets ready; he has a position that he don't have to get there very early.

Q. What time of day when you noticed this smell was it?

A. I never paid any attention to the time; I could not tell you.

Q. Was it when your husband and son were away, do you remember?

A. I think it was; I would not swear to that.

Q. Your memory is not very good about it at all?

A. I never paid enough attention to it to be sure about it, that is just it.

Q. But if you paid so little attention to it when it was going on, how did you come to tell us just exactly when it stopped?

A. Because this trouble was going on, and I had been asked to come as a witness, and I wanted to be sure I was right.

Q. Well, is that the answer you want to give us for that?

MR. McCARTER.—That is what we call in baseball, a "home run."

Q. Well, Mrs. Jackson, I will ask you again: did you make any memorandum about the time of the change?

A. No, sir, I did not.

Q. You were asked to come here as a witness for the Sinclair and Valentine Company?

A. Yes, sir.

Q. When were you asked to come here?

A. I don't know that I can tell you that, but somewhere near the time of the last trial.

Q. In this court?

A. Yes, sir; I was here, but was not called upon.

Q. That was last April, was it?

A. I have forgotten the date, I don't know the date.

Q. That was in June, I understand; was that the way you remember that in the November preceding it stopped?

A. I did not set any date when it stopped; it was about a year and a half ago, but I set no dates, for I have kept no account.

Q. Do you mean, Mrs. Jackson, that you have not noticed the smell since that time?

A. I have occasionally smelled it for a moment, and it would be gone.

Q. Just like that (counsel snapped his fingers twice)?

A. Yes, sir.

Q. Do you live in the house of Mrs. Southard?

A. Yes, sir.

Q. Do you know Mrs. Ryan?

A. Yes, sir.

Q. Do you know Mrs. Kennedy?

A. I do.

Q. Did you say to either of these ladies on last Monday, that you also had noticed the smell?

A. I did, but I said it was gone in a moment; they asked me if I smelled it, and I said yes, I did, but that it was gone in a moment.

Q. On Monday afternoon, April 20th last, at 4:30 o'clock, did you speak about this matter to Mrs. Ryan and Mrs. Kennedy?

A. After Mrs. Ryan spoke to me—she asked me if I smelled the smell.

Q. Did they ask you if you smelled the stink at that time?

A. She asked me if I smelled the smell; if she meant "at that time" I misunderstood her.

Q. Did you say "Yes, I smell it?"

A. I said "I smelled it, but in a moment it was gone."

Q. Now, you say, "I smelled it?

A. Yes, sir.

Q. That is what you said?

A. Yes, sir; if Mrs. Ryan misunderstood me—I said, "I smelled it."

MRS. ADELAIDE RICH, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. I live at 379 Undercliff Avenue, Edgewater.

Q. On the East side of the Avenue?

A. Yes, sir; towards the river.

Q. Mrs. Harrigan lives on the next street, about 200 feet?

A. Yes, sir.

Q. How near is it to the Sinclair and Valentine factory?

A. About 400 feet.

Q. Then you go down to the river?

A. Yes, sir.

Q. Where is your house with reference to the Catholic Church?

A. The North side of the Catholic Church.

Q. On the North side of the Catholic Church?

A. Yes, sir.

Q. You live at the house next to where Mr. Skelley lives?

A. No, sir; next to his mother.

Q. How long have you lived there?

A. 11 years.

Q. You remember when the Sinclair and Valentine Company first began to operate their Edgewater plant?

A. I remember it.

Q. What can you say with reference to any odor when they began to operate first?

A. It was very, very bad.

Q. Describe the odor?

A. Well, to me, it seemed like decayed fish, or something like that; I really don't know what it was.

Q. Would you recognize it if you smelled it again?

A. Yes, sir.

Q. Do you still smell it?

A. No, sir.

Q. Since when have you not smelled it?

A. Well, I have not smelled it since June two years ago.

Q. June, 1912?

A. Yes, sir; I have a reason for remembering that date, or I should not have remembered it.

Q. How do you remember it?

A. Because I was helping to nurse a sick child of pneumonia, and the windows were open on Undercliff avenue; we then received a slight odor of it, and we spoke of it.

Q. And you have not smelled it since then?

A. That is the last time I remember smelling it at all.

Q. You live two doors from where young Mr. Skelley lives?

A. Yes, sir; they are two doors North of me.

CROSS-EXAMINATION by Mr. Gourley:

Q. Mrs. Rich, you say that the odor was slight?

A. Yes, sir.

Q. It never was anything else but slight, that you noticed?

A. Oh, it was terrible at first.

Q. When did it become slight?

A. Then, for quite a while I did not smell it at all; but I was up night and day with this child, with the windows right open, and we smelled it slightly; the wind was coming in that direction.

Q. When did it change from being very bad to a slight odor?

THE COURT.—She says that one day when she was nursing this child, she noticed a slight odor.

THE WITNESS.—And that was for a short time.

Q. When did you first notice its being bad?

A. I did not know what they were doing down there, and I stopped to inquire; it was several months previous to that.

Q. Can you give us the part of the year when it was very bad?

A. It was about three years ago, I guess.

Q. That would be April, 1911?

A. I could not say April or anything like that.

Q. Can you tell us the season of the year when it was very bad at first?

A. I think it must have been in the springtime, because I remember speaking to Mrs. Harrigan when I met her on the street.

Q. How long ago?

A. I could not tell you; it was the year previous to 1912 that I remember speaking to Mrs. Harrigan; when it was, I don't know; it may have been

in the fall, but I know it was not cold weather, and I know it was 1911; and I know it was not cold weather.

Q. How long a time was it very bad?

A. I should think for several months.

Q. Are you guessing, Madam, or tell us something?

A. I did not think anything about it.

Q. Think about it now.

A. I don't know.

Q. When did you notice it was a slight odor?

A. In June, 1912.

Q. Had it been bad up to that time?

A. No, sir.

Q. How long had it been thaty ou had not noticed it at all before it was noticed to be slighter?

A. It must have been quite a while.

Q. Was it only on one occasion that you noticed it to be slight?

A. That is all.

Q. How long did it continue that day?

A. It may have been for about fifteen minutes; I was busy, and I did not look at the clock.

Q. And since that time you have not noticed it at all?

A. No, sir; I have not.

Q. You are at home all day?

A. Most of the time.

Q. You live near some of the other people there?

A. Yes, sir.

Q. You know of other people complaining about it?

A. Yes, sir; Mrs. Harrigan and Mrs. Ryan.

Q. Did you hear others complaining about it at the time?

A. No, sir; I don't have time to do a great deal of talking.

Q. You speak to very few people?

A. Yes, sir—about such things as that.

Q. You spoke to Mrs. Ryan about it?

A. She spoke to me about it, and I answered her.

Q. When?

A. I could not tell you when; she asked me at the gate; she asked me if I smelled it; it was around the last time they were bringing this thing to court.

Q. Then, you have not noticed any offensive odor at this place since last June?

A. No, sir; I have not.

Q. May I say a longer time that that?

A. No, sir; I don't think you had better.

Q. You fix it in June last?

A. Yes, sir; that was the last time.

Q. Before that, what have you to tell his Honor about the condition of things?

A. It was pretty good; it must have been for quite a while, because that attracted our attention that day; we spoke and said, "There is that odor again," but it was not as bad, of course, but we had detected it—the wind coming in that direction.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Are you a nurse?

A. No, sir; I was just helping a neighbor.

MRS. JENNIE SOUTHARD, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. I live in the rear of 368 Undercliff Avenue, Edgewater, New Jersey.

Q. Is that the same house in which Mrs. Jackson lives?

A. Yes, sir.

Q. Which floor do you live on?

A. I live on the floor under her.

Q. How long have you lived there?

A. I have lived between there and the front house for going on eleven years.

Q. How long have you lived in the house where you now are?

A. About three years.

Q. Do you remember when the Sinclair and Valentine Company first began to operate their factory at Edgewater?

A. Well, I heard them speak of the odors, and I asked what it was, and they said it was the Sinclair and Valentine Company, an ink factory that had started there, and that is all I knew about it.

Q. You say you heard them speak of the odors; did you smell the odors?

A. I smelled it some, yes, sir.

Q. Describe the odor?

A. It smelled like linseed oil to me, like boiled linseed oil.

Q. When was this?

A. When they began to operate first; I never

kept any dates of it, because I was not interested enough in it.

Q. Now, do you still notice this smell?

A. No, sir; I do not.

Q. Since when have you not noticed it?

A. Well, I have noticed a little odor on Monday, but I don't know whether it was from the ink factory, or whether it was—there are other factories that have various odors.

Q. Aside from last Monday afternoon, since when have you not noticed this odor?

A. I have not noticed it—since, I cannot remember when, until last Monday afternoon, when my attention was called to it, and I smelled an odor, but where it was from I don't know.

Q. You just said that when they began to work, you noticed an odor?

A. Yes, sir.

Q. Now, will you say since when, before last Monday, had you noticed this odor?

A. It is a year and a half since I smelled it—about the time of the trial last year—then I smelled it, but only once or twice since the time of the trial last year; one time was in the forenoon, and the other time in the afternoon.

Q. Was it the same odor that you smelled at the time that the Sinclair and Valentine Company commenced operations?

A. Yes, sir; but not so strong it was not.

Q. These two times that you refer to since the last trial, how long did they last?

A. A very short time.

CROSS-EXAMINATION by Mr. Gourley:

Q. Mrs. Southard, the reason you speak of last Monday afternoon was because Mrs. Ryan asked

you?

A. Yes, sir.

Q. She called your attention and said, "Now, do you smell it?"

A. Is that what she said?

Q. Answer the question.

A. I want the questions put to me as they were —that is what I want.

Q. Did Mrs. Ryan call your attention to a smell last Monday afternoon?

A. No, sir.

Q. Did Mrs. Kennedy?

A. No, sir; she did not?

Q. I ask you whether Mrs. Ryan, on last Monday afternoon, asked you whether you then smelled what she called a "stink?"

A. Yes, sir; that is what she said, "the stink."

Q. Oh, that is the difference between us?

A. Yes, sir.

Q. Well, now, Mrs. Southard, you said, "No," you did not smell it?

A. I did not at first when she spoke about it.

Q. Then she said, "Don't you smell it now?" and you said, "Yes, I smell it now?"

A. Yes, sir; I did, that is right, for a minute I smelled it.

Q. But you did not know where it came from then?

A. No, sir.

Q. And you don't know now?

A. No, sir.

Q. Now, have you any lingering doubt in your mind, if so, unburden it—that it came from anywhere else?

A. Yes, sir; I have.

Q. Where do you think it came from?

A. I think it came from the factory below.

Q. What factory below?

A. There is a number of them.

Q. Can you pick it out?

A. I have not measured the distances from the factories.

Q. Do you know any factories in Edgewater that burn linseed oil?

A. Yes, sir; the Linseed Works; they claim there is a very offensive odor that comes from there—I don't know about it myself.

Q. The Linseed Works where they grind up the flax seed and make oil?

A. I don't know what they do, but they make an odor just the same.

Q. Do you think it came from there?

A. I would not take an oath about it.

Q. Are you giving the Court your honest opinion that you thought it came from there?

A. I did not know where it came from.

Q. How was the wind blowing at that time?

A. The air was very heavy that day, but I did not notice—

Q. But it smelled like the old original smell?

A. Something on the same order.

Q. There was no distinction between it at all?

A. No, sir; not much.

Q. You know it when you smell it, having lived there so long?

A. I never smelled it as the other people did.

Q. That may be your fault?

A. Yes, sir; perhaps I have not got good smellers.

Q. Was it very bad two years ago?

A. Well, it smelled quite some, but not as offens-

ively as I found others claimed; it did not bother me much.

Q. How frequent was it two years ago?

A. I did not find it so very frequent; it was once in a while; I smelled it in the afternoon and I have smelled it in the forenoon, but no other time of the day.

Q. Did you smell it in the evening at any time?

A. No, sir.

Q. About what time did you smell it?

A. I smelled it in the middle of the afternoon.

Q. How frequent was that?

A. I never took any dates, but I have noticed it.

Q. You cannot recall whether it was as often as once a week?

A. No, sir.

Q. Would you say it was twice a week?

A. I could not say.

Q. Would you deny that, to the best of your recollection, it was twice a week?

A. Well, I would not say anything in regard to that at all, for I cannot remember how many times a week.

GUSTAVE W. THOMPSON, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. What is your occupation?

A. I am a chemist.

Q. How long have you been occupied as a chemist?

A. About twenty-five years.

Q. What are your present chemical connections?

A. I am Chief Chemist of the National Lead Company.

Q. How long have you been so employed?

A. Nearly 22 years.

Q. Are there any chemical subjects that have received your careful attention during this time?

A. I have specialized during this time, in paints, oils and varnishes.

Q. What particular oil, if any, have you given particular study to?

A. Linseed oil.

Q. To what extent has your study gone with reference to linseed oil?

A. I have studied the whole field of linseed oil from its growth as a seed, or as a plant; the crushing and pressing of the oil, then refining the filteration; the boiling, and its general use in the arts.

Q. Have you given any particular attention to the boiling?

A. Yes, sir; I have given considerable attention to the boiling of linseed oil, both in a small way and in a large way.

Q. What personal attention have you given to that?

A. I have actually boiled linseed oil myself in open kettles, and have supervised the boiling of thousands of gallons of linseed oil.

Q. What happens when linseed oil is burned or boiled?

A. Properly speaking, linseed oil does not boil in the same sense that water boils; water has a definite boiling point. In the case of the boiling of linseed oil, a destructive distillation takes place; the oil is partially decomposed and certain volatile products are given off; the oil itself is bodied; increased in viscosity and specific gravity, to render

it suitable for the purpose for which it is to be used.

Q. What volatile product is given off from the boiling of linseed oil?

A. The most striking or characteristic product is acrolein, but other products are also given off; some water, and some of the more readily volatilized fatty acids which are present in the oil.

Q. Are you able to estimate from your experience, the proportion of all that is given off, that is, acrolein?

A. That varies very much according to the method of treating the oil and the purpose for which the oil is used; if the bodying of the oil is very slight, there is a comparatvely small amount of acrolein given off. If the bodying of the oil is very considerable, a much larger amount, and if lead and manganese oxides or acetate of lead, which are sometimes used with linseed oil to give drying properties of the boiled product, then the liberation of acrolein will be very considerable. In answering your question, the percentage of acrolein which is given off is very seldom, in amount, over one or two per cent.

Q. What are the properties of acrolein?

A. Acrolein is a product obtained by the dehydration of glycerine; it is a liquid at ordinary temperatures, but changes very very rapidly into a solid substance; because it is unstable in the form in which it exists as first produced, but changes into a polymerised substance; it boils when first produced at about the temperature of 120 degrees Fahrenheit; it is quite volatile; it is composed of carbon, hydrogen and oxygen, and has an irritating astringent odor.

Q. What effect upon the throat—

A. Its effect is mostly on the eyes, not so much on the throat, although if breathed in quantities, it will affect the throat. It simply has an astringent effect; it makes the eyes water. It is very combustible. When it is first produced in a liquid form, it will flash at ordinary temperatures; it will take fire on the application of a match right to it; in other words, enough volatile gives off at ordinary temperatures for it to take fire directly.

Q. And, therefore, it is easily burnt?

A. Yes, sir.

Q. What takes place in the combustion of acrolein?

A. It is converted into carbon dioxide and water; the carbon in it combining with the oxygen to form carbon dioxide; and the hydrogen combining with the oxygen to form water.

Q. Is carbon dioxide offensive?

A. No, sir; it is not.

Q. Have you any other chemical compounds that suggest themselves to you as being similar to acrolein, in the fact that they can be burnt like acrolein with the formation of carbonic acids in water?

A. There are numerous similar substances—alcohol is one, ordinary alcohol, ethal alcohol, or ordinary wood alcohol; these substances contain carbon and hydrogen and burn to the same products as in the case of acrolein.

Q. What has been your experience as to the diffusion of acrolein vapors?

A. Acrolein vapors diffuse very rapidly, so that while at a kettle where acrolein vapors are produced, close to that kettle the odor of acrolein is strikingly noticeable; at a comparatively short distance away from the kettle, the odor becomes al-

most, at times, imperceptible, and the greater the distance from the kettle, the less the acrolein vapors are to be noticed.

Q. I want to ask you a question with regard to the boiling of linseed oil for different ultimate purposes, such as the making of ink or its use in varnish or its use in patent leather varnish and things of that kind, is there any general feature connected with them all, or any distinction running through the—

A. The boiling of linseed oil, no matter for what purpose it is used, and no matter what the product, proceeds along the same general line. It consists, as I have already said, in the decomposition or destructive distillation of the oil, the driving off of some of the more volatile constituents, and the thickening and bodying of the oil. In all of these processes, such as in the manufacture of boiled linseed oil as is used by the painter; in the production of oleo resinous varnishes; in the production of patent leather; in the production of printing inks, the operation is the same in all essentials. The variation comes simply in the degree to which the boiling is carried, which variation is for the purpose of producing specific products.

Q. Now, disregarding for the moment the plant of the Sinclair and Valentine Company, have you ever seen any plant where they had installed a system for the burning of the fumes of acrolein coming off from the boiling of linseed oil?

A. I have never seen it anywhere except at Sinclair and Valetine's.

Q. The ordinary practice that has been pursued by you, or that you know of in any place, is what—except Sinclair and Valentine's?

A. The ordinary practice is to allow the fumes

and volatile products from the oil on boiling, to pass up a chimney and be diffused in the air.

Q. Now, have you visited the plant of Sinclair and Valentine?

A. Yes, sir.

Q. When did you go?

A. I went to the plant of Sinclair and Valentine on two occasions, on March 20th and March 27th, in the current year.

Q. Whom did you go with?

A. On March 20th, I went with Mr. Elkins?

Q. Of the New York Bar?

A. Yes, sir.

Q. So far as you know, was the fact of your advent known to them?

A. So far as I know, it was not.

Q. Whom did you meet at the plant?

A. I met Mr. Klein, their chemist, and also Mr. Barrett; I may have met some other men there, but those are the only ones whose names I remember.

Q. Did you inspect their boiling outfit?

A. Yes, sir.

Q. Describe it.

A. There were four kettles set in a row—fire boxes underneath; each kettle was covered with a sheet metal cover; all of these covers were connected by a metallic conduit to a central combustion chamber; this combustion chamber was, approximately, four feet square, cubical, perhaps it may have been higher or wider than that, but approximately that; this combustion chamber was connected with the stacks in the back of the row, centrally located with respect to the kettles. In the front of this combustion chamber there was an opening through which an oil burner entered, and

which was lighted, when I was there, and which heated the combustion chamber to a very high temperature. There was linseed oil or some similar oil in each of the kettles, and opening the doors in the covers, I noticed the strong odor of acrolein within the kettles. I noticed the thermometers, which ranged in temperature around 500 degrees.

Q. What did you notice with regard to odors in and around the plant—of acrolein?

A. I noticed no appreciable odors in and around the plant—of acrolein.

Q. What effort did you make to go round the plant—where did you go?

A. We first went up to Mr. Kline's laboratory to leave our coats, and then we went down to the boiling kettles and went in, and all around the kettles, and climbed up on the platform in front of the kettles, and walked around through the plant, and then climbed up on the retaining wall to the North of the yard, and went back of the kettles.

Q. That would be West?

A. Yes, sir; and a ladder was brought and placed on a box, and I climbed up to the top of the chimney.

Q. Now, if any acrolein had been escaping, would you have smelled it when you were at the top of that chimney?

A. I surely would.

Q. Would it be possible for you not to?

A. No, sir.

Q. Did you smell any of it?

A. No, sir.

Q. Of course, you are familiar with the odor of acrolein?

A. Yes, sir.

Q. How high a temperature is it safe to boil linseed oil?

A. In the boiling of linseed oil, a certain amount of heat is generated within the oil itself, due to the decomposition which takes place there; and if the temperature rises much above 600 degrees, and in some cases if it rises as high as 600 degrees, the decomposition of the oil will be so rapid that it may boil over, may get beyond control, and the temperature rises so high that it will take fire.

Q. Now, what does this tendency of the oil to take fire when heated to a high temperature, indicate to you?

A. It indicates to me that the products of the boiling of linseed oil are very combustible, very rapidly burned.

Q. Were the kettles being heated while you were there?

A. No, sir; the fires had been drawn.

Q. What inference did you draw from that?

A. The inference I drew was, that a heat sufficiently high had been attained, and the temperature of the oil would be retained sufficiently long enough, in the boiling operation, to produce the products which they desired in these particular boiling operations.

Q. Now, did you reach any conclusion from your examination of the vapors which you breathed and observed, when you opened the doors of the kettles?

A. I concluded immediately that an oil, either linseed oil or some similar oil, was being boiled in these kettles, and that destructive distillation was taking place, and acrolein vapors being given off.

Q. Now, did you familiarize yourself with the

chamber or oven and the arrangement they have for its operation?

A. I paid most attention to the oven itself—not so much to the supply of oil and air, but to the actual operation of the combustion chamber.

Q. Did you notice that there was quite an air hole surrounding the place where the burner goes into the chamber?

A. Yes, sir.

Q. About how large is the hole; and then the burner would take how much of the space?

A. I would say that the burner had a diameter of about one or one and a quarter inches, and that the opening was about three inches wide, and, perhaps, a little bit longer than that in height.

Q. So that there is the space of that opening, less the space occupied by the burner for the free ingress of air into the chamber?

A. Yes, sir.

Q. What was there to indicate to you that the heat in the chamber was of a high degree of temperature?

A. The color of the fire-brick in that chamber indicated to me a temperature of over 1,500 degrees Fahrenheit.

Q. What have you to say, Mr. Thompson, with regard to the sufficiency of the heat in all parts of that chamber, to oxidize or consume the acrolein?

A. As I saw the chamber, I should consider it a very efficient apparatus for the purpose for which it was installed; and I should judge, from my observation, that the temperature was quite uniform throughout all parts of the chamber.

Q. What made you think that?

A. I thought that first by observation, and second, by my knowledge of this fact that at high

temperatures, or to put it in another way, the higher the temperature, the radiating action of heat is much more intense.

Q. Surfaces radiate heat very much more efficiently at high temperature than they do at low temperatures?

A. I cannot give the exact ratio, but it is either as the third or fourth power of the temperature, so that the heat from one part would be radiated to another, and an equal temperature would obtain throughout the entire chamber.

Q. Assuming that these two samples I show you, namely, the small one that was shown this morning to some witness, was taken out from the rear of the chamber up against the stack at the end of about a week's run, what would you say as to the probable condition of the heat at the rear of that chamber?

A. My opinion would be that the temperature around this particular piece of fire-brick would be over 2,000 degrees Fahrenheit, at least.

Q. Now, this specimen was also produced by Mr. Barrett, and was said to have been a Mauer fire-brick that came from what he called the break-wall, after a week's experience; what do you say as to that?

A. My opinion with regard to this is, that the temperature of this particular product must have been over 2,500 degrees Fahrenheit.

Q. Have you any doubt in your mind of the ability of that chamber, when heated, to effectually dispose of the vapors of the acrolein?

A. None whatever.

Q. Did you confine your examination that day to the plant itself?

A. No, sir; we walked around the entire neighborhood.

Q. Did you notice any odors of acrolein anywhere except when you put your head into the pots?

A. No, sir.

Q. When you went to the top of the stack was it hot up there?

A. Yes, sir.

Q. Are you able to form any estimate of the heat of the vapor that was coming up?

A. I should judge the temperature on the top of the stack was over 600 degrees Fahrenheit.

Q. How do you account for a difference between that, say, at 600 degrees, and a temperature, say, of 1,500 degrees in the furnace itself?

A. I concluded that the difference in temperature was due to the fact that the air in the stack was a mixture of the air from the combustion chamber, and the air passing around the kettles, under the kettles and into the stack; so that the gas which came from the top of the stack was a mixture of those gases from those two sources.

Q. What would you expect to be the effect upon the acrolein vapors on passing through these fire boxes?

A. I would expect that the acrolein would be completely consumed.

Q. And, so far as you can tell, was that expectation realized?

A. It was.

Q. Is there much boiling of linseed oil throughout the United States?

A. There is a great deal through every part of the United States.

Q. Why is that necessary?

A. Simply because the products of the boiling of linseed oil are necessary in so many different arts, particularly so as in this case, in the printing industry.

Q. Did you make a second visit to the plant?

A. I went on March 27th, with Dr. Allen Rogers.

Q. Do you know whether or not your visit was expected on that day?

A. I don't know that it was; I have no knowledge that it was expected; there was no date set when we should go; I merely called him up and said I was going and would like to have him go with me.

Q. How many kettles were run that day?

A. Four kettles.

Q. What examination did you make that day?

A. I made a more superficial examination that day than I did the first, and found the conditions practically the same as they were on the first day.

Q. I want to direct your attention, for the moment, to this matter that was spoken of—the alleged deposit in the tubes, and under the grating, of acrolein; what do you say about that?

A. My opinion is, that there was probably very little acrolein deposited in those tubes; acrolein itself is a volatile compound, and at the temperature at which those kettles were operated, and continuous discharge of the volatile products into the combustion chamber—that there would be very little acrolein deposited in those tubes.

Q. How about under the fire grate?

A. Very little acrolein.

Q. Why?

A. Acrolein has such a low boiling point, and after the time at which it is produced to the time it would reach—from the time at which it is pro-

duced, to the time it would take to reach the combustion chamber, it would not have a chance to change to the less volatile compound, which is the polymerized product to which I have referred.

Q. At what temperature is it your experience that acrolein gives off?

A. Acrolein gives off—starts to give off—from linseed oil, at varying temperatures, according to the linseed oil; the lowest temperature that I have ever noticed is approximately 325 degrees; that some oils will stand a higher heat without the liberation of acrolein.

Q. Does it give off more readily, or otherwise, at a higher temperature?

A. Very much more readily; it might be said that the discharge of acrolein is an evidence of the temperature, if I might put it that way.

Q. You heard Dr. Rogers describe the analysis of the vapor coming out of the stack?

A. Yes, sir.

Q. Assuming that such an analysis were made, and it disclosed the presence of 2 per cent. of carbon dioxide, 18 per cent of oxygen, and no carbon monoxide, what would you say as to the completeness of the combustion?

A. I would conclude that the combustion had been complete.

Q. Is there any acid effluvium or odor that comes from the boiling of linseed oil?

A. There is no acid in the ordinary sense of the term, I should say, in the common sense of the term, given off in the boiling of linseed oil, a certain percentage of linseed oil is at a comparatively low boiling point, fatty acid; but it has none of the odor which is commonly given to acids in the

minds of ordinary people; and it could not be said to have an acid odor.

Q. Do you know the apparatus that Dr. Rogers described as having been used by him?

A. Yes, sir.

Q. Is that satisfactory?

A. Yes, sir; very.

Q. Is it an accepted way in use?

A. Yes, sir; very generally accepted, yes, sir.

Q. Now, give us a few different plants that you know personally of, where in this metropolitan district of New York and vicinity they are boiling linseed oil?

A. The plants that come to my mind at the moment are in Brooklyn and in Long Island City. I cannot place in mind any in Manhattan or the Bronx that I have visited.

Q. Do you know any in New Jersey besides this one?

A. Oh, yes.

Q. Name them off, if you can.

A. J. W. Masury and Son, Brooklyn.

Q. They boil linseed oil?

A. Yes, sir; and Mollen and Schumann, in Brooklyn.

Q. Don't confine yourself to Brooklyn.

A. Pratt and Lambert, Long Island City; Edward Smith and Sons, I think it is, or "Company," I have forgotten it—Long Island City; Chase, Roberts and Company, Long Island City; Keystone Varnish Company, Long Island City; I cannot place in my mind right off any others, although I have visited them.

Q. (BY THE COURT) Are there not others in New York that you have visited?

A. (No answer).

FURTHER DIRECT:

Q. Where is your plant, the National Lead Company?

A. The National Lead Company's plant that boils linseed oil, is in Brooklyn.

Q. (BY THE COURT) Have you visited all these plants?

A. Yes, sir.

FURTHER DIRECT:

Q. The Bureau of Engraving and Printing at Washington is not in the Metropolitan District—how do they dispose of it?

A. Run it up the chimney; they make a plate oil and work in very small kettles, setting fire to the oil itself and allowing it to burn out, and then heating it up again.

Q. How big is their chimney?

A. I cannot say—the buildings are high.

Q. In most of these plants that you have seen and visited, are the vats or boilers immediately beneath the stacks?

A. In most of them, yes, sir.

Q. What effect does that burner with the compressed air have as creating a draft through the pipes leading to the tops of the kettles, up to the stack?

A. It acts as an injector, similar to an injector on a boiler; it acts as a suction to suck air into the chamber.

CROSS-EXAMINATION by Mr. Gourley:

Q. Mr. Thompson—may I say "Doctor"—

A. I prefer not, if you will.

Q. Those that have the honors and don't use them, are very modest. Now, Mr. Thompson, you have been with the National Lead Company 22 years?

A. Yes, sir.

Q. Your appearance gives one the idea of youth; I won't say that your testimony does that; have you specialized in oils all this time?

A. Yes, sir.

Q. Have you had to boil oil as part of that?

A. I have boiled oils as a part of that specialization.

Q. What branch of your work calls on you to do that?

A. I have boiled oil in the making of concentrated driers to be used in the manufacture of commercial boiled oil.

Q. Well, that, I would take it, would be rather exceptional work for you?

A. I cannot answer what you take it to be.

Q. It is your taking it that I am after.

A. That is part of my work.

Q. Well, having boiled oil for a time and obtained results with it, what further information could you possibly acquire by repeating it?

A. I had to install the system as a regular business manufacturing operation, and during the time of that installation I had to supervise the operation for a long time.

Q. But I don't understand; correct me if I am wrong—that that had anything to do with the destruction or consumption of noxious vapors arising from such boiling?

A. No, sir.

Q. In other words, in no part of your professional examination was that a part of your duty?

A. No, sir.

Q. So that that phase of this problem that is now before us, has not been measured by you with any professional examination?

A. I cannot say no to that, or yes; I cannot reply to that question in that form.

Q. You have treated it as a common thing; I assume that the method of boiling oil in these various places of which you speak, was done without any complaint at all?

A. Yes, sir.

Q. And can you tell us in what quantities the oil would boil at these respective places?

A .I cannot give you specifically the quantities boiled at any of these places; but I know that in some places they boiled oil in very much larger quantities than at Sinclair and Valentine's plant?

Q. Will you kindly go over it then; the quantity of oil boiled at these places, and I will call off the list—Masury and Company, Brooklyn?

A. They boil oil in various ways; some of their oil is boiled in 500 gallon kettles, producing oil similar to what is produced by Sinclair and Valentine; in their varnish works, they boil in smaller kettles.

Q. How frequently do they boil?

A. I cannot answer that.

Q. Can you answer what the quantity boiled at one time is, without reference to the repetition of the boiling?

A. Yes, at Masury's they have boiled as much as one thousand gallons at a time—two kettles of 500 gallons each.

Q. While you were there?

A. Yes, sir.

Q. Was there a test being made at that time for anything?

A. I went there in my business capacity, which does not relate to the important question involved here.

Q. Well, was that quantity boiled for any specific purpose other than their daily work?

A. As far as I know, it was their regular process of making lithographer's varnish.

Q. Now, that requires the heating of oil in the same degree to over 500 degrees?

A. Yes, sir.

Q. Now, do you know how the acrolein was disposed of there?

A. It was simply carried up a chimney and discharged into the air.

Q. How high is the chimney?

A. I don't know.

Q. What was the diameter of the chimney?

A. I cannot say.

Q. Of course, all those things would affect the noxious vapors?

A. I don't understand.

Q. The higher the stack and the greater the diameter of the stack, the more likelihood there would be of the fumes being less noxious?

MR. McCARTER.—Where are you speaking of—at the top of the stack or where; do you mean at the top of the stack?

Q. (Question read).

A. Other things being equal, yes.

Q. I will take that as an axiom?

A. No, sir; not if "other things being equal" is an essential part of the answer.

Q. Put it this way: the same quantity of oil

burnt—if the vapors arose through a stack 100 feet high and 4 feet in diameter, would the same result as to noticing noxious vapors be felt, as if the vapors had come out of a stack 50 feet high and 2 feet in diameter?

A. Yes, sir; other things being equal.

Q. What do you mean by that?

A. Assuming that the temperature of the air in the stack is the same in both cases—that there is not a greater suction up through the stack in one case than in the other.

Q. We will assume that the greater height of the stack and the greater diameter will cause a greater suction?

A. It will not without the temperature being greater in one case than in the other.

Q. Do I take it from you, then, that if 20 barrels of oil were boiled below, and there was a shaft 100 feet high and 4 feet in diameter, at the bottom—that that shaft, upon the fumes leaving it at the top, would have the fumes just as noxious as if it had gone up a 50 foot shaft 2 feet in diameter?

A. At the point of discharge I would not think there would be any difference in the noxiousness of the vapors.

Q. Then, a small little chimney is just as good as a large chimney?

A. At the point of discharge, yes, sir.

Q. And the transit through the stack has no effect whatever?

A. No, sir.

Q. Then, I take it from you, that if these fumes had been put in this large chimney at the Sinclair and Valentine Works, that the people in the neighborhood would just have smelled the noxious

vapors to the same degree as if they had come out of the small stack?

A. It depends on where they did smell.

Q. Assume that they did?

A. I am going to have that question changed to me before I answer it.

Q. (Question read).

A. My answer to that is, that, of course, the further away the point of discharge of noxious vapors is, the less they will be noticed by a person.

Q. Then, the volume of air that passes through the larger stack with as great a draft—won't that have a tendency to oxidize the acrolein?

A. I do not see that there would be much oxidation of the acrolein without a flame.

Q. Well, dilute would be a better word.

A. It would depend entirely upon the temperature of the gases going up the stack.

Q. Well, dissipate?

A. It would dissipate from the top of the stack, yes, in proportion as the top of the stack is further removed from the people that would notice the odors.

Q. Then the volume of air in the stack has nothing whatever to do with the problem?

A. It has nothing directly to do with the problem, because it depends upon the temperature of the air in the stack.

Q. In other words, the greater volume has nothing whatever to do with reducing the offensiveness in the air?

MR. McCARTER.—He did not say that.

MR. GOURLEY.—He said it indirectly.

THE COURT.—I think the question is a fair one.

A. In order to get any effect, such as you would imply, in a high stack compared with a low stack, you have got to assume that the high stack sucks in more air than the low stack, which it will not do unless there is a difference in temperature.

Q. The difference in temperature is caused in different stacks by what?

A. By the heat supplied in the lower part of the stack.

Q. Does not more air in volume pass through a large stack than a small stack?

A. If there is no fire or heat in the large stack, there is no air passing up through the stack.

Q. No fire?

A. If there is no difference in temperature between the air inside the stack and that outside the stack, there will be no motion of air up through the stack.

Q. Isn't it a fact, that the height of the chimney itself causes a draft?

A. No, sir.

Q. It is not true, then, that the height of the stack and the diameter of the stack will give you a greater draft than one half as high and half as wide in diameter?

A. Not of itself, no, sir.

Q. Do you mean at the opening, at the bottom, should be correspondingly wider?

A. That makes no difference.

Q. The same volume of air will pass through?

A. Yes, sir; the temperature being the same on the outside as on the inside of the stack.

Q. But temperature never is the same inside and outside the stack?

A. Yes, sir; it is.

Q. Then, the higher the stack, Professor, and the greater the diameter of the stack, will cause a lower temperature at the top than if the stack were a small one?

A. I cannot follow you there to that conclusion; I don't know how you reach it.

Q. I am only reaching it by helping you to reach it.

A. I cannot follow you; I cannot see where anything that has been said would indicate that the higher the stack the lower the temperature at the top of the stack; I have not said anything of that kind.

Q. Is that a fact or not; is it not palpably so, that these gases, coming from the bottom, going up a chimney 50 feet high, and with a narrow opening, will be colder if they go up a chimney 100 feet high with a wider opening?

A. No, sir; not necessarily.

Q. Do you seriously tell us all, that what appears to be such a simple fact—

A. You cannot draw any general conclusions in regard to that.

Q. Let me see if I can draw a general conclusion; it takes a long time to get things out, doesn't it, Professor; suppose there were, let us say, a thousand square feet of surface on the interior of one chamber, and five hundred in another, and the same volume of vapors passed up—the same temperature at the bottom—would they come out at the top the same?

A. It depends on the speed of travel.

Q. Suppose they travelled alike, they would come out at different temperatures at the top?

A. (No answer).

Q. (BY THE COURT) In other words, the air has no effect whatever, the volume of air in the chamber; now, what do you say as to that?

A. That the volume of air has no effect? Well, it is a question, your Honor, of proportion and banlace; you can compensate for difference in volume by difference in speed,—when the speed is alike; the question is, whether your speed is a volume speed or a rectilinear speed; now, what speed is being talked of? Is it that the same volume of air goes up in each case, or is it the rectilinear speed? You have to speak in a case of that kind of a certain section of the air, starting at the bottom and travelling to the top; that certain section of the air constitutes a certain volume, and the question, as I understand it is, whether that certain volume of the air, in passing from the bottom of the chimneys in these two cases, will be different in temperature at the point of discharge.

FURTHER CROSS:

Q. You said that the temperature in this combustion chamber was over 1,500 degrees, and at the chimney top 600; how do you account for that sudden fall?

A. I accounted for it in my direct examination by saying that the air that passes under the kettles becomes mixed in the chimney with the air from the combustion chamber, and the air passing under the kettles is comparatively low in temperature, and you get an average temperature of approximately 600, I would judge, at the top of the chimney.

Q. What would it be at the base of the chimney if it were 600 at the top?

A. It would be higher.

Q. About what would it be?

A. I could not tell.

Q. Would you say it was 700 at the base of the chimney?

A. I could not say.

Q. But from that point on, of course, the acrolein would not be changed in any way?

A. There would not be any change of the acrolein in the chimney itself.

Q. That is the point—in other words, whatever acrolein left the combustion chamber would go out into the air?

A. Yes, sir.

Q. Now, is there any way of determining what proportion of air, what proportion of acrolein arises from a given quantity of oil, kept at a given temperature?

A. Yes, sir; there are two ways, one way is to determine the glycerine left in the linseed oil; you know that 100 parts of glycerine will produce approximately 60 parts of acrolein; that having determined the glycerine in the oil before starting, and the glycerine in the oil after finishing, you find a certain loss in glycerine contents, and theoretically you can calculate to what the maximum yield of the acrolein would be.

Q. Have you made any such calculation that would aid us?

A. I have made no calculations with respect to the particular oil boiled at Sinclair and Valentine's plant, but I have made calculations on similar oils.

Adjourned to a day to be fixed.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Transcript of testimony taken in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on the tenth day of September, nineteen hundred and fourteen, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances as before noted.

GUSTAVE W. THOMPSON resumes the witness stand.

CROSS-EXAMINATION (continued) by Mr. Gourley:

Q. I was asking you when we adjourned some time ago, something about the method of determining the acrolein sent off from the oil—is there any accurate way of determining what quantity of acrolein goes into the air from a barrel of oil?

A. There is no accurate method of making that determination. I have in my examination a method of determining the maximum amount that could

be given off, but that is no proof that such an amount is given off; it simply means that not more than that amount could be given off.

Q. You are familiar with the kind of oil boiled at these works?

A. Yes, sir.

Q. With your experience, can you tell the Court what quantity of acrolein would evaporate from a barrel of oil under such a process?

A. No, sir, not without examination of the oil both before and after boiling.

Q. You have made no examination that would give that information to the Court?

A. No, sir.

Q. I assume, of course, or rather, let me ask you, that when this oil is in process of boiling, the fumes are very heavy—the smoke and flame all together in the chamber is very heavy.

MR. McCARTER.—Do you mean by that, the specific gravity is great?

MR. GOURLEY.—No, I mean the volume.

A. No, sir, the volume is not great.

Q. You are speaking of boiling how many barrels now at a time?

A. I think you spoke first off with reference to one barrel, but if I recollect correctly, they boiled about four barrels to a kettle; I have not that definitely in mind now; that is all given in my previous testimony; but I have not that in mind.

Q. We will assume six barrels to a kettle?

A. There were four kettles.

Q. And 24 barrels of oil in process of combustion, isn't it a fair inference to say that the volume from 24 barrels of oil would be very extensive?

A. No, sir, I think not; of course, I know when you speak of it in those terms to one person it might be considered a great deal, and to another person not a great deal. I would not use that expression with regard to the quantity given off.

Q. Can you give us the weight then of the oil before and after boiling?

A. Approximately, the weight before would be about 1500 pounds, I think, in the four kettles; that is seven and one-half times, aproximately, 24.

Q. What is the weight of one barrel?

A. The weight of one barrel is—a barrel is 50 gallons, of about 7½ pounds to the gallon; 375 pounds to the barrel.

Q. So there would be 24 times?

A. Yes, sir—my first figure was wrong there as to the quantity.

Q. So that there is in process of combustion over 10,000 pounds of oil?

A. If that calculation is made—

Q. Now, I ask you with refrence to what I will call a large quantity—

A. Let me make this calculation first. (Witness does some figuring on a piece of paper). There would be about 9,000 pounds of oil.

Q. Four and one-half tons?

A. Yes, sir, short tons.

Q. That is long enough for us; now, what weight would the residue be after the fire?

A. I cannot say; I can simply express an opinion that it would not lose more than two or three per cent in that boiling operation, but it might be a little more than that, or a little less than that.

Q. Then, what have you to say whether or not the density and volume of the vapor rising from

the four and one-half tons of burning oil is very great?

A. If three per cent were lost, there would be 270 pounds given off from the four kettles during the time of boiling; part of that is water; part of it is the more volatile, fatty acids, and part of it is acrolein.

Q. (Question read).

A. Pardon me; I cannot appreciate your words "very great;" no, sir, they are not very great; I should have to make a calculation as to the amount, which would only be very aproximate—

Q. Isn't it true that the volume would be very dense going up the chimney?

A. No, sir, not going over the chimney.

Q. Over the fire?

A. No, sir.

Q. From the kettles would there be?

A. There would be considerable; as I say, 270 pounds, or something of that kind, in amount.

Q. Mr. Rogers said the loss is 10 per cent; you don't agree with that?

A. No, sir.

Q. Your opinion is, it did not exceed 3 per cent?

A. Probably not exceeding three.

Q. You have made no particular calculation of this particular process here?

A. No, sir.

Q. Now, of course, the chamber required to consume those gases would depend entirely on the volume of the vapor?

A. Yes, sir.

Q. What would be useful for boiling one barrel would not be useful for boiling 24?

A. Yes; I answer yes; what would be adequate for one barrel would not be adequate for 24.

Q. Now, you say you had no experience with combustion chambers in destroying noxious vapors arising from oil?

A. No, sir.

Q. This was the first one you had your attention called to for the purpose of examining?

A. No, sir.

Q. So that I need hardly say your opinion is rather irrelevant, it is not based on previous experience?

A. What opinion do you refer to?

Q. As to the effect that this chamber was capacious enough and adapted to destroy the noxious vapors?

A. No, sir.

Q. What do you mean?

A. I mean that my observation showed that the chamber was efficient.

Q. I say your observation is not based on practical experience at other places?

A. No, sir, it is not.

Q. Now, this small opening in the chamber was, I think you said, about two inches square; something of that kind?

A. I think, if my recollection is correct, about three inches in diameter, between two and three inches.

Q. Square or round?

A. I am not sure of that, whether it was round or square.

Q. Well, what was there thrown through this opening?

A. The oil burner which heated the inside of the combustion chamber.

Q. What size was that pipe—

A. My recollection is, it was something under one inch.

Q. So that there was around that pipe, one inch opening, if it were round, if the opening were round?

A. Yes, sir.

Q. That is the only air that entered that chamber, except, of course, what came from over the kettles?

A. Yes, sir.

Q. Speaking again of the vapors, in order to have his Honor accept your opinion as to the matter, if two or three ounces of oil were vaporized, say in this room, what proportion of the room would the vapors fill?

A. The vapor would extend until it filled the entire room, not displacing all the air, but diffusing through the air.

Q. Two or three ounces would have that effect?

A. It would diffuse through the air, just as all gases diffuse.

BY MR. McCARTER:

Q. You said the evidence showed that that aperture was 3 by 3; that is a mistake; it is 3 by 6.

MR. GOURLEY.—That is not in accordance with my notion; however, the evidence will show.

Q. When you said that the brick indicated that the chamber was heated to a certain degree Fahrenheit, did you mean that that degree of temperature was uniform through the whole chamber?

A. Approximately so, yes, sir.

mony that you say that while that chamber was

Q. Then, am I right in inferring from my testi- in that condition, the temperature, no acrolein could escape?

A. Yes.

Q. Then, will you tell me how acrolein could escape—if it did escape, what was there there; you saw the place and the method of doing business; now, if it escaped, and I may say we have been listening several days to stories of various kinds, if we assume that it did escape, what was there that led to the escape?

A. The only way the acrolein could escape would be through accident which shut down the combustion chamber, or through the opening of the doors covering the kettles, and their not being closed; those are the only two ways that I can think of that acrolein could get out.

Q. You are speaking now in reference to the same degree of temperature, or at any temperature?

A. If the combustion chamber through accident was shut down, then you would not have the temperature in the combustion chamber.

Q. The points to which you call our attention now would be the same whether the temperature was high or low?

A. No, sir, only in the case of the doors in the covers over the kettles.

Q. Suppose the light was not lit in the chamber for a long period of time after the acrolein had begun to go off; what effect would that have?

A. Then the acrolein would go up the chimney.

Q. Suppose the fire was put out before the oil had reached the temperature when it ceased to give it out?

A. Then the acrolein would go up the chimney.

Q. Now, is there any way of determining by machine about the combustion of these noxious vapors?

A. Do you mean, is there any machine that could be used by the chemist or experimentalist to find out whether these vapors are consumed?

Q. No, I mean could they put in the chimney, or at any place, automatic machines that would register whether or not the combustion was complete?

A. The only thing they could introduce would be a barometer, which would be simply an indication of temperature.

Q. They could do that?

A. Yes, sir.

Q. Could not they do something else; could they put in a CO^2 machine?

A. They could, yes, sir.

Q. Would not that CO^2 machine register automatically the combustion of the gases?

A. Yes, sir.

Q. I intended to ask you about some of these places, the list of which you gave to Mr. McCarter, where oil was burned; K. W. Masury and Son?

A. That should be J. W. Masury.

Q. What quantities do they burn?

A. Very large quantities—kettles 500 gallons.

Q. That is 10 barrels to a kettle?

A. They have more than one kettle.

Q. I am speaking of what you know now?

A. Yes, sir, they have more than one kettle, whether they have ten or three, I could not say.

Q. How many have you seen burn?

A. Three kettles.

Q. How much was in each kettle?

A. 500 gallons.

Q. When was that?

A. Three or four years ago.

Q. When was the next time you saw it?

A. I have not seen it since then.

Q. That was done while you were visiting the place for some other purpose?

A. Yes, sir.

Q. You, I think, paid no attention to the method of doing it, or whether they had any method of destroying it?

A. Oh, yes.

Q. Were you there for that purpose?

A. No, sir.

Q. What was the height of their stack?

A. Something under 40 feet.

Q. And where are they situated with reference to Brooklyn proper?

A. They are not far from the Brooklyn end of the Brooklyn bridge.

Q. If you know, how early do they boil?

A. At that time they boiled regularly every day pretty much.

Q. And now?

A. I don't know; this was three or four years ago.

Q. This was with one visit?

A. No, sir, I was there a number of times.

Q. How many times?

A. Three or four.

Q. Any of them for this purpose?

A. What purpose?

Q. This purpose that we are now investigating?

A. No, sir.

Q. Now, Mollen and Schuman, when did you go there?

A. About five years ago.

Q. What did you go there for, was it for this purpose?

A. No, sir.

Q. Then it was, I may say, it was by accident you noticed it?

A. Incidentally.

Q. Did you make any observations—any examination as to their method of destroying the gases?

A. I made observations that they did not destroy the gases.

Q. Did you look to see whether they did or not?

A. Yes, sir.

Q. Why?

A. Simply because I was examining the whole process of oil boiling there, and saw clearly that the kettles were simply under stacks discharging into the air.

Q. You were not visiting to ascertain that?

A. No, sir.

Q. And your stack was how high?

A. Between 30 and 40 feet.

Q. How wide was their stack?

A. I cannot say positively.

Q. How wide was the Masury stack?

A. I cannot say positively.

Q. Take Pratt and Lambert; did you visit them for the purpose of ascertaining how they boiled?

A. Yes, sir, but not in this connection.

Q. When did you visit them?

A. About six or eight years ago.

Q. How many times?

A. Three or four.

Q. Not for this purpose?

A. No, sir.

Q. What was the height of their stacks?

A. Between 30 and 40 feet.

Q. What did they burn?

A. Linseed oil.

Q. How much air?

A. They worked in small kettles; they are varnish manufacturers, and they boiled the oil in the same general way, except in smaller quantities; the kettles were simply under these stacks; the stacks were built up by arches.

Q. Do you know what quantities they burned?

A. At the time?

Q. Yes; if you know.

A. I know that the quantities they boiled at the time were not over 30 gallons to a kettle.

Q. When you were there?

A. Yes, sir.

Q. Now, what is the quantity that Moller and Schuman boiled?

A. I cannot say; I cannot speak positively with regard to that.

Q. Who is Roberts and Company of Long Island?

A. Similar to Pratt and Lambert.

Q. You visited them when?

A. About eight years ago.

Q. And not for the purpose that we are now examining?

A. No, sir.

Q. What about the Keystone Varnish Company, Long Island City; when did you visit them?

A. About ten years ago.

Q. And for this purpose?

A. No, sir.

Q. What quantity were they consuming?

A. About 100 gallon lots at a time.

Q. And as far as you know yourself, how frequently did they burn that?

A. At that time they were burning very regularly to supply some particular product that we needed.

RE-DIRECT EXAMINATION by Mr. Robert M. McCarter:

Q. Mr. Thompson, what is a CO^2 machine?

A. A CO^2 machine is a machine for determining the percentage of CO^2 or carbonic acid gas in products of combustion; the orsat apparatus used by Dr. Rogers is a type of CO^2 machine; it does other work besides that, but it is a type of CO^2 machine; there is a number of others.

Q. Indicating the amount of acid gas shows how complete or incomplete combustion is?

A. Yes, sir.

Q. Now, during your cross- examination something was said with regard to a stack, and I think you testified that a high stack would not necessarily be of advantage in disposing of the vapors; will you please explain a little more generally what you meant by that?

A. In the disposal of vapors through a stack, there is no draft through the stack unless there is a difference in specific gravity between the gases in the stack and the air outside of the stack. The stack, therefore, is merely a passive factor. The draft is produced by the heat, which is given to the gases in the stack, and the real active factor is the quantity of heat supplied. If, therefore, the quantity of heat is limited, the height or size of the stack must be proportioned to the quantity of heat, in order to get an efficient result; for that reason it cannot be said in any case that a high stack of necessity will be better than a low stack, or a stack of

greater diameter will be better than a stack of less diameter. It is all a question of careful proportioning, which depends, after all, upon the active factor, the quantity of heat which is supplied.

Q. Now, the practical question, from your observation of this particular plant, have you any reason to think that a higher stack would be of any advantage?

A. No, sir.

Q. Why not?

A. My observation at the plant shows that there was complete combustion in the combustion chamber, of all of the objectionable vapors given off in the boiling of the oil, and that, therefore, a higher stack would serve no purpose, because, at the present time, there are no noxious vapors given off from the top of the present stack.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. You say that at the present time there are no noxious vapors given off?

A. There are no noxious vapors given off.

Q. Do you know that on the first of September of this month—

MR. McCARTER.—He is not speaking of the present time; I think counsel is misinterpreting what the witness means.

Q. During the week you were there, then, do you say there were no noxious vapors given off during the week and month that you were there?

MR. McCARTER.—He can only talk of when he was there.

THE COURT.—I should think the witness could understand it.

A. There were no noxious vapors given off at

any time when I was there, and my investigation at that time made me believe that the apparatus was so satisfactory for the combustion of these vapors, that there was nothing left to be desired in that respect.

Q. We have had that. Now, I want to go further. You say that a small stack is as good as a high stack; what if the vapors are burned, if the gases are burned?

A. Yes, sir.

Q. Is a small stack as good as a high stack, if the gases were not all consumed, yes or no?

A. No, sir, of course not.

Q. That is chiefly what high stacks are for, for draft and to carry noxious gases into the atmosphere?

A. It is for both those purposes.

Q. Therefore, in this case, if these gases escape, as the witnesses that you heard in this court described, and a high stack, say 100 feet, erected, they would not have suffered from the escape of the gases?

MR. McCARTER.—I object to the question; he is not an expert on suffering; the question is, what would be the result, not the suffering.

THE COURT.—I think he is competent to testify on that point.

Q. Would it affect the eyes?

A. I can repeat in reply to the question exactly what I said in my previous testimony, that, of course, the further removed the point of discharge of noxious vapors is from the persons who complain of having been affected by them, of course,

the further that point is removed, the less offensive those vapors would be.

HJALMAR Nygren, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. I used to live in 75 Edgewater Place.

Q. Where do you live now?

A. 66, that is across the street.

Q. When did you move from 75 to 66?

A. Labor Day.

Q. This year?

A. Yes, sir.

Q. How far is 75 from the residence of Mrs. Harrigan, the complainant?

A. Between four and five hundred feet.

Q. Which way?

A. North.

Q. How many lots are in between?

A. There are four. Ours is the fifth lot?

Q. How wide are the lots?

A. There are some empty lots between the second house from ours, to the third house; I don't know how many there are.

Q. How wide are the lots?

A. I never measured them; I suppose they are regular size, some of them are 25 feet; I never measured them.

Q. Do you know the factory of Sinclair and Valentine Company?

A. Yes, sir.

Q. What property is between 75 Edgewater Place and River Road?

A. There is the Higgins Dye Works.

Q. So you are right back of Higgins' Dye Works?

A. About one lot North.

Q. So the corner of your lot and the corner of Higgins' Dye Works lot adjoin?

A. No, sir, there is one lot between there—one property between.

Q. How long had you lived at 75 Edgewater Place?

A. Since the first of September, 1912.

Q. Now, where did you live before that?

A. Up in St. John's Flats, on the River Road, about five minutes North from the ferry.

Q. Now, Mr. Nygren, what can you say with reference to any smell coming from the Sinclair and Valentine place, that we have heard so much about?

A. I can say I have smelled it,—but I moved to Edgewater.

Q. Do you mean since Labor Day?

A. No, sir, since 1911; I used to smell it when I lived on the River Road, but when I moved to Edgewater Place in September, I never have smelled it since I moved; but when I lived up in the place above the ferry, I smelled it several times.

Q. What was the smell like?

A. The smell of hard-boiled oil.

Q. Have you ever been engaged in boiling oil at all?

A. Not much, just for private work; in my younger days I used to boil linseed oil for catching birds.

Q. So you know the odor of burning linseed oil?

A. Yes, sir.

Q. And this is the odor that you said you smelled when you lived at St. John's Flats?

A. Yes, sir.

Q. Now, did you notice any other odors?

A. Yes, sir; sometimes I passed the Higgins place, and I smelled sulphur, and I had to hold my breath.

Q. Any others?

A. Not exactly that I could say where it came from.

Q. Did you get odors?

A. Yes, sir, from the dye works.

Q. From any other place?

A. Some times from the sugar works you can smell raw sugar.

Q. Is that disagreeable?

A. No, sir, sugar is not very disagreeable.

Q. Any other odors besides those?

A. No, sir.

CROSS EXAMINATION by Mr. Gourley:

Q. You live on the same side of the street at Edgewater Place that Mrs. Harrigan lives on?

A. Yes, sir, facing the river.

Q. You were nearer Hilliard Avenue, before you moved, I mean, than she was?

A. Yes, sir.

Q. Where do you work?

A. In Sullivan's Machine Company.

Q. Where is that?

A. Ninth Street, East River, New York, but I am not working there; I am working now on outside work all the time on the New York, New Haven and Hartford.

Q. You go away from your house at what time in the morning?

A. 7:30.

Q. What time do you get back at night?

A. 5:30.

Q. You are away all day?

A. Some times.

Q. What family have you?

A. Four children.

Q. How old is the eldest?

A. He will be 21 in March.

Q. Is your wife living?

A. Yes, sir.

Q. Is she home with you?

A. Yes, sir.

Q. Is she here?

A. Yes, sir.

Q. Now, do I understand you to say that you never smelled any of these burning oil fumes at Edgewater Place?

A. I did not.

Q. You heard of it, of course?

A. I heard some other people mention it, but I never smelled it myself.

Q. You did not notice it yourself?

A. No, sir.

Q. Over what period of time; how frequently did you hear people talk about it?

MR. ROBERT H. McCARTER.—I object. The witness has been called to testify, and has testified, from his personal experience with regard to the odors.

THE COURT.—And he went further and said to Mr. Gourley, he said "I never smelled it myself, but I heard it from other people."

MR. McCARTER.—What other people have told him is not evidence; he is trying to prove what other people have told him.

THE COURT.—He has laid the foundation for the question, the witness has; in response to the question, "Have you smelled it?" he said, "No, I have not smelled it myself, but I have been told about it."

MR. McCARTER.—The question how many times he has heard people speak of this odor, is utterly immaterial and not cross- examination.

THE COURT.—I think I will allow him to answer as to how many time he has heard it.

A. Well, I cannot tell you.

Q. About how many?

A. Well, once; I might have heard it twice—but it was few times; I heard some people mention it.

Q. Did they tell you at the time when it was?

MR. McCARTER.—Objected to.

Q. Did you at that time make any investigation yourself—

A. Yes, sir.

Q. To ascertain?

A. Yes, sir.

Q. What investigation did you make at the time when these complaints were made to you?

A. Those people who had smelled it several days before—they did not tell me at the moment.

Q. Now, the linseed oil that you boiled for the purpose of catching birds, did you boil that linseed oil in the house?

A. No, sir.

Q. Why not?

A. I was only a boy and my mother would not let me.

Q. What about the smell?

A. The smell is not very bad.

Q. What quantity did you burn?

A. About a quart.

Q. That was out in the open air, I suppose?

A. Yes, sir.

Q. You never tried that process in the house?

A. No, sir; you see we did that without my mother knowing it.

Q. Do you know Mr. Oman?

A. Yes, sir.

Q. Do you know Mr. Oman's sister?

A. Which one?

Q. The one that lived in the house with Mr. Oman and with you; the one that lived in the house with you?

A. She never lived in the house with me.

Q. Near where you lived; did she call your attention to the smell?

A. I don't remember it.

Q. Do you remember Mr. Oman's sister calling your attention to the smell?

MR. McCARTER.—Objected to—what Mr. Oman's sister said to him—unless the time and place are given.

A. I cannot remember that. I know her, but I never remember that she told me about any smell.

RE-DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. Show where you lived during this period;

now this is the map which is in evidence; here is Edgewater Place; down here is the Sinclair and Valentine factory; this is where you lived prior to Labor Day, and now I am pointing at present to Mrs. Harrigan's house; now, can you indicate on this map where it was that you lived prior to Labor Day, as you told us?

A. Right there.

Q. Point out the house where you lived; was it the one that has the figure "2?"

A. No, sir.

Q. Where did you live?

A. In 22.

Q. You lived in the one marked "22," in the rear?

A. Yes, sir, facing the river.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. Were there two families on the same floor?

A. Yes, sir.

Q. Which side of the house did you live on?

A. On the back, facing the river.

Q. On which side of the house?

A. On the East side of the house.

MRS. MINNIE NYGREN, sworn in behalf of the defendants, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You are are the wife of the preceding witness?

A. Yes, sir.

Q. Now, Mrs. Nygren, do you know the plant of the Sinclair and Valentine Company?

A. Yes, sir.

Q. What can you say about any smell coming from that factory?

A. I have never smelled anything since living there.

Q. You never smelled anything at all in Edgewater?

A. I have smelled from the dyeing factory—steam coming from there when the wind comes East, but nothing to complain about.

Q. (BY THE COURT) How long have you lived there?

A. Two years.

Q. Do you know the smell of linseed oil when you get it?

A. When we lived up in the other end of the borough, up in St. John's Flats, we used to smell some unpleasant smell, and my husband told me—

MR GOURLEY.—No, no—

Q. (BY THE COURT) Do you know the smell of linseed oil boiling?

A. No, sir.

Q. But do you remember the smell you used to get when you lived at St. John's Flats?

A. Yes, sir.

Q. Have you been getting it since you have been living where you are now?

A. No, sir.

Q. Did you ever get down any nearer the factory of Sinclair and Valentine?

A. Yes, sir, I passed there many times; some times every day.

Q. What street do you walk along?

A. On Edgewater Place, right in back of the factory.

Q. Have you ever noticed the fumes coming out?

A. No, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. Did you ever see this little smoke-stack in the back of their place?

A. Yes, sir.

Q. What led you to look at that?

A. Because it is so much shorter than the bigger one.

Q. Do you remember the time complaints were made in the neighborhood about this smell?

MR. ROBERT H. McCARTER.—Objected to.

A. No, sir, I have not heard any such a thing.

Q. You never heard neighbors complain about it at any time?

A. No, sir.

Q. You did not know about Mrs. Ulberg making any complaint about it to you or to your mother?

A. No, sir; not to me, and my mother is in Europe; she is not here.

Q. Did Mrs. Ulberg complain to you?

A. No, sir.

Q. Did she ever tell you about it?

A. No, sir.

Q. Now, I understand you to say that you did not hear any of the neighbors speak about it at all?

A. Well, I have heard people talking about a stink.

Q. Did any of the neighbors call your attention to the fact that that chimney gave out bad smells?

A. No, sir; they have asked me if I could smell some stink, and I have told them I did not know what they were talking about; I never smelled it.

Q. You are home all the time?

A. Yes, sir; with the windows all open.

Q. You moved where?

A. To 66 Edgewater Place.

Q. You moved there on Labor Day?

A. Yes, sir.

Q. Monday of this week?

A. Yes, sir.

Q. Where are you now?

A. At 66.

Q. Do you remember the first of September?

A. I do.

Q. Did you move into the flat formerly occupied by Mrs. Barno?

A. Yes, sir.

Q. Do you know why Mrs. Barno had left that flat?

MR. ROBERT H. McCARTER.—I object.

THE COURT.—I shall sustain that objection.

Q. Did Mrs. Barno move out of that flat?

A. She is not there now.

Q. You moved in?

A. Yes, sir.

Q. How long after she moved out did you move in?

A. I don't know.

Q. Do you know her?

A. I know her by sight, but I never spoke to her.

Q. Do you know where she went?

A. She went right in the next house from there, about 50 feet away.

Q. Further away from this factory?

A. No, sir; nearer to it.

Q. How much nearer did she go?

A. I should think about 200 feet.

Q. What is the number of her place now?

A. I don't know; I don't know the number.

Q. Do you know where Undercliff Avenue is?

A. Yes, sir.

Q. Did she move to Undercliff Avenue.

A. Yes, sir.

Q. Do you know where the church is?

A. Yes, sir.

Q. That faces Undercliff Avenue?

A. It goes also down to Edgewater Place.

Q. Does the church face Undercliff Avenue.

A. Yes, sir.

Q. Was it next the church that she moved?

A. Yes, sir.

Q. Before that she had been on Edgewater Place?

A. Yes, sir.

MR. McCARTER.—This is hardly cross-examination.

THE COURT.—The witness has testified that this woman moved 50 feet away, nearer the Sinclair and Valentine factory.

MR. THOMAS W. BRADLEY, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?
A. Edgewater, New Jersey.
Q. Whereabouts?
A. On the North end of River Road.
Q. North of the ferry?
A. Yes, sir.
Q. What is your business?
A. Plumber.
Q. You are a member of the Board of Health?
A. Yes, sir.
Q. How long have you been such?
A. About seven years.
Q. How long have you lived in Edgewater?
A. About ten years.
Q. How long have you lived where you live now?
A. Ten years.
Q. Do you know the situation of the Sinclair and Valentine factory?
A. Yes, sir.
Q. (BY THE COURT) How is that, as it relates to your property; how far is it from it?
A. About one and a quarter miles from my property.

FURTHER DIRECT:

Q. What do you say with reference to smells at the Sinclair and Valentine factory—
A. (No answer).

Q. (BY THE COURT) Do you pass the factory often?

A. No, sir.

Q. Are you in the locality of it much?

A. Well, on a Sunday, yes.

Q. Sunday you go towards the factory?

A. Yes, sir.

Q. Didn't you ever go near it in the week-day?

A. In the evenings.

FURTHER DIRECT:

Q. Have you ever visited the factory?

A. Yes, sir.

Q. When?

A. Sometime ago when they were building it, to make inspections of the plumbing for the municipality.

Q. When, since they built?

A. Since then we have got a complaint that there were some odors coming from there, and I went down there to investigate—

Q. When was that—

A. This was right after they opened there.

Q. You went down—can you give us the date when you went down?

A. No, sir; I cannot; I have not got my books with me.

Q. When you went down, were they operating—that first time?

A. The first time they were not operating.

Q. Well, now, did you notice any odor at that time?

A. No, sir; I did not get any odor then.

Q. When was the next time you went down?

A. The next time I was coming down the River Road one morning.

Q. About what time?

A. Early in the mroning, around 7:30, and I got a terrific odor, when I got as far as the ferry, a party stopped me and said, "There is an awful odor down there," and I went down and we went in the plant. The man was kind enough to show me around, and they had kettles on the outside burning this linseed oil.

Q. That was the odor you got on the ferry?

A. Yes. sir.

Q. When was this?

A. This was right after they opened.

Q. When was the next time you went down?

A. The next time I went down there, I was ordered to go down with another member of the Board of Health, a Mr. Mulligan; that was about six months afterwards.

Q. Well, describe that?

A. I found then that they were boiling under covers, and in another building, and they had a new arrangement made there for burning the gases.

Q. Were they boiling it that visit?

A. Yes, sir.

Q. Did you get any odor at that time?

A. No, sir; I can say that I did not get any odor then.

Q. How long were you down there that time?

A. Two or three hours.

Q. Were they boiling oil all the time?

A. Yes, sir.

Q. (BY THE COURT) How long is it since you have got an odor from this factory?

A. Personally, I have not received any odor at all from it during the last two years.

BY MR. McCARTER:

Q. Did the Sinclair and Valentine people know that you were coming down?

A. Yes, sir; I believe they were notified that we were coming down.

Q. Have you been there since that time?

A. I was there once.

Q. When was that?

A. That was one time when they had a little fire there.

Q. Do you remember the day?

A. No, sir.

Q. (BY THE COURT) Since your visit there, how many times have you been in that locality?

A. Mostly every Sunday, and twice a month I go down there.

Q. What time in the day?

A. About 7:30 in the evening.

Q. Have you noticed any odor at any time?

A. No, sir.

Q. Are you on the Board of Health yet?

A. Yes, sir.

FURTHER DIRECT:

Q. Since you went down when they had the little fire, did you notice any odors at that time?

A. There was so much smoke I could not detect an odor.

Q. You say you are a plumber.

A. Yes, sir.

Q. Where is your place of business?

A. 2460 Broadway, New York City.

Q. Now, there are some other factories in Edgewater, are there not?

A. Yes, sir; several of them.

Q. Did you ever get any other odors?

A. We get plenty of odors over there.

Q. Can you distinguish any of them for us?

A. No, sir; I could not; there are very disagreeable odors from some of them.

Q. (BY THE COURT) Have you traced them to their source?

A. We have traced some of them from the linseed oil down below—

Q. Where is that—whose factory?

A. That is the Midland Linseed Oil—Higgins' Dye Works, and the General Chemical Company; that is at the lower end of the borough.

FURTHER DIRECT:

Q. Are these unpleasant odors?

A. Yes, sir; very.

CROSS-EXAMINATION by Mr. Gourley:

Q. You are still Health Inspector?

A. I am one of the members of the Board of Health.

Q. Does that require your daily attention to the duties of the office?

A. Not necessarily, no, sir.

Q. You only attend certain meetings of the Board?

A. Yes, sir.

Q. You are daily attending to your work as a plumber in New York?

A. Yes, sir.

Q. You have an inspector of the Board of Health?

A. We all act as inspectors.

Q. Is Mr. Ellis an inspector?

A. Yes, sir.

Q. Is his time taken up with the duties of that office?

A. No, sir.

Q. Not altogether?

A. No, sir.

Q. But you are away all day attending to your own work?

A. Yes, sir.

Q. And these complaints were made to you while you were passing to and from your work?

A. Yes, sir.

Q. As a member of the Board of Health?

A. Yes, sir.

Q. And you went down on two occasions in relation to it?

A. Yes, sir; and the third was a fire.

Q. On one occasion they were boiling linseed oil outside?

A. Yes, sir; and I noticed an odor; that was boiling in the open.

Q. In the next, they were boiling oil and the fumes were carried up the chimney?

A. Yes, sir.

Q. At that time you did not notice any offensive odors?

A. No, sir.

Q. Did you go around to the back of the place to notice whether the fumes going out of the chimney were noxious or not?

A. Yes, sir.

Q. Where did you go about that?

A. Well, you can go around the side way and then go up on the bank.

Q. What way did you go?

A. I went around to the North—

Q. You went up?

A. Yes, sir.

Q. Do you remember that date?

A. No, sir; as I explained before, I have not got my books with me, and I generally jot those things down.

Q. Do you remember what hour of the day it was?

A. Yes, sir; it was in the afternoon.

Q. What time in the afternoon?

A. About two o'clock.

Q. Was there any smoke or vapor coming out of the chimney?

A. There was a kind of vapor coming out there.

Q. What color was it that day when you saw it?

A. It was kind of greyish color.

Q. Do you know the way the wind was blowing?

A. From the South.

Q. Do you remember the day of the month?

A. No, sir.

Q. Winter or summer?

A. It was in the summer time.

Q. Was the condition of the chimney then, as to the fumes coming out, any different than usual?

A. It was the first time I had seen the fumes coming out there.

Q. And the last time?

A. Yes, sir.

Q. Did you notice any odor at that time?

A. No, sir.

Q. What investigation did you make about that—

A. We walked about the lot and went in and looked at this new retort they had built there.

Q. I mean when you went up above; who was with you?

A. Mr. Mulligan.

Q. When was that complaint made before that visit?

A. They were complaining all the time.

Q. I thought you said you went there in consequence of a complaint?

A. Yes, sir.

Q. When was that complaint made to you?

A. The complaint was made to me a few days previous to that.

Q. Then it was not at the time of the complaint that you went down?

A. No, sir; we generally receive our complaints at the meeting, and the Board is notified.

Q. Was the complaint in writing or verbal?

A. Both.

Q. Was there a complaint made to the Board of Health about the matter since that time?

MR. McCARTER.—Objected to; it is utterly immaterial and not cross-examination.

THE COURT.—The objection will be overruled.

Q. (BY THE COURT) Was there a complaint made since that time to the Board of Health?

A. There was a complaint made here during the fall; another complaint was made during the spring; I had been out of town attending to my business for over a year, and it was made to me one Sunday morning coming out of church; I walked down that way, and I turned around again and met

one of the members of the Board of Health. I said, "You take care of this complaint and see what it is." I had been out of town so much that I could not really tell you whether it had been taken care of or not.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Who made this complaint when you were coming out of the church?

A. Mrs. Harrigan?

Q. You said there was a complaint made in the fall and in the spring; did she make both of them?

A. Yes, sir.

Q. You received a written complaint—who made that?

A. That, as I understand, came from Mrs. Harrigan herself.

MRS. RITA NORLANDER, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. 75 Edgewater Place.

Q. Is that the same house that Mr. and Mrs. Nygren lived in?

A. Yes, sir; I am on the top floor, in the rear, facing the river.

Q. How long have you lived there?

A. Only since the first of last April.

Q. Where did you live before that?

A. At Valley Place.

Q. Near what?

A. Undercliff Avenue.

Q. Is that North of the ferry?

A. Yes, sir.

Q. Before you lived North of the ferry, did you have any relations living down where you now live, whom you visited?

A. Yes, sir.

Q. Who were they?

A. Mr. Bryant.

Q. How often would you go down to visit him?

A. Oh, different times, I cannot exactly tell you.

Q. Give us an idea?

A. Maybe once a week, maybe sometimes twice, maybe sometimes once a month; it all depended.

Q. Do you know the factory of Sinclair and Valentine?

A. Yes, sir.

Q. What can you say about any smell from that factory?

A. I did smell it about 1911, but not since—not since I moved to Valley Place.

Q. What was the smell like?

A. Oil.

Q. (BY THE COURT) Burning oil?

A. Yes, sir.

Q. Did it affect you at all when you smelled it?

A. No, sir; but it was not a very pleasant odor.

Q. Didn't it make you cough or sneeze, or make your eyes water?

A. At that time I was a little too far off, but we did get it.

Q. Have you ever been near the factory when you have smelled it?

A. No, sir.

FURTHER DIRECT:

Q. Have you ever been near the factory?

A. Yes, sir; I have been in the factory when they have been boiling.

Q. When?

A. Last fall.

Q. How many times have you been in?

A. Three or four times, maybe more—half a dozen.

Q. Have you ever smelled this odor when you were in there on those occasions?

A. No, sir.

Q. Since when have you not smelt the odor?

A. Since 1911.

Q. How did you come to go to the factory?

A. My husband used to take walks to go and see Mr. Bryant.

Q. And you used to continue these visits to your relation, Mr. Bryant?

A. No, sir.

Q. Since when have you not visited him?

A. He is dead.

Q. When did he die?

A. I think it was the 14th of July of this year.

Q. Did you used to visit him until he died?

A. Yes, sir; a few times.

CROSS-EXAMINATION by Mr. Gourley: :

Q. He was night watchman at the place?

A. Yes, sir.

Q. Was he any friend of your husband's?

A. I suppose relatives, as a rule, are friends, distant relatives.

Q. You went down there with your husband?

A. Yes, sir.

Q. Now, Mrs. Norlander, where is Valley Place in relation to this factory?

A. I am not a very good judge of distance; I suppose it is about ten blocks.

Q. Is it half a mile?

A. I don't know.

Q. Do you know Mrs. Ulberg?

A. Yes, sir.

Q. You do?

A. Yes, sir.

Q. I thought perhaps you did not?

A. Oh, yes, I do.

Q. Did Mrs. Ulberg complain to you about it?

A. No, sir.

Q. Did she talk with you about it?

A. No, sir.

Q. Did anyone call your attention to the fact that there was a bad smell coming from the place?

A. We have heard that enough, in Edgewater.

Q. Now, answer my question; I cannot be drawn off that way; now, Mrs. Norlander, did she speak to you about it in relation to this factory last month?

A. Last month, no, sir, she never spoke to me about it.

Q. Mrs. Ulberg never said anything to you about the bad smell last month?

MR. ROBERT H. McCARTER.—I submit, that whether Mrs. Ulberg or anyone else has talked to her about it, has nothing to do with the case.

THE COURT.—The objection will be sustained.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Whom did you hear about the smell from?

A. I cannot exactly mention any names.

Q. Don't you remember?

A. No, sir; not just now; I cannot think of them; it has been a general topic in Edgewater.

MR. LOUIS NORLANDER, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You are the husband of the last witness?

A. Yes, sir.

Q. You know the Sinclair and Valentine Company?

A. Yes, sir.

Q. What can you tell us about smells from that?

A. I have not smelled anything lately for two or three years.

Q. Did you smell it before that?

A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. Were you a friend of Mr. Bryant, the night watchman?

A. Yes, sir.

Q. You live where?

A. Edgewater Place.

Q. Where were you working?

A. New York.

Q. What time did you leave in the morning?

A. Seven o'clock.

Q. What time did you get back?

A. 5:30.

Q. Had you heard about these complaints about the factory?

A. Yes, sir.

MRS. WINIFRED PEEVERS, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. (BY THE COURT) Where do you reside?

A. 79 Edgewater Place.

Q. How long have you lived there?

A. Since 1911, February, 1911.

Q. Do you know where Sinclair and Valentine's factory is?

A. Yes, sir.

DIRECT EXAMINATION:

Q. How far would you say that it is from your house?

A. It is probably about four or five hundred feet.

Q. Can you point out your house on this map, Mrs. Peevers; where do you live in reference to Mr. and Mrs. Nygren's?

A. Next North of them.

Q. You, of course, know Sinclair and Valentine's ink factory?

A. Yes, sir.

Q. I don't think you have testified how long you have lived at 79 Edgewater Place?

A. Four years last February.

Q. Now, what do you say with reference to any smell coming from the Sinclair and Valentine factory?

A. Well, since 1912 I have not smelled it, and I think it was in the fall of 1912, before I went away, that I smelled it last; it seems to me it was then; but I know before I went away that I smelled it.

Q. When did you go away?

A. I think it was in August of 1912.

Q. When did you return?

A. September.

Q. Now, did you ever walk down any nearer to the factory than where you lived?

A. Yes, sir; at Edgewater Place.

Q. Did you ever notice any smell when you were down there?

A. No, sir.

Q. How often do you get down there?

A. Not very often, because I don't go that way usually; I go the other way.

Q. Once a week?

A. No, sir; I have been at Undercliff Avenue several times.

Q. Did you ever notice this odor when you were on Undercliff Avenue?

A. No, sir; I have never noticed it.

Q. Have you noticed any other odors?

A. Yes, sir; you get the smell from the dye factory.

Q. What does that smell like?

A. It is unpleasant.

Q. Do you get any others?

A. I have not noticed any; that is what I smell mostly.

Q. Did you ever detect any odor from the sugar factory?

A. I don't know that you get any odor from that.

Q. Did you ever detect any odors from the factories further South?

A. I have not noticed it.

Q. This odor you detected as coming from the Sinclair and Valentine factory in the fall of 1912, is it distinct from any odor you have smelled since?

A. Yes, sir; it was a distinct odor.

Q. What effect did it have on you?

A. It kind of choked me at that time; I was looking out of my window talking to a neighbor when I said, "Where does that smoke come from;" and the neighbor said, "It comes from the ink factory;" and I said, "We shall have to move if it does not stop." I went away for two weeks right after that, and as far as I can remember, I have not noticed the smell since.

CROSS-EXAMINATION by Mr. Gourley:

Q. Did you hear the other neighbors talking about it?

MR. McCARTER.—Objected to.

THE COURT.—I will allow it to stand, and will deal with it on the final disposition of the case.

Q. (BY THE COURT) Have you heard any complaints?

A. Well, anybody that I have spoken to, said that they did not smell it themselves. Of course, you hear talk of the smell, but people I have talked to have not smelled it themselves.

Q. Kindly answer my questions, please; I ask you whether you have heard any complaints, and your answer is, that anybody you heard speak of it said they did not smell it?

A. Yes, sir.

FURTHER CROSS:

Q. Have you heard or not, anybody complain about the smell from that—

MR McCARTER.—Objected to.

A. No, sir.

Q. You never heard any complaint from anybody?

A. No, sir.

Q. Did you know that the neighbors about the place were talking about it?

MR. McCARTER.—Objected to.

Q. Are you interested in this matter?

A. No, sir.

Q. Have you heard, or have you not heard?

A. I have heard of people talking, but I have not heard people talking.

Q. You have not heard anybody complain about smelling it?

A. No, sir.

Q. Did you say you have heard it from other people, that some people were complaining?

A. Yes, sir.

THOMAS PEEVERS, sworn in behalf of the defendant, testified as follows:

Q. (BY THE COURT) Are you the husband of the last witness?

A. Yes, sir.

DIRECT EXAMINATION by Mr. McCarter:

Q. What is your business?

A. Conductor for the Public Service.

Q. What line of cars do you work on ?

A. I have been working on the Englewood Express.

Q. Does that line run into Edgewater?

A. Yes, sir.

Q. Do you go home to lunch?

A. Yes, sir.

Q. What can you tell us about smells at the Sinclair and Valentine factory?

A. In 1911 there was a bad odor, but I have not smelt anything since July and August, 1912.

Q. Did you ever get down any nearer the plant than your home is?

A. Very seldom; I walk down there sometimes after the children.

Q. How many children have you?

A. Two.

Q. How old are they?

A. 7 and 8 .

Q. On these occasions when you went after the children, has it been on the River Road, or back?

A. No, sir; Edgewater Place, back of the factory.

Q. Have you ever noticed the smell on any of those occasions?

A. No, sir.

Q. Do you get any other smells besides this?

A. No, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. How frequently did you smell it when you say it was noticeable?

A. 1911 was the worst.

Q. How frequently during that year?

A. Well, on rare occasions.

Q. Give us your notion of rarity; how frequent was it ?

A. It was around lunch time.

Q. How many days a week?

A. I could not say exactly.

Q. Approximate it; did you smell it more than once?

A. I smelled it several times.

Q. How frequently did you smell it?

A. About three or four times a week.

Q. During what year?

A. 1911 was the worst; 1912 was very little.

Q. When did it cease to be very bad?

A. It was very bad in 1911.

Q. Was it the end of that year that it stopped?

A. Yes, sir; at the end of 1912 it stopped.

Q. Was it bad during 1912?

A. No, sir; only very little then, in 1912.

Q. How frequent was it in 1912?

A. Oh, it did not amount to much at all.

Q. How often would it be bad; how many days a week or a month?

A. I could not say exactly; about two or three times a week.

Q. What is the difference between that and 1911; was it only in the degree?

A. It was worse in 1911.

Q. It was as frequent in 1912, but not as bad?

A. It was not as bad; it was worse in 1911.

Q. Then what time did it stop altogether?

A. About August it stopped.

Q. August, 1912?

A. Yes, sir.

Q. From that on you have not noticed it?

A. No, sir.

Q. Now, where are you living now?

A. At the same place.

Q. Did you notice it in May of this year?

A. No, sir.

Q. Did you notice it in June of this year?

A. No, sir.

Q. In July of this year?

A. No, sir.

Q. August of this year?

A. No, sir.

Q. Did you notice it this month?

A. No, sir.

Q. Did you notice it on the first of September of this year?

A. No, sir.

Q. You live on the rear end of this flat?

A. No, sir; on the front end.

Q. Your windows, then, do not open on this at all?

A. No, sir.

Q. You have another house to the South of you, between you and the factory?

A. Yes, sir.

Q. And you have a person living in the rear of you on that same flat?

A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You lived there in the same place in 1911?
A. Yes, sir; I have been four years and six months there.
Q. In 1911 and 1912 did you notice this smell in this house?
A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. How long have you been living in your present house?
A. Four and a half years.

JOHN PAUL BOLTON, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?
A. 10 Hilliard Avenue, Edgewater Place.
Q. Now, point that out on this map.
A. (The witness point to a lot No. 35 on Hilliard Avenue).
Q. How long have you lived there?
A. About four and a half years.
Q. What is your business?
A. Engineer.
Q. And where is your place of business?
A. The Warner Sugar factory.
Q. Are you in Edgewater all day generally?

A. Yes, sir.

Q. Do you know the factory of Sinclair and Valentine?

A. Yes, sir.

Q. Now, what can you tell us with reference to smells coming from that?

A. I cannot complain of it; I have not smelled it since 1912; about the latter end of 1912.

Q. Did you smell it in 1912?

A. Yes, sir.

Q. Was it a distinctive odor?

A. I would not swear it was from the Sinclair and Valentine plant; I know it only from hearsay; people said it came from there.

Q. Would you recognize that odor if you smelled it again?

A. I should compare it to burning paint.

Q. Do you get any other odors?

A. Yes, sir; plenty.

Q. What are they?

A. Last year we had a dump right at the end of Hilliard Avenue, all summer; a dump on the public dock; that was last summer.

Q. Anything else?

A. The catch basins right in front of Higgins Dye Works—there is a manure pile in front of Higgins' stable, and sulphur from the dye works.

Q. Do you get any odors from the factories Southwest?

A. I cannot say about that; I don't know whether they are coming from Sinclair and Valentine or where, but they are coming from somewhere; it is a burning oil, but it might come from any of the factories down the road.

Q. This burning oil smell, when did you last smell that?

A. The latter end of 1912.

Q. Since that latter end of 1912, have you been getting any other unpleasant odors in addition to those you have already referred to?

A. No, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. How frequent was the smell in 1911?

A. Every two or three days.

Q. And in 1912?

A. Well, I did not notice it so much when they first started in 1911, or whenever they did start, until about 1912, and then it got to be pretty strong in 1912.

Q. You were there in 1911?

A. Yes, sir.

Q. You did not notice it much then?

A. No, sir.

Q. Where did you work?

A. Warner's Sugar Refinery.

Q. That is right across the road from the Sinclair and Valentine factory?

A. Yes, sir.

Q. In 1912 it began to get bad?

A. No, sir, it was bad at that time; I did not notice it in 1911; in 1912 it was bad.

Q. What time did it stop being bad in 1912?

A. I did not keep any dates; it was somewhere around the end of 1912, September or October or November or December; it was somewhere around there.

Q. When it was bad, how often would you smell it?

A. Twice a week, or three times or four times.

Q. This was in 1912?

A. Yes, sir.

Q. There were a number of buildings between your house and this factory—brick buildings?

A. Yes, sir; there is the ice house and a dye works; there is the dry cleaning place.

Q. Brick buildings all?

A. Yes, sir.

Q. Some of them high buildings?

A. Well, the dye house is a frame building, not a high building.

Q. There are several brick buildings between you and the ink factory?

A. No, sir.

Q. Then this map is all wrong?

A. In directly back of me there are no high buildings, directly back of me.

Q. On the River Road there are brick buildings?

A. Yes, sir.

Q. Do you understand this map?

A. I understand some of it.

Q. This is supposed to be the factory here, and your house is here; here are a number of brick buildings half way between—what are they?

A. This, I think, is the stable, and this is where the pile of manure is.

Q. Now, is that a brick building there?

A. No, sir; it is partly brick and partly frame.

Q. What is this?

A. That is a frame building too.

Q. And there are four buildings down on the corner of River Road and Hilliard Avenue?

A. Here is my house here.

Q. Answer my question: there are four buildings on the corner there of River Road and Hilliard Avenue?

A. Yes, sir.

Q. Your house is the first one in the rear of this on Hilliard Avenue?

A. Yes, sir.

Q. Now, all those buildings are between you and the ink factory?

A. No, sir; in a direct line they are not.

Q. Have you heard complaints about this odor?

A. Yes, sir; I hear complaints every once in a while; people have asked me, "Do you smell that now from the ink factory?"

Q. Do you remember about the indictment?

MR. McCARTER.—Objected to.

A. I have not heard anything about any indictment; I know there was some trouble in court.

Q. You never heard about that?

A. No, sir.

Q. Did you hear about any complaints about the factory—

A. I have heard complaints; people would casually say: "Do you smell that from the ink works?"

Q. You heard that very talk?

A. Yes, sir.

Q. Now, at that time, did you notice anything?

A. Not since 1912, the latter end of 1912.

Q. Have you heard any complaints since then?

A. Yes, sir.

Q. Did you notice, when you heard those complaints, anything?

A. No, sir.

Q. Were those complaints made to you before that time, or at the time they were bad?

A. I was supposed to be able to smell them at the time.

Q. And you could not smell them?

A. No, sir.

JOHN TIMMINS, sworn in behalf of the defendant, testified as follows:

(This witness was very deaf).

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where are you employed?

A. I am employed by the Warner Sugar Refining people.

Q. What about the smell?

A. No, I never did.

Q. Where do you work?

(Questions from now on, were written for the witness to read, on account of his deafness).

Q. Where do you work?

A. I am foreman in the Warner Sugar Refining Company, Edgewater, New Jersey.

Q. Do you work near the ink factory?

A. Yes, sir; out in the yard all the while.

Q. Do you work near the large tanks that are just North of the ink factory?

A. Yes, sir; I have charge of the syrup tanks, right on top of the hill by their plant.

Q. Have you noticed a smell?

A. No, sir.

Q. Have you sense of smell?

A. Yes, sir.

Q. How long is it since you have noticed any smell from the ink factory?

A. None.

Q. What year, if ever, did you get a smell?

A. I never got any.

MR. GOURLEY.—All these questions were written by Mr. George McCarter for the witness. I decline to cross-examine.

NO CROSS-EXAMINATION.

MR. BARRETT, being recalled for the defendant, testified as follows:

DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. You have been sworn, at the last hearing. Did you ever weigh the oil before and after the burning?

A. I did, sir.

Q. Have you a record of it?

A. I have, sir.

Q. Now, state from your record—was the record made at the time that you did it?

A. The day I boiled the oil.

Q. What day was that?

A. I boiled the oil on the 20th of December, 1912.

Q. How much did you weigh, and what was the weight before the burning?

A. On December 19th I emptied—

Q. How did you happen to do this?

A. To satisfy myself of the per cent. of loss I would get on those big batches of oil; this was December 20, 1912, that I boiled this batch.

Q. Now, on December 20, 1912, you boiled the batch?

A. Yes, sir.

Q. How much did you weigh—the contents of how much?

A. I weighed six barrels of oil on December 19th,

I weighed them to put them in the kettle, so I could boil them on December 20th; I weighed them on the 19th—

Q. How much did it weigh before the boiling?

A. 2,332 pounds—six barrels—I boiled them December 20th, and on the 21st we emptied that kettle in the same barrels; I wanted to be sure I had the same tares.

Q. Then what did they weigh?

A. 2261 pounds of No. 0 varnish.

Q. What was the difference then between the weight before and the weight after the boiling?

A. 71 pounds loss.

Q. How did you weigh them?

A. I took the six barrels of raw oil and had the men roll them up on a Fairbanks scale, each barrel separately, and took their own weights and my weights as the scale showed, and then had them dump the oil in pails and put it in the kettles, and then weighed the empty barrels to see if the tares corresponded; if they varied, I placed the tares as my scale showed, on there, so that I could get an accurate weight, when I would finish the varnish and put them back in those barrels again.

CROSS-EXAMINATION by Mr. Gourley:

Q. Didn't you say when you were examined, that the loss was 10 per cent?

A. I don't think I did.

Q. Do you remember saying that?

A. No, sir.

Q. If you had made a test of it, why didn't you remember?

A. I don't remember saying 10 per cent.

MR. McCARTER.—You said that Professor Rogers said 10 per cent.

Q. Did you give us any percentage?

A. I don't think I did.

Q. Your object in making this examination was what?

A. I wanted to satisfy myself what per cent. of loss I would get on that oil.

Q. Was there anything distinctive about that oil?

A. Nothing particular.

Q. What was your purpose in making the examination?

A. I wanted to get what per cent. I lost on that grade of varnish; the percentage differs with the various grades of varnish as you cook.

Q. That depends upon the kind of varnish you are making?

A. Yes, sir.

Q. And the length of time the oil is boiled?

A. Yes, sir.

Q. And the temperature to which the oil was raised?

A. That would not make any material difference. You have to get a certain temperature to body that oil up.

Q. Are all your varnishes made by heating of the oil to a certain temperature?

A. Yes, sir; for a certain length of time.

Q. Is there no degree of temperature for one grade of varnish?

A. No, sir.

Q. All varnish is made from the same degree of temperature?

A. A certain high temperature has got to be

given to all grades of varnishes, to eliminate those fatty acids.

Q. The difference, then, is in the length of time at which it is kept heated?

A. Yes, sir.

Q. Now, then, some grades of oil require a longer heating than others to attain that result?

A. Yes, sir.

Q. How many grades of oil have you?

A. We have got about six or eight, I guess.

Q. What grade was this?

A. This was No. 0; that is quite a heavy body; we have 5 per cent., 4 per cent., 3 per cent., 2 per cent., 1 per cent.; that is the one I have reference to now.

Q. You have six grades?

A. We have about eight grades.

Q. Was this the heavy or light?

A. I would call this a medium grade.

MR. McCARTER.—Are you speaking now of the varnish, Mr. Gourley?

THE WITNESS.—I am speaking of the varnishes.

Q. Are there various grades of oil?

A. There are different seeds; they come from different liquids.

Q. But is the body of the oil the same?

A. Most of the linseed oils are practically the same bodies.

Q. Do you grade your oils before you boil them?

A. No, sir.

Q. All these oils are practically the same?

A. Yes, sir.

Q. Let me see your book; whose writing is this?

A. My writing.

Q. Where is the record?

A. Right there.

Q. Have you any other record in this book of boiling for this purpose?

A. I don't know about that.

Q. Did you make any other entry in this book of any other test?

A. I am not sure whether I did or not; I may have.

Q. This is the day you boiled?

A. Yes, sir.

Q. Where is the entry of the weights on the 19th?

A. Right here.

Q. That is under date of the 20th?

A. Yes; here is the entry there, after I put on the 19th—2,332 pounds of raw oil.

Q. You only give us the total weight?

A. Yes, sir.

Q. That is in the margin of the book?

A. Yes, sir.

Q. What would this indicate without that margin?

A. The amount of production of that room in a day.

Q. It is only this marginal note that indicates the difference in the weight?

A. It showed what I wanted to get at.

RECESS TO 2 P. M.

AFTER RECESS

WILLLIAM F. BESSELMAN, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. What is your full name?

A. William F. Besselman.

Q. How long have you lived, as I assume you do, at Edgewater?

A. Six years.

Q. What is your business?

A. Oil refiner.

Q. For whom do you work up there?

A. I am not working for anybody at present.

Q. For whom have you worked?

A. For the Valvoline Oil Company.

Q. That is how far from the Sinclair and Valentine factory?

A. About one-quarter of a mile South.

Q. You are familiar with the Sinclair and Valentine plant?

A. Yes, sir.

Q. Where do you live now with regard to the plant?

A. I live within about 1200 feet of the plant now.

Q. On what place?

A. Corner of Hilliard and Edgewater Place.

Q. How long have you lived there?

A. Six months.

Q. And before that did you live nearer?

A. No, sir, I lived further away; I lived South.

Q. You are out of employment; how long has that been?

A. Seven months.

Q. During that time have you had occasion to be around in the neighborhood of the plant of the Sinclair and Valentine Company?

A. Yes, sir; I was in there quite often since that time.

Q. Now, it is claimed that some nauseous smell comes from that plant; what has been your experience regarding that?

A. I have not noticed any objectionable smell very lately.

Q. How long ago was it?

A. About three years ago there was decidedly an odor there.

Q. Has that disappeared?

A. Yes, sir.

Q. Do you know what has been done to change the situation?

A. Yes, sir; when they first started down there, I was down there with a chemist on several occasions, when he was oxidizing oil, and I had quite a talk with him on the subject at the time.

Q. That created a smell?

A. Yes, sir, by the old method.

Q. Do you know of the fact that they now do it all under cover and have a furnace to oxidize the fumes?

A. Yes, sir.

Q. Since that has been put in, have you noticed any smell at all?

A. None at all.

Q. When was that put in?

A. About two years ago, or a little longer—within two years.

Q. Have you any recollection of the date?

A. It was the fall of the year, if I recollect rightly, because I remember Mr. Barrett speaking to me about fuel oil at the time.

Q. What year?

A. 1912.

Q. Do you hold any official position in Edgewater?

A. I am a member of the Board of Education.

Q. How far from the plant is this new school house that had been erected there; perhaps you can locate it on the map?

A. Yes, sir, I can.

Q. Here is a map of Edgewater; about how far is the school?

A. It would not be over 1500 feet in a straight line.

Q. That has been put there since this plant has been there?

A. Yes, sir, the building is not completed yet.

Q. At the time that land was bought—that site was bought for a school, were you connected with the Board?

A. No, sir.

Q. Do you know who was President of the Board at that time?

A. Mr. Garry was.

Q. The brother of Mrs. Harrigan?

A. I think so.

Q. Now, do you recall being around at the Sinclair and Valentine plant the day that some experts were out there?

A. Yes, sir.

Q. Mr. Thompson and Mr. Rogers?

A. Yes, sir, and Mr. McKenna here—

Q. The plant was in operation then, boiling oil?

A. Yes, sir.

Q. Did you go up the chimney that day?

A. Yes, sir.

Q. While the plant was going?

A. Yes, sir.

Q. The oil boiling?

A. Yes, sir.

Q. What did you do; how did you get up?

A. Went up on a ladder; I went up several times; the first time I guess I was the only man who went up; the ladder was rather short, and I went up, and I got my eyebrows singed, and they refused to go on the short ladder.

Q. At that time did you smell any odor coming out of the stack?

A. No, sir.

Q. Did you go up again when you had a longer ladder?

A. Yes, sir.

Q. And put your nose as near as you could to the top?

A. Yes, sir.

Q. Did you get any odor?

A. No, sir.

Q. Was there any odor around the place that day?

A. No, sir.

Q. Was that the day that the experts were there?

A. Mr. McKenna was there I know; I remember him very distinctly.

Q. How many times did you go up?

A. Probably five times; I went up at different stages of the operation.

CROSS-EXAMINATION by Mr. Gourley:

Q. Your experience with linseed oil is what?

A. Well, I have had quite a little experience with linseed oil in compounding it with mineral oils, for certain different manufacturers of mineral oils; I have used linseed oil in manufacturing different by-products of mineral oils, such as soaps.

Q. Did you ever make printers' ink?

A. No, sir.

Q. Did you ever see these gases pass through a heated chamber?

A. No, sir, not from linseed oil I have not.

Q. This is the first one you ever saw then?

A. Yes, sir.

Q. Do you know the kind of fumes, odors, that linseed oil gives out in boiling?

A. Yes, sir.

Q. You know it is very astringent—a very pungent odor?

A. Yes, sir, a very pungent odor.

Q. That increases with the volume of the oil, of course?

A. I cannot say that; if the temperature increases, the odor increases.

Q. Do you mean the same quantity would be given off from one barrel as from ten barrels?

A. It would spread a great deal further with the volume, but the heat temperature regulates the odor.

Q. Now, why did you go to this place on this day?

A. I was invited to go there.

Q. You were an expert on the other side, using the language of the counsel for the defendant?

A. No, sir, not at all, I was recognized as an

expert oil refiner and recognized as an expert on fuel oils.

Q. An expert on refining mineral oils?

A. Yes, sir.

Q. What were you there for?

A. To suggest to them changes, if I could see any way of changing the operation of consuming any odors that might exist there.

Q. Are you familiar with the name of the odor that this oil gives out?

A. No, sir, this is a chemical name, that is given out?

Q. Your information and your education did not embrace that knowledge?

A. No, sir.

Q. You went there simply to see what you could see, or smell what you could smell?

A. Yes, sir.

Q. You did not tell Dr. McKenna you were representing the other side?

A. No, sir.

Q. You did not suggest to him anything to do?

A. I did not see anything there that would offer any suggestion to do anything.

Q. Were you not asked by the oil people to go there at the time the experts were there, to see what you could se?

A. Yes, sir.

Q. And to suggest anything to them?

A. Yes, sir.

Q. And you suggested nothing?

A. Yes, sir.

Q. You did not say anything about any improvement?

A. I could not see where there was any chance for improvement.

Q. Did you say anything to Dr. McKenna?

A. No, sir.

Q. Did you say anything to Dr. Olsen?

A. Yes, sir, I said to the gentlemen present—

Q. Do you recall to whom it was?

A. They were all together, and I said that the combustion arrangements there were perfect, that they could not be improved upon.

Q. Although you had never seen a combustion chamber before?

A. Yes, I did.

Q. For burning linseed oil?

A. No, not for burning linseed oil, but for combustion of anything.

Q. You went up the smoke stack twice?

A. I went about five times.

Q. What time of day was that?

A. I think the first time, as I recollect it, was about 11 o'clock.

Q. Do you know what the temperature then was?

A. I think the temperature was about 450 degrees.

Q. There were no odors given out then?

A. No, sir.

Q. Now, the last time you went up, what was the temperature?

A. 550 degrees, I think.

Q. You did not go up early or late when the temperatures were low?

A. I did not see any occasion.

Q. Did you do it?

A. No, sir, I had no occasion to do it.

Q. Why not?

A. Why, there was no occasion to go up, because linseed oil does not give off any vapor before 350

degrees temperature—then why would you go up to find a vapor, when you know it does not exist?

Q. So you stayed up these various times while the temperature was above 350 degrees?

A. Yes, sir, but I did not stay there.

Q. But when you went up, the temperature was over 400?

A. I think so, if I remember rightly.

Q. Every time you went up?

A. Yes, sir.

Q. You did not go up when the temperature was falling down to 300?

A. No, sir.

Q. Now, is that the only time you visited the place to make an inspection?

A. No, sir.

Q. When again?

A. I have been there, I guess, one hundred times since that time.

Q. But to make an inspection, I say?

A. No, sir, it was on business.

Q. Well, that is the only occasion that you visited the place to make an inspection?

A. Yes, sir.

Q. Did you go back?

A. Yes, sir.

Q. When did you do that?

A. The day we were down there.

Q. What time of day?

A. I think it was about nine o'clock in the morning, until about two o'clock in the afternoon, when we left; I had a chemist with me at the time, who is now dead.

Q. What smoke was coming out of the chimney?

A. None.

Q. Were there any fumes went out of the chimney at all that day?

A. Yes, sir, when they put some wood or coke in the furnace there would be a little bit of smoke —a light blue.

Q. How long would that stay?

A. Two or three minutes.

Q. After that, would any escape?

A. Nothing excepting heat.

Q. After two or three minutes then, on that day, there was no communication of anything except little heat vapors?

A. That is it.

Q. Is that all?

A. Yes, sir.

Q. Did you see any yellow fringe on the smoke?

A. No, sir.

Q. Have you ever burned linseed oil?

A. Yes, sir.

Q. What is the color of the fumes?

A. Kind of yellow.

Q. That is the first vapor given off?

A. Yes, sir.

Q. How long does it continue yellow?

A. That depends on how long you hold the temperatures.

Q. It continues to give off yellow fumes during the whole process of heating?

A. No, sir; it will get up to a blue and white smoke.

Q. Blue first, and then white?

A. Yes, sir.

JOHN M. LOWE, sworn in behalf of the defendant, testified as follows:

Q. (BY THE COURT) Where do you live?
A. Edgewater.
Q. What part of Edgewater?
A. Up above the ferry; North of the ferry, about two blocks.
Q. What street?
A. I live on Adelaide Place.

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. What is your business?
A. I am superintendent of the Midland Linseed Products Company.
Q. Where is their business?
A. On the River Road, about three-quarters of a mile below the ferry.
Q. South of the Sinclair and Valentine factory?
A. Yes, sir.
Q. How far South?
A. About half a mile.
Q. How long have you lived where you now live?
A. About six months.
Q. Before that, where did you live?
A. In the Morrell house on River Road.
Q. How near the Sinclair and Valentine factory?
A. I guess there is one house or building in between.
Q. Is that the boarding house kept by Mrs. Smith?
A. Yes, sir.
Q. How long did you live there?

A. One and a half years.

Q. When did you first move there?

A. In August, 1912.

Q. Now, in your experience—do you know about the smells at the Sinclair and Valentine plant?

A. I noticed them when I first went there for a short time.

Q. (BY THE COURT) What period of time did you notice them—how long?

A. I don't remember exactly; our plant had just started up, and I was very busy, and I did not pay any attention to the smell.

Q. Did the smells have any effect upon you?

A. No, sir.

Q. When did you last notice the smell?

A. In the fall, after I had been there two or three months; I don't remember noticing the smell after that.

FURTHER DIRECT:

Q. Which side of the Morrell house did you live on?

A. I lived on the North side, part of the time, and then, the last few months I lived on the South side.

Q. Is the North side the side towards the Sinclair and Valentine plant?

A. Yes, sir.

Q. Now, do you customarily now go home every lunch?

A. Ordinarily I do go home, but not during the hot weather. However, usually I go home every lunch.

Q. How many times in the day, customarily, do you pass the Sinclair and Valentine factory on your way to and from work?

A. Ordinarily, four times a day.

Q. What is your general route?

A. I usually go down a little street in between River Road and Undercliff Avenue.

Q. Is that Edgewater Place?

A. Yes, sir.

Q. Now, did you notice the smell on any of those days you have been walking up and down?

A. No, sir, I have not noticed it.

Q. I suppose you are familiar with the smell that comes from boiling linseed oil?

A. Yes, sir.

CROSS EXAMINATION by Mr. Gourley:

Q. How many times did you notice it when you first moved there?

A. I don't know, 15 or 20.

Q. How near close together?

A. I must have noticed it in the evening.

Q. That was when they were boiling in the open?

A. Yes, sir.

Q. Then they had no chimney?

A. I guess they had a chimney; I don't believe they had the combustion chamber there then.

Q. You don't know about that?

A. No, sir, I don't know.

Q. About a month, was it, in 1912, that you first noticed it?

A. When I first went there in August.

Q. That continued until when?

A. Oh, maybe a month or six weeks; I don't remember; it might have been three weeks or it might have been two months; I did not make any record of it; I was not interested particularly.

Q. Do I understand that was in passing by the place?

A. No, sir, I lived near there.

Q. How near to the factory did you live?

A. Just two doors.

Q. There seems to be nothing here on either of these maps to show.

MR McCARTER.—It is the Smith boarding house.

Q. How long did you live there?

A. One and a half years.

Q. Just look at this map of the other side. and tell me whether it is that house marked on the block "87?"

A. Yes, sir, that is the place.

Q. Now, which floor there do you live on?

A. On the second floor.

Q. Were you boarding?

A. Yes, sir.

Q. You sleep where?

A. I slept on the North side of the house part of the time, and the last few months I was on the other side of the house.

Q. You knew Mrs. Smith very well?

A. Yes, sir.

Q. And during the time you were there in August, 1912, you never smelt this odor?

A. Well, I went there in August; I said I smelt it for a little time.

Q. When did you move from there?

A. I left there in December of 1913.

Q. Then, from the month of October, 1912, to December, 1913, while you lived at Smith's boarding house, did you notice any of these odors?

A. I won't confine myself to any special time, because I don't remember; I know when I first went there I noticed it, and then after a short time I did not notice it.

Q. Was it because you were getting used to it?

A. No, sir, I think it was because it did not exist.

Q. That is your impression?

A. Yes, sir.

Q. Did you make any inquiry yourself about the affair?

MR. McCARTER.—I object.

THE COURT.—Objection overruled.

Q. (BY THE COURT) Did you trace it out at all?

A. No, sir.

FURTHER CROSS:

Q. Did you do anything to find out what it was?

A. No, sir; nothing at all.

Q. Did you notice from which direction the wind was blowing any of these days?

A. No, sir; I did not pay any attention to the wind.

Q. This concern for which you are working, is what kind of a plant?

A. Linseed oil.

Q. Have you to boil that?

A. We boil it to some extent; we heat it up, but not to any high degree of temperature.

Q. Not enough to give the fumes out?

A. No, sir.

Q. No offensive odors?

A. No, sir.

Q. You have no experience in that direction?
A. Nothing more than laboratory experience.

EMIL KESTENHOLZ, sworn in behalf of the defendant, testified as follows:

Q. (BY THE COURT) Where do you reside?
A. This side of the property of Sinclair and Valentine.
Q. Right by it?
A. Yes, sir.
Q. Have you a house there?
A. Yes, sir.

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You keep a boarding house or a restaurant there?
A. Yes, sir
Q. Which side are you?
A. On the South side.
Q. The next lot on the South side?
A. Yes, sir.
Q. Is it just a restaurant, or a restaurant and boarding house?
A. Restaurant and boarding house.
Q. How many boarders have you?
A. Five or six steady boarders.
Q. How many people do you feed there daily in the restaurant?
A. It varies; in summer not many, but in the winter we have more.
Q. Does your house face the same way as the Sinclair and Valentine plant?
A. Yes, sir.

Q. Which side of the Sinclair and Valentine plant—

A. Sinclair and Valentine is just North of my place.

Q. How many people do you feed there in winter?

A. As many as come; some days 20, other days 30.

Q. You have been keeping this boarding house and restaurant since before the time the Sinclair and Valentine plant came there?

A. Yes, sir; they started up in 1912.

Q. What has been your experience about the smells?

A. When first they started, then they boiled the oil in the open, then we had the smell, but as soon as the ground was graded, and the retaining walls built, then they started to build a house—

Q. When was that time?

A. That was 1912.

Q. Do you still get the smell?

A. No, sir.

Q. Since when have you not gotten it?

A. Since about two years.

Q. (BY THE COURT) What kind of smell was it up to 1912?

A. It was a kind of choking smell.

Q. You never smelt that since the fall of 1912?

A. No, sir.

FURTHER DIRECT:

Q. Now, Mr. Kestenholz, do you recall any visits you made to the plant at the request of Mr. Barrett?

A. No, sir.

Q. Did you ever go to the plant?

A. I was a couple of times over there.

Q. Did you go go of your own volition?

A. Well, I was there once before, about 1912; Mr. Sinclair sent for me, and said, "Do you have any smell from our property?

Q. Were they boiling oil that day?

A. Yes, sir.

Q. Did you get much smell?

A. Not much.

Q. Did you get some?

A. A little bit.

Q. When was that?

A. About two years ago—a little bit more than two years ago.

Q. Have you been there since?

A. Yes, sir.

Q. When?

A. Two months afterwards; Mr. Barrett sent over for me and said, "I want you to look at the plant; we have some improvements made on it;" and there he showed me a consumer of fumes and smoke.

Q. Were they boiling oil that day?

A. Yes, sir.

Q. Did you get any smell?

A. No, sir.

Q. Have you been there since then?

A. Yes, sir; I was over there in January; that was the 28th.

Q. Of this year?

A. Yes, sir.

Q. Were they boiling oil that day?

A. No, sir; they had no fire in it.

Q. No fire at all?

A. No, sir.

Q. That was January 28th?

A. Yes, sir.
Q. 1914?
A. Yes, sir.
Q. Now, any other time?
A. And February 3rd.
Q. Were they boiling oil that day?
A. No fire and no oil in the kettles.
Q. How do your emember those dates?
A. Mr. Barrett sent over and told me that they were having a fake run on the plant, and only the consumer burning; the tanks were empty.
Q. How do you remember those dates?
A. Mr. Barrett told me to mark the dates down.
Q. So you made a memorandum of them?
A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley·

Q. Where is the memorandum?
A. It is here.
Q. What time of the day was it?
A. The time is marked on it; January 28, 2:30 P. M.—February 3rd, 2 P. M.
Q. That was this year?
A. Yes, sir.
Q. Now, why did you write that down?
A. So that I would know where to look for it; Mr. Barrett told me to put it down; he sent for me to look at the plant.
Q. Everything was all ready for you to look at at the time?
A. He was showing it to me.
Q. And he asked you to mark it down?
A. Yes, sir.
Q. Now, when did you visit it before that?
A. Maybe six months before that.

Q. You have not that date down?

A. No, sir.

Q. Did Mr. Barrett ask you to come?

A. No, sir; Mr. Sinclair asked me to come.

Q. That is, for the purpose of showing you that everything was all right?

A. He asked me if I had any complaints to make of the smell, and I told him "No."

Q. He brought you in to show you that everything was all right?

A. No, sir; he sent for me and I went.

Q. Who showed you the plant?

A. Mr. Sinclair was there himself, and he took me around and showed me.

Q. It was operating then?

A. Yes, sir.

Q. And there was no smell?

A. No, sir.

Q. What did you do to find out if there was a smell or not?

A. What would I do?

Q. Did you go up on the back of the plant?

A. No, sir; there is a bridge just in front of the tanks, and you can step on the bridge, and I went up on the bridge.

Q. How high is the bridge?

A. About five or six feet.

Q. Was it as high as the chimney?

A. That is the interior—

Q. Did you go outside; did you go up on the back of the place?

A. I very seldom go back there.

Q. Did you go back that day?

A. No, sir.

Q. Did you see any smoke or fumes coming out of the chimney?

A. No, sir.

Q. Did you look, or did any come out; did you notice the chimney that day?

A. Yes, sir; there was no smoke.

Q. How long were you there?

A. About ten minutes.

Q. Was the fire going, were things pretty hot?

A. Yes, sir.

Q. The oil was boiling very hot?

A. Yes, sir.

Q. There was no bad smell there?

A. No, sir.

Q. Now, the time before that was when?

A. Before this?

Q. Yes.

A. I don't think I was in before.

Q. That is the only time you were in when they were working at it—back at the place where they were boiling?

A. I was never back of the place.

Q. Were you at any other time back where they were boiling, except where you have told us?

A. No, sir.

Q. Now, you noticed this at your place on the River Road—before this—sometime in 1911 I think you noticed it?

A. Yes, sir.

Q. When was the last time you noticed it at your restaurant?

A. I think it was early in 1912; in the spring of 1912.

Q. Did you know when they stopped boiling outside?

A. I did not keep any record.

Q. About when was it, if you know?

A. It might be towards winter, 1911; that was

the first building they put up.

Q. Did you notice any bad smell after they stopped boiling outside?

A. Once there was a little smell, but nothing in comparison with the outside.

Q. There was some?

A. Yes, sir.

Q. Then that stopped?

A. Yes, sir; when they put the consumer in.

Q. You were down on the River Road?

A. Yes, sir.

Q. You are below the top of this—you are below the chimney?

A. I am level with the road.

Q. Do you know how high the chimney is above your place?

A. The building may be about 15 feet, and the chimney may be about 12 feet above the building there.

Q. So that the chimney would be 27 feet in the air above your place; is that right?

A. Yes, sir; from the ground up.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Which floor on your house do you sleep on?

A. It is a three-story house.

Q. Which floor do you sleep on?

A. On the top floor.

Q. Is the first floor on a level with the street?

A. The first floor is about 8 feet above the level of the street.

Q. The days that you were there on what we call the "fake runs," did you go back in the boiling house where the kettles are?

A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. Is your wife here today?
A. No, sir.
Q. She is still living with you?
A. Of course; we live together.
Q. Has your wife complained to you about the smell?

MR. McCARTER.—I object.

Q. Did your wife say to you that she would have to move unless the smell was stopped?
A. Never.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Did your business keep you around at home during the day?
A. Always; I am home all day long.

ROYAL L. SIDNAM, sworn in behalf of the defendant, testified as follows:

Q. (BY THE COURT) Where do you live?
A. Edgewater.
Q. What part?
A. Hudson Avenue.
Q. How near is that to Sinclair and Valentine?
A. About one-quarter of a mile from it.

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Which direction?
A. North.

Q. North of the ferry?

A. Two blocks North of the ferry.

Q. What is your business?

A. I am agent for the Undercliff Terminal and Warehouse Company.

Q. Where is your place of business?

A. We are located about 500 feet South of the ferry.

Q. On what road?

A. Between the river and the River Road.

Q. How far are you from the Sinclair and Valentine factory?

A. About 1,000 feet.

Q. Have you ever been on that highland directly back of the Sinclair and Valentine factory?

A. Yes, sir; on numerous occasions.

Q. How did you come to go there?

A. Our company anticipated some improvements there on their property, which necessitated my going up there.

Q. What can you say with reference to smells at the Sinclair and Valentine plant?

A. I have never smelled anything there.

Q. Never?

A. No, sir.

Q. Have you ever visited the plant?

A. On an average of twice a week.

Q. Were you there January and February of this year?

A. Yes, sir; I was; I was there on January 20th.

Q. Were they boiling oil that day?

A. No, sir; they were not.

Q. How do you know they were not?

A. Because I looked in the kettles; I put my head inside of the hood of the kettles.

Q. Was the consumer burner going?

A. Yes, sir.

Q. Were you there any other day in January?

A. On numerous occasions, but not with anything special in mind, otherwise than to deliver papers of cargoes consigned to them at our terminal.

CROSS-EXAMINATION by Mr. Gourley:

Q. Your business takes you to this factory?

A. Yes, sir.

Q. What do you bring there?

A. We are in the lighterage and transportation business.

Q. Do you take the oils to their place?

A. No, sir; we have colors of all kinds.

Q. What do you take away?

A. Nothing.

Q. That requires you to go there how frequently?

A. About twice a week.

Q. That has continued how long?

A. Two and a half years.

Q. During that time you have never smelled anything?

A. No, sir.

Q. You would go in and deliver your goods where, on the grounds?

A. I would deliver the papers notifying Mr. Barrett that the goods were at the terminal for him to come and pick up; I go into Mr. Barrett's office, and sometimes I have to go all through the plant looking for Mr. Barrett; he is like a mosquito, you cannot always catch him; I have to find Mr. Barrett, and sometimes he is out where they boil the

oil, and I have gone all through the premises to find him.

Q. What do you do when you find him?

A. Hand him the papers.

Q. Is there any receipt necessary?

A. Certainly.

Q. Does he receipt for the goods?

A. No, sir; he accepts the goods, and Mr. Frances, the chemist, receipts for them.

Q. Does Mr. Barrett receipt for the goods?

A. Not at present, but he originally did.

Q. Did he during these two and a half years?

A. No, sir; not all the time.

Q. Did he at any time during these two and a half years?

A. He did, yes, sir.

Q. What proportion of the time did he have to receipt for the goods?

A. I would say the first year.

Q. Then for one of these two and a half years—that would carry us back to the year of 1912; all 1912, you had looked for him to receipt the goods?

A. Yes, sir.

Q. Then, after that, for the last one and a half years, what did you do?

A. On some occasions we reported by 'phone, and on other occasions I handed the papers to Mr. Barrett or to Mr. Frances.

Q. Mr. Frances' business was where?

A. I don't know; Mr. Frances has a laboratory, and his office is combined with it, and Mr. Barrett has the office on the first floor of the building.

Q. Is anybody in that office except Mr. Barrett?

A. Not that I know of.

Q. Have you found anyone there besides Mr. Barrett?

A. Yes, sir.

Q. What was the necessity of your going through the plant?

A. To notify him that we had goods for them.

Q. You took more time to look for Mr. Barrett than was necessary?

A. I do not say that.

Q. Do you say that during this time you made any examination of this plant as to boiling oil?

A. No, sir.

Q. Were you interested in the boiling of oil?

A. No, sir.

Q. You never, at any time, day or night, morning or afternoon, while you visited there, ever smelled any bad odor from the plant?

A. I did not.

Q. Did you ever hear of any bad odor coming from the plant?

A. No, sir.

Q. This is quite a surprise to you, then, this suit?

A. No, sir; it is not a surprise.

Q. How frequently did you visit it during 1912?

A. On an average of twice a week.

Q. Then, during the months of the first part of that year, 1912, you did not even at that time notice any bad odors?

A. No, sir; I did not.

Q. In January, February and March, 1912?

A. I was not there in January and February; I started with my company on the 26th of March, 1912.

Q. April, May and June, 1912—visiting two and three times a week, you never noticed anything?

A. I did not.

Q. Have you a good sense of smell?

A. Yes, sir.

Q. You do know what this smell is like?

A. No, sir; I do not.

Q. You could not tell it if you smelled it?

A. I possibly could tell something, if it was obnoxious to me, but what it might be, I would not know.

Q. Did you own any property?

A. Yes, sir.

Q. What property?

A. Property adjoining the Sinclair and Valentine property.

Q. Where?

A. On the North side, extending back further than the Sinclair and Valentine Company's plant.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You referred, on cross-examination, to having Mr. Barrett sometimes, and other times, having Mr. Frances sign receipts?

A. Yes, sir.

Q. Now, do we understand that to be receipts for the goods, or receipts for the notices of the arrival?

A. I used to go over and tender the receipts, either to Mr. Barrett or Mr. Frances.

Q. Receipts for goods?

A. Yes, sir; previous to January of this year, we occupied a temporary office; we had no telephone connection; that made it necessary for me at all times to take these receipts over personally; I had no assistant at the time; I had to take them over to some representative of the Sinclair and Valentine Company to notify them that the goods

were at our terminal, and for them to call for them.

Q. Is there any general office in the Sinclair and Valentine plant there in Edgewater?

A. I have never seen it.

GUY E. CONDER, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. 390 Undercliff Avenue, Edgewater, New Jersey.

Q. In what direction is that from the Sinclair and Valentine factory?

A. Northwest—more West than it is North.

Q. About how far?

A. About seven or eight hundred feet.

Q. Is it on the East or West side of Undercliff Avenue?

A. On the West side.

Q. North or South of the Roman Catholic Church?

A. North, a little bit North.

Q. How long have you lived there?

A. Since December of 1913.

Q. Prior to that, where did you live?

A. 374 Undercliff Avenue.

Q. Where is that, in reference to your present house?

A. South of the present house.

Q. How long have you lived there, all told, in Edgewater?

A. 11 years.

Q. Two years in your last place, and how long in your other?

A. Two years in 374 Undercliff Avenue; and then in a house in between South of where I am living now, we lived there nine years.

Q. So, along Undercliff Avenue, you have been there 11 years?

A. Yes, sir.

Q. What direction is No. 374 Undercliff Avenue, and the house in between, from the Sinclair and Valentine factory?

A. 374 Undercliff Avenue is almost due West.

Q. They were all on the West side?

A. Yes, sir.

Q. You have heard the testimony in regard to this smell, haven't you?

A. Yes, sir.

Q. Have you ever detected it?

A. I did in the fall of 1911; I smelled a very unpleasant odor.

Q. How often then?

A. Every time there was a muggy day.

Q. During what portion of time did you detect the odor?

A. Up to the spring of 1912.

Q. Did you trace the odor to its source?

A. No, sir.

Q. You don't know where it came from?

A. No, sir.

Q. Did it have any effect on you physically?

A. No, sir; except that it was an unpleasant odor.

Q. When was the last time you discerned it?

A. Sometime in the spring of 1912.

Q. Have you ever visited the factory?

A. Yes, sir.

Q. How often have you done that?
A. For about six weeks, I was there every day.
Q. What year?
A. 1912.
Q. What were you doing there?
A. Installing an elevator.
Q. Did you notice the smell then?
A. No, sir.
Q. What time of the year was that?
A. From July, 1912.
Q. You were there six weeks?
A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. That elevator is in the main factory?
A. Yes, sir.
Q. How far from the road is the elevator?
A. It is right on the corner.
Q. This boiling plant is at the extreme other end of the property?
A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Have you ever been in the little boiling room?
A. Yes, sir.
Q. Have you ever noticed any odor when you have been in there?
A. No, sir.
Q. How often have you been in there?
A. Quite often, when I was working around the plant.
Q. Have you been up on the terrace?
A. Only in passing back to my home.

Q. Would you commonly go back to your home that way?

A. Yes, sir.

MRS. ANNA CONDER, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You are the wife of Mr. Conder, who just testified on the witness stand?

A. Yes, sir.

Q. What can you say with reference to a smell?

A. I can say that I smelled it in the fall of 1911 and in the spring of 1912.

Q. Was it an unpleasant smell?

A. Yes, sir; but it did not affect me in any way.

Q. When was the last time you think you detected that smell, as far as you can recall?

A. I cannot give any date.

Q. Can you tell us about one season of the year it was?

A. It must have been around June of 1912.

Q. Was it the latter part or the first part of June; do you remember that?

A. I don't remember; it never bothered me, so I did not pay any attention to the time.

Q. What kind of a smell was it before that?

A. I should think you would call it an oily smell.

Q. Have you any children?

A. Yes, sir; one child.

Q. How old is that?

A. He is 12 in August.

CROSS-EXAMINATION by Mr. Gourley:

Q. Just smells like oil?
A. Yes, sir.
Q. That was not offensive to you?
A. No, sir.
Q. It just had that peculiar oily smell?
A. Yes, sir.
Q. Nothing like paint?
A. I don't think so; it did not bother me.
Q. Those things don't bother you?
A. No, sir.
Q. You are not susceptible to them?
A. No, sir; because I have smelled other odors.
Q. But this particular kind of odor did not bother you?
A. No, sir.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. What other odors have you smelled there?
A. Stables, and burnt sugar, and like linseed flour would smell.
Q. Are those pleasant or unpleasant odors?
A. They never affect me in any way.

Adjourned to Friday, September 11, 1914.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Transcript of testimony taken in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on Friday, the eleventh day of September, nineteen hundred and fourteen, before HON. VIVIAN M. LEWIS, Vice-Chancellor.

Appearances as before noted.

FRANCIS C. TEMPLETON, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Whereabouts do you live?
A. At Edgewater.
Q. Whereabouts in Edgewater?
A. On Undercliff Avenue, right back of the Valvoline Oil Company, South of the new school.
Q. What is your business?
A. Oil refiner.
Q. Where is your place of business?
A. There, at Edgewater.

Q. You work for the Valvoline Oil Company?

A. Yes, sir; I am the superintendent there.

Q. How long have you lived in Edgewater?

A. I have been there since the first of last March.

Q. Are you familiar with the plant of the Sinclair and Valentine Company?

A. No, sir; I am not familiar with it.

Q. Do you know where it is?

A. Yes, sir.

Q. Were you ever at the plant?

A. Yes, sir; I was there one morning.

Q. When?

A. I should say, probably, about the middle of April—that is only a guess—of this year.

Q. Is that the only time you have been there?

A. Yes, sir.

Q. Were they boiling oil that day?

A. Yes, sir; they seemed to be.

Q. Did you go in the boiling room?

A. Yes, sir.

Q. Do you know how many kettles they were boiling?

A. I do not.

Q. What do you say about any smells there that day?

A. I did not detect any odor there.

Q. How long were you around the premises?

A. I suppose 20 minutes to half an hour.

Q. What time of day was it?

A. Along in the morning, between seven o'clock and noon.

Q. What day of the week was it?

A. I don't remember.

Q. Was it Saturday?

A. I could not tell you.

Q. You say it was sometime last spring?

A. Yes, sir; along in April, I should say.

Q. What part of the property did you visit?

A. I visited the boiling room and another room where they had the mixing, I should imagine; I paid no special attention to it.

Q. (BY THE COURT) Did you walk back of the property on the hillside?

A. No, sir.

FURTHER DIRECT:

Q. Did you notice whether any fuel oil burner was going in the boiler house?

A. Yes, sir; it was; that is what I went in to look at.

Q. What have you to say as to whether you have ever noticed any smell from the Sinclair and Valentine plant since you have been in Edgewater?

A. I have never noticed any disagreeable odor from it.

Q. How frequently are you up near the Sinclair and Valentine factory?

A. Very seldom; when I go to the ferry, which is not very often, I go down Undercliff Avenue; that is the avenue which is under the hill, running North and South.

CROSS-EXAMINATION by Mr. Gourley:

Q. Your house is about 2,000 feet away from this Sinclair and Valentine factory?

A. Yes, sir; it is fully that much; possibly more.

Q. About 2,500 feet, really?

A. I could not give you the distance; it is a mile to the ferry, and it is two-thirds of the way to the ferry, I should say.

Q. And the Valvoline Oil Works is nearly the same distance away?

A. Yes, sir; the same distance.

Q. The only time you visited there was this time in April—this year?

A. That is the only time I was ever at the factory.

Q. You were not there to examine any odor, or investigate anything of that kind?

A. No, sir.

GEORGE A. CARLETON, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. You live at Edgewater?

A. Yes, sir.?

Q. How long have you lived there?

A. Off and on, about 30 years.

Q. Were you formerly Mayor of the Borough?

A. I was, sir.

Q. Your business is in New York?

A. Yes, sir.

Q. Where is your house located?

A. On the River Road—South of the Sinclair and Valentine works; I should say about 800 to 1,000 feet South.

Q. Now, do you remember the time when Sinclair and Valentine first came there?

A. I do.

Q. It has been testified in this case that shortly after their arrival and operation, an odor arose; did you experience those odors down at your place at first?

A. I did, sir.

Q. It is testified in the case, that about the month of August or September, somewhere along there, two years ago, they had installed a change in their arrangements; now I want to know whether, at your house, you have experienced any odors from them since about two years ago?

MR. GOURLEY.—I don't think that question, sir, is proper; let him characterize the change.

THE COURT.—Why not re-frame the question.

Q. For the past two years, or thereabouts, Mr. Carleton, have you—down at your house, experienced the same smell or odor that you noticed shortly after the commencement of operations of the Sinclair and Valentine Company?

A. Down at my house?

Q. Yes.

A. No, sir.

Q. Now, are there places there that did have, during the past two years—that have emitted odors that you have experienced, even in going by or down at your place, other than the Sinclair and Valentine plant?

A. There are.

Q. What, for instance?

A. Well, Higgins' Dye Works.

Q. Where does Higgins' Dye Works lie with respect to Mrs. Harrigan's house—as between Mrs. Harrigan's house and the Sinclair and Valentine plant?

A. Higgins' Dye Works are North and East of Mrs. Harrigan's house—on the River Road; and

Sinclair and Valentine's plant is South and East, a little bit further South than what Higgins' would be North.

Q. What is the effect of the odor from the Higgins' Dye Works upon you?

A. It is suffocating sometimes; last night when I passed by there they were emitting odors; these sulphur fumes came through there, and I got a fit of coughing, and I coughed all the way down to the Morrell house—

Q. Now, you pass to and from your house to the ferry to go to New York, do you, daily?

A. Yes, sir.

Q. About what time?

A. I take the 8 o'clock boat in the morning, and I come home about 6 or 6:30 in the evening.

Q. What is your business?

A. I am in the cutting up business.

Q. Now, during the past two years, have you, in passing to and fro, been annoyed by any odor from the Sinclair and Valentine works?

A. I have.

Q. How often?

A. Well, sometimes in coming from the post-office I use Edgewater Place, and I noticed it very particularly on one occasion—

Q. When was that?

A. That was about a year ago last July; it was shortly after we had been down here once before, Mr. McCarter, if you remember.

Q. Now, with the exception of that one time, have you been seriously annoyed by any odor from them for the past two years?

A. No, sir; I cannot say that I have, because I never made it a rule of going along Edgewater Place.

Q. I don't want presumptions; I want an answer to my question; have you passed right by Riverside Road every day?

A. River Road, yes, sir.

Q. This was the only time you went on Edgewater Place?

A. No, sir; I have been on there several times, but this is the only time I noticed it.

Q. (BY THE COURT) When you noticed it that time, did you trace it down to the source; did you go to the factory?

A. No, sir; but I could see it being emitted from the low stack.

CROSS-EXAMINATION by Mr. Gourley:

Q. These odors that you speak about coming from the Dye Works, is a different odor; that is to say, the smell is different than the Sinclair and Valentine factory?

A. Oh, yes; this one from the dye works is sulphur.

Q. Now, how far away from the dye works do you smell that?

A. About 50 to 100 feet.

Q. It is generally when you are passing the place?

A. Yes, sir; it is in the air.

Q. But it is immediately near the place?

A. You don't get it until you pass the ice plant, and you don't get it again after you pass Mr. McGarry's place.

Q. It is confined to a small place?

A. Yes, sir.

Q. You know, of course, the distinctive and

peculiar odor from the Sinclair and Valentine factory?

A. Yes, sir.

Q. Did that reach your house two years ago during the daytime?

A. I am not sure in the daytime; when they first started, it reached my house.

Q. In the morning, before you left, did you notice it?

A. I noticed it in the evening when I came home.

Q. But that is only when they started?

A. Yes, sir.

Q. Do you mean when you passed their place?

A. No, sir; when I was on my own veranda—that is about 800 to 1,000 feet South.

Q. How frequently was that noticed then?

A. I noticed that, possibly, every night for a week or so.

Q. Then, did it stop after that week or two; did it vary, or was it regular?

A. As near as I can remember, it might have been every night, or it might have been now and again?

Q. It was very offensive at that time?

A. Yes, sir.

Q. Was it the same character of odor that you noticed when you were on Edgewater Place?

A. Yes, sir; only more distinct.

Q. At that time were there fumes coming out of the chimney?

A. That I could not say.

Q. How did you trace it?

A. I did not try to trace it.

Q. You got away as soon as you could?

A. Yes, sir.

Q. But it was the same kind of odor, I think, that you said—

A. Only more pungent at that time than it has been later.

Q. In the earlier stages it was more pungent?

A. Yes, sir—how long is it since Sinclair and Valentine started in the business—it was when they started.

Q. This time you were in Edgewater Place, which side of the walk were you on?

A. On the side next the River Road, and I was walking South to my house.

Q. Were you at the nearest point to their place at that time?

A. From the back of Sinclair and Valentine's to Edgewater Place is about—

Q. Were you passing their place; about near there?

A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. Point out on this map where your house is; come over here and I will point you out the general locality; here is River Road (you need not put this conversation down, Mr. Stenographer)?

A. My house is right about here.

Q. Now, on that occasion when you were passing along Edgewater Place, did you see our friend, Mrs. Harrigan.

A. I believe I did.

Q. She spoke of this thing to you, didn't she?

A. No, sir; I think, rather, that I spoke to her.

Q. Which is more pungent of the odors—that from the Higgins' Dye Works, or the odor you

used to have from Sinclair and Valentine plant, as you think it was; which is the more offensive?

A. The old odor from the Sinclair and Valentine plant permeated through a greater space; but close to the factory, Higgins' is the worst.

Q. How far is Higgins' place from Mrs. Harrigan's place?

A. It is on the River Road; I don't know what the distance is from the River Road to Edgewater Place.

Q. It is right in front of it, isn't it?

A. No, sir; it is North and East.

Q. Have you ever smelled anything from the Valvoline Works?

A. No, sir.

Q. From the sugar works?

A. Once in a while.

Q. From the Midland Linseed Oil Works?

A. No, sir.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. When you had this walk along Edgewater Place, it was after the first hearing in Court here?

A. Yes, sir; just after.

Q. When you smelled that peculiar odor, did you say anything to Mrs. Harrigan about it?

A. I think I did, if I recollect correctly.

Q. Did you call Mrs. Harrigan's attention to the fact?

MR. McCARTER.—Objected to.

MR. GOURLEY.—This is cross-examination.

Mr. McCARTER.—I want to have the case tried according to law.

THE COURT.—I will allow the question.

Q. Did you call Mrs. Harrigan's attention to it?

A. To the best of my recollection, I did.

MR. DAVID GRANT, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You are a resident of the Borough of Edgewater?

A. Yes, sir.

Q. Whereabouts do you live?

A. I board at Mrs. Murray's on Undercliff Avenue.

Q. What is the number on Undercliff Avenue?

A. I don't remember.

Q. What direction is it from Sinclair and Valentine's factory?

A. Directly West, in the rear.

Q. You are foreman for the Warner sugar plant?

A. Yes, sir.

Q. Does the work keep you around the factory every day?

A. Yes, sir.

Q. How long have you been working there?

A. Since May, 1911.

Q. How long have you been living where you now live in Undercliff Avenue?

A. I took my meals there all but about seven months; before that, I roomed a mile further North on Undercliff Avenue.

Q. But you lived on Undercliff Avenue in those two places during all the time you have been employed?

A. Yes, sir.

Q. What can you tell us with reference to the smell, if any, at Sinclair and Valentine's plant?

A. When they first started up the plant it was a pretty bad smell.

Q. When was that?

A. In 1911, I believe, they started up.

Q. How long did you notice this bad smell?

A. It was going on there for quite a long while; I could not give you the dates on that; it is for quite a while.

Q. Do you still get this smell?

A. No, sir.

Q. Since when have you not gotten it?

A. I could not say how long, but it is a couple of years, anyway.

Q. Have you ever visited the plant?

A. Yes, sir; I have been there a number of times.

Q. Can you give us any of the dates when you visited?

A. I was called there on June 6th, one date.

Q. What year? Have you a memorandum of the dates when you visited the plant?

A. Yes, sir.

Q. Give us the different dates, then.

A. June 6, 1913.

Q. What time of day?

A. In the noon hour, between twelve and one.

Q. Did you go in the boiling room?

A. Yes, sir.

Q. Were they boiling oil?

A. No, sir.

Q. Was the consumer going?

A. Yes, sir; the kettles were all empty; he had on what he called a fake run.

Q. Now, when next were you there?

A. On June 9, 1913 (examining a memorandum book).

Q. Three days afterwards?

A. Yes, sir.

Q. Was that another fake run?

A. Yes, sir.

Q. How long were you there?

A. About 15 minutes, long enough to look at the kettles.

Q. Was the consumer going?

A. Yes, sir; and the kettles were empty.

Q. Give us your next date, if any?

A. June 24, 1913.

Q. Is that another fake run?

A. Yes, sir.

Q. Was the consumer going?

A. Yes, sir; and all the kettles were empty.

Q. What time of day?

A. Between 12 and 1.

Q. Any later date than that?

A. June 26, same year, 1913, another fake run.

Q. Was the consumer going that day?

A. Yes, sir; the consumer was going, and the kettle was empty.

Q. When was that?

A. That was between 12 o'clock and one o'clock.

Q. How long did you remain?

A. I remained about the same length of time.

Q. Any more?

A. (No answer).

Q. (BY THE COURT) Every time you have been there, has there been a fake run?

A. No, sir; not every time; I only kept dates of fake runs.

FURTHER DIRECT:

Q. Give us the next?

A. January 13, 1914.

Q. Was that another fake run?

A. Yes, sir; the consumer was going, and all kettles empty; I was there between 12 and 1; I remained there about the same length of time.

Q. Are you sure of that last date; are you sure of the correctness of that last date?

A. I was over there that day—but I have not got down here a fake run.

Q. So you are not sure that on that day there was a fake run?

A. No, sir.

Q. Have you any more fake run dates?

A. January 20th was the next, 1914.

Q. Was that a fake run?

A. Yes, sir; the consumer was going and all kettles empty; I was there about half an hour that day, and that was the last time.

BY MR. GOURLEY:

Q. What hour was it?

A. Between 12 and 1.

Q. (BY THE COURT) Tell us what you described as the fake run?

A. They had a fire under the kettles, and the kettles were empty; they had the fire on, and once in a while a little smoke would shoot up through the chimney.

FURTHER DIRECT:

Q. Now, on these various fake run occasions that you have testified to, did anybody visit the plant with you?

A. Mr. Murray was with me all the time.

Q. Is that Mr. William F. Murray?

A. Yes, sir.

Q. Now, have you ever gone to the plant on other occasions which you have not made a record of?

A. Yes, sir; many times.

Q. Have you ever noticed any smell when you have been there?

A. Not since they first started there; he called me over there one time and showed me the new apparatus he had there for burning the fumes, and since he installed the apparatus I have not smelled it but once, and that was in January, 1913, I think; I was at the sugar house in my own factory, and I went over there in the noon hour, I think it was; I told Mr. Barrett that there was quite a smell coming from there, and he said he knew it, but that they were froze up that day, and the burner was going wrong.

CROSS-EXAMINATION by Mr. Gourley:

Q. How is it you were brought into this thing with a note-book?

A. I don't know why; I was never told why.

Q. Playing Sherlock Holmes—let me look at it. (Witness shows Mr. Gourley the book). Now, show me where you began and what you did.

A. June 6—

Q. What is this book?

A. That is my time-book at the refinery.

Q. Your men's time?

A. Yes, sir, and my own also.

Q. How many men have you under you to mark in the book?

A. I don't know how many I have now.

Q. How many men—

A. I had 19 men under me that day.

Q. So you kept their time in this book?

A. Yes, sir.

Q. Did you put down a special page for Sinclair and Valentine?

A. No, sir, no special page.

Q. Show me where you opened their account.

A. That is the first account (showing counsel).

Q. Then does it run along?

A. Yes, sir, every time I went there when he had a fake run on.

Q. Show me on this page that I now point out to you, where the entry is about Sinclair and Valentine.

A. They are below there, beginning "Called to ink plant by Mr. Barrett."

Q. In other words, Mr. Barrett called you to the ink plant on this day when he wanted you to go?

A. Yes, sir.

Q. When the stage was right?

A. Yes, sir.

Q. Then on the next one show me.

A. June 9th, right there "Called to ink plant by Mr. Barrett." Mr. Murray went with me.

Q. When did you write that?

A. June 9th.

Q. On that day?

A. Yes, sir.

Q. June 24th is the next?

A. Yes, sir.

Q. "Called to ink plant by Mr. Barrett" again; is that right?

A. Yes, sir.

Q. And on June 26, "Called to ink plant by Mr. Barrett?"

A. Yes, sir.

Q. "Bad smell at ink plant, January 13, 1914;" you have got that down, "Bad smell at ink plant?"

A. You are only reading part of it.

Q. Read the part I went you to read.

A. All right.

Q. You wrote that down, did you, "Bad smell at ink plant?"

A. Yes, sir; that is the day they froze up.

Q. January 20, "Called to ink plant with Mr. Murray"—Mr. Barrett called you again?

A. Yes, sir.

Q. Where did he go to call you?

A. At the sugar house.

Q. (BY THE COURT) Did he come after you?

A. Yes, sir.

Q. Did he come after you?

A. Yes, sir.

FURTHER CROSS:

Q. That is the last?

A. Yes, sir.

Q. Your smell is affected?

A. Not at all.

Q. You have catarrh?

A. Not that I know of.

Q. A bad case of catarrh?

A. Not that I know of.

Q. Did you tell Mr. McGinnis—do you know Mr. McGinnis?

A. Yes, sir.

MR. ROBERT H. McCARTER.—Specify the time and place.

MR. GOURLEY.—The individual is the essential thing.

Q. At Edgewater?

MR. ROBERT H. McCARTER.—When?

MR GOURLEY.—I will try to find out.

Q. In July or August of last year, at Edgewater, County of Bergen and State of New Jersey, you could not smell any odors, because you had a case of catarrh; did you say that?

A. I never remember making any such statement as that to Mr. McGinnis.

Q. Do you remember making a statement substantially like that to him?

A. I did not make any such statement to him.

MRS. HELEN GILROY, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You live in Edgewater; where do you live in Edgewater?

A. I live in Undercliff Avenue, I forget the number.

Q. What direction is it from the Sinclair and Valentine factory?

A. About 150 feet.

Q. What direction?

A. The factory is right at the back of me, where I live.

Q. Is there anything between you and the factory?

A. No, sir, not a thing.

Q. How long have you lived there?

A. Four years.

Q. What can you tell us about the smell coming from that factory?

A. I never smelled one factory more than another; there are no houses back of me, and I never smelled that factory any more than any other.

Q. Is your sense of smell keen?

A. I could not smell one from the other; I could never smell one from the other, because there are so many of them there; I don't like Jersey anyhow; I like New York.

Q. Do you remember when Sinclair and Valentine first came?

A. Yes, sir.

Q. You say there are all sorts of smells there at this place?

A. They are all the same to me.

Q. Have you smelled them continuously?

A. I never smelled a thing; I never bothered; I lived on the top floor, and I could not say that I ever smelled it, because I did not.

Q. Do you remember when Sinclair and Valentine first came?

A. Yes, sir.

Q. Before they built the little chimney?

A. Yes, sir.

Q. Do you remember getting any smell from them before they built the chimney?

A. I never got a smell, that I know of.

NO CROSS-EXAMINATION.

MR. WILLIAM F. MURRAY, being sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Is it in your house that the witness, Mr. Grant, boards?

A. Yes, sir.

Q. How long have you lived in that house, Mr. Murray?

A. I have lived there for 15 years.

Q. And where do you work?

A. At the sugar refinery.

Q. How long have you worked there?

A. Seven years; ever since it started.

Q. Now, what can you tell us about any smells from the Sinclair and Valentine ink factory?

A. When it first started there, there was a bad odor came from it, but I have not smelled anything from it lately.

Q. Since when have you not smelled anything?

A. Not during the last year, anyhow.

Q. Now, cannot you be a little more definite than that as to when you last smelled?

A. (No answer).

Q. (BY THE COURT) Have you ever traced it down to its source, where it came from?

A. Yes, sir; you could see the smoke come from the place.

Q. This smell that you detected came from this factory, do you mean?

A. It may be two years since I have noticed it.

Q. You don't know the time?

A. No, sir.

FURTHER DIRECT:

Q. Have you ever visited the plant?

A. Yes. sir.

Q. Have you been at the boiling house when they boiled the oil?

A. Yes, sir.

Q. Have you seen the consumer in there?

A. Yes, sir.

Q. Do you remember when that was first put in?

A. I don't remember the date, but I remember the time when it was put in.

Q. You remember the fact that it was put in?

A. Yes, sir.

Q. Have you or haven't you smelt these odors since that consumer was put in?

A. No, sir, I have not.

Q. Did you visit the plant with Mr. Grant at some of these fake runs?

A. I was there with him on four or five different occasions.

Q. Have you ever visited the plant on other occasions when they have been boiling?

A. Yes, sir.

Q. Have you ever noticed any smell?

A. Of course, you get the smell of boiling oil around the factory.

CROSS-EXAMINATION by Mr. Gourley:

Q. Where do you live?

A. Undercliff Avenue.

Q. What number of house?

A. 348.

Q. How far is that from the factory of Sinclair and Valentine?

A. It is between four and five hundred feet.

Q. (BY THE COURT) To the North or South?

A. The West, directly West.

FURTHER CROSS:

Q. How far from the church?

A. I should judge it is about 300 feet.

Q. From the church—North or South of the church?

A. It is Southwest.

Q. Is it this way or the other way; the upper side or the lower side?

A. On the lower side.

Q. You are on the further side of the street—the upper side of the street next the cliff?

A. Yes, sir.

Q. What kind of house is it that you lived in?

A. It is a dwelling house.

Q. Do you keep the house?

A. I own the house.

Q. Do you live there?

A. Yes, sir.

Q. Which floor do you live on?

A. I occupy the whole house, three floors.

Q. Is your wife living?

A. Yes, sir.

Q. Is she with you?

A. Yes, sir.

Q. Have you a family?

A. Yes, sir.

Q. Is your wife here?

A. Yes, sir, she is here.

Q. You keep boarders, I believe?

A. Yes, sir, I do.

Q. Where do you sleep—back of the house?

A. Our room? Yes, sir.

Q. Is your bedroom at the rear of the house?

A. Yes, sir, on the North side of the house.

Q. You were brought into the matter of this case by Mr. Grant or Mr. Barrett, which?

A. I don't know.

Q. Who asked you to visit these works?

A. Mr. Barrett.

Q. Where did you work at the time?

A. At the sugar factory.

Q. Mr. Barrett came to get you?

A. He left word with the watchman at the gate for me to call there.

Q. What hours were these visits?

A. Between 12 and 1.

Q. How many visits did you make?

A. I think it was six or seven.

Q. Did you make a memorandum too?

A. Yes, sir, it was on June 6, 1913—June 9, 1913—June 24, 1913—June 26, 1913, January 13, 1914, and January 20, 1914.

Q. What hours?

A. Between 12 and 1 o'clock.

Q. Always?

A. Well, on January 24th it was just one o'clock, five minutes after one, when I left there.

Q. Was there any smoke coming out of the stack?

A. I did not notice any smoke coming out of the stack.

Q. Let me see that paper.

A. The kettles were all empty, and he had the burner going.

Q. Did you notice any smoke or fumes coming out of the stack?

A. I don't know that I took notice of it.

Q. Did you make any note of that fact?

A. No, sir.

Q. This is written in ink?

A. Yes, sir.

Q. This is not the original paper that you wrote it on?

A. I wrote it down in a little memorandum book, and that I copied off this morning.

Q. There was a bad smell one day?

A. I don't know that I smelled any bad smell the day I went over there any more than you would any day when they would be running.

Q. Was there any day when you went there when there was a bad smell?

A. No, sir.

Q. Not any bad smell?

A. Not anything that you would get away from the plant much—

Q. Was there a bad smell on any of those days you visited there?

A. No, sir.

Q. Let me see your paper.

A. (Witness shows counsel the paper).

Q. Does not this paper say, "Bad smell; notified Mr. Barrett?"

A. I did not notice.

Marked "Exhibit G-B-1."

THE WITNESS.—This is a copy of Mr. Grant's memorandum.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Did you make the copy from Mr. Grant's memorandum.

A. Yes, sir.

JESSE W. POWERS, sworn in behalf of the defendant, testified as follows:

Q. (BY THE COURT) Where do you reside?

A. Edgewater.

Q. Whereabouts?

A. 348 Undercliff Avenue.

Q. That is Mr. Murrays' house?

A. Yes, sir.

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. What is your business?

A. I am not interested in any business.

Q. You are retired?

A. Yes, sir.

Q. (BY THE COURT) How long have you lived there?

A. About nine years.

Q. At the same place?

A. Yes, sir.

FURTHER DIRECT:

Q. Do you know where the Sinclair and Valentine factory is?

A. Yes, sir.

Q. What can you tell us in reference to smells from that factory?

A. I cannot tell you anything; I have never smelled it at all.

Q. Have you a sense of smell?

A. Yes, sir.

Q. Do you get any other smells?

A. I have smelled soft coal smoke, something like that.

Q. Are you around Edgewater in the day time?

A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. How old are you?

A. 55 years.

MR. LOUIS A. GRAESE, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Mr. Graese, where do you live?

A. I now reside in New York.

Q. Where do you work?

A. In Edgewater.

Q. With what concern?

A. The Undercliff Terminal Warehouse Company.

Q. Where is that situated with respect to Sinclair and Valentine's works?

A. North; it is North of the sugar house, practically a part of the sugar house.

Q. That is the Warner sugar house?

A. Yes, sir.

Q. When did you move to New York?

A. Last November.

Q. Whereabouts in Edgewater did you live?

A. Hilliard Avenue and River Road.

Q. You, of course, know the Sinclair and Valentine factory?

A. Yes, sir.

Q. Did you ever visit that place?

A. I did.

Q. Have you any record of any visits you have made?

A. I have a record of one visit.

Q. When was that?

A. January 28, 1914.

Q. Did you go in the boiling house?

A. Yes, sir.

Q. Were they boiling oil that day?

A. No, sir.

Q. Was the consumer going?

A. Yes, sir.

Q. Were they boiling oil?

A. No, sir.

Q. How long were you there?

A. I judge 15 or 20 minutes.

Q. Did you detect any odor; have you ever smelled any odor from the Sinclair and Valentine factory?

A. I never have.

CROSS-EXAMINATION by Mr. Gourley:

Q. You have lived on the corner of River Road and Hilliard Avenue?

A. Yes, sir.

Q. That is some distance from the Sinclair and Valentine factory?

A. Yes, sir; about seven hundred to eight hundred feet.

Q. You lived there?

A. I walked from Hilliard Avenue to the sugar house.

Q. Do you say that one time you did smell odors there?

A. No, sir; I never smelled any at any time, either day or night.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. How long have you been employed at the Undercliff Terminal Warehouse?

A. About a year and a half; before that I was employed at Warner's in the sugar house, for five years.

Q. So you remember when the Sinclair and Valentine people first came?

A. Yes, sir; I remember when they built the place.

MRS. MARGARET MURRAY, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You are the wife of Mr. Murray, who has just recently testified?

A. Yes, sir.

Q. How long have you lived in the house?

A. I have lived there for years.

Q. Do you remember when the Sinclair and Valentine people first came there?

A. No, sir; I did not know anything about it, only I heard it was getting built.

Q. Do you remember it building there?

A. I don't remember their building there, no, sir.

Q. Did you ever get any smell from them?

A. Yes, sir; some odors, two or three years ago.

Q. Have you had any odors since two or three years ago?

A. Once in a while we got a little odor, but it did not bother me any; I did not notice it enough to pay much attention to it.

Q. (BY THE COURT) Have you noticed it recently at all?

A. No, sir; I have not.

FURTHER DIRECT:

Q. Can you remember more definitely than two or three years ago?

A. It must be two years ago.

CROSS-EXAMINATION by Mr. Gourley:

Q. It did not bother you at any time at all?

A. No, sir.

Q. You do your own work at your house, do you?

A. Yes, sir.

Q. And is your kitchen in the rear of the house?

A. It is in the back part of the house.

Q. That faces a cliff?

A. Yes, sir.

Q. You do not occupy the front of the house very much?

A. Oh, yes; of course, we occupy it altogether.

Q. That is your parlor?

A. Yes, sir; parlor and dining room.

Q. But you are mainly in the dining room and the kitchen?

A. Yes, sir; but the dining room faces the river, and so does the parlor.

Q. You never heard, did you, any of these complaints?

A. Oh, yes, I have heard of the complaints; certainly I have.

Q. Do you know Mrs. Barnold?

A. Yes, sir.

Q. Did you tell her that the smell from that factory made you deathly sick?

A. No, sir; I did not.

Q. Did you talk with Mrs. Barnold at any time?

A. I know her, and I don't remember talking to her about it.

Q. Where does she live?

A. She lives on the same street now that I do.

Q. How long has she lived on the street where you are now?

A. About a month.

Q. Before that, where did she live?

A. Up towards Fort Lee somewhere.

Q. You have known her how long?

A. About five years, I should judge.

Q. Did you have any talk with her at any time?

A. I don't remember having any talk with her about the ink factory at all; ever since I have been in it, she has been in California.

HARRY R. GAUL, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. You live in Edgewater?

A. Yes, sir.

Q. Whereabouts do you live?

A. 150 Undercliff Avenue.

Q. Whereabouts on Undercliff Avenue is that?

A. Half a mile from Sinclair and Valentine's factory.

Q. You work in the Valvoline Oil works?

A. Yes, sir.

Q. What is your position there?

A. Clerk.

Q. You hold an official position in the borough?

A. Yes, sir.

Q. What are you?

A. Councilman.

Q. How long have you been Councilman?

A. Five years.

Q. You know the plant of the Valentine and Sinclair ink factory?

A. Yes, sir.

Q. Do you remember when they first came?

A. Yes, sir.

Q. Did you ever get any smells from them?

A. When they first came there, yes, sir.

Q. Do you still get them?

A. I have not paid any attention to it; I could not say that I did.

Q. Well, now, you say that you did get them at first, and you cannot say that you do so still; when did you cease to get them?

A. I have not been around that plant in two years, during the day time.

Q. Did you used to be around there before two years ago, during the day time?

A. Yes, sir.

Q. (BY THE COURT) What for?

A. I used to go up that road quite often.

Q. How did you come to stop going up there two years ago?

A. My position was changed; I had no occasion to go up that way.

Q. What was your position changed from, and what was your former position?

A. My position has never required me—

Q. Did you ever go up to that part of the borough in the evening?

A. Yes, sir, quite often.

Q. Have you ever smelled the ink factory, then, at night?

A. Not at night.

FURTHER DIRECT:

Q. These times when you used to get the smells, were you living then where you are now?

A. Yes, sir.

Q. Did you ever get the smell down there?

A. We got quite some smell, but I could not say it was from the Sinclair and Valentine plant.

Q. Do you still get those other smells?

A. The same smells continue now as they did at that time.

Q. Did you distinguish at that time a certain smell as coming from the Sinclair and Valentine plant?

A. Yes, sir.

Q. How did you distinguish it?

A. For the reason that at that time they were boiling some material in open vats—by going to see it; that is how I could distinguish it at that time.

Q. (BY THE COURT) Not seeing it, how could you distinguish it from the others?

A. I could not.

FURTHER DIRECT:

Q. Didn't you know then that it was stopped; do you say there are smells in the town today?

A. There are smells at the place where I live today, just the same as there were two years ago.

Q. But you say you have not noticed this Sinclair and Valentine smell for about two years?

A. I say I cannot distinguish it.

Q. Tell me this—how long is it since you have had a smell that you can strictly say was the Sinclair and Valentine smell?

A. I could not give you any definite time, because I cannot distinguish it.

Q. You have just testified to his Honor, that you went down there and saw pots and got that smell! is that the only time?

A. Yes, sir, I was right over the pots when I saw them, and they were boiling at that time.

Q. Is that the only time you ever got the smell?

A. This is the only time I could distinguish the smell when I was in the plant.

CROSS-EXAMINATION by Mr. Gourley:

Q. That odor is in some degree still in the neighborhood?

A. The same odor exists now as it did at that time.

RE-DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Were there odors before the Sinclair and Valentine Company came?

A. Yes, sir.

Q. Is there any difference between the odors existing now and the odors existing before they came?

A. I could not say that; I could not tell.

BY MR. GOURLEY:

Q. Except, of course, that the Sinclair and Valentine—whatever it was—has added to the general fund?

A. I could not tell that.

WILLIAM C. HIGHAM, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Mr. Higham, you live in Edgewater?

A. Yes, sir.

Q. Whereabouts?

A. 200 Undercliff Avenue.

Q. That is what part of Undercliff Avenue?

A. Just North of the Valvoline Oil Works.

Q. What position is that with reference to the new school house?

A. About half a block South of the new school house.

Q. You are Councilman of the Borough?

A. Yes, sir.

Q. How long have you been such?

A. 11 years.

Q. Have you held any other position?

A. Yes, sir.

Q. What?

A. I am employed in the Valvoline Oil Works.

Q. I mean political position?

A. I am Police Commissioner, at present, of Edgewater.

Q. What is your position in the Valvoline Oil Works?

A. I have charge of the filter oils.

Q. Do you remember when the Sinclair and Valentine people first started work in Edgewater?

A. Yes, sir.

Q. Did you get any smell from them?

A. I certainly did.

Q. What was that smell like?

A. It was a very strong smell.

Q. Tell us what effect it had on you?

A. I could feel it in my eyes at that time; it was very cutting. Do you want me to go into details?

Q. Do you still get the smell?

A. Once in awhile.

Q. Do you get it as often as you used to?

A. No, sir.

Q. (BY THE COURT) Do you still get it now?

A. Yes, sir.

FURTHER DIRECT:

Q. How frequently?

A. The last time was the first of September, 1914.

Q. Of this year?

A. Yes, sir; and on the 10th of August, 1914.

Q. Did you tell Mr. Eldridge when he was down at the Valvoline Oil Works last spring that you had not smelled it in about a year?

A. I don't know that I did in those words, no.

Q. Well, what did you say to him?

A. I said that it was not as bad, probably, or I have not smelled it for quite awhile at that time.

Q. But you won't say it was a year—you said quite a time, but you won't say that quite a time was a year?

A. No, sir.

Q. You remember Mr. Eldridge being down there last spring?

A. There was a gentleman down there.

Q. Down at the Valvoline office?

A. There was a gentleman there, and I understand Eldridge was his name.

Q. What did you say to Mr. Eldridge when he asked you what was your experience with the smell from the ink works?

A. Well, I cannot tell you; I don't remember.

Q. Didn't you say to Mr. Eldridge that you had not smelt it in quite a time, and that it was not nearly as bad as it used to be?

MR. GOURLEY.—Objected to on the ground that it seeks to contradict their own witness.

THE COURT.—Objection overruled.

A. I may have said that.

Q. But wasn't it true?

A. I will say, yes, it was true at that time.

CROSS-EXAMINATION by Mr. Gourley:

Q. Have you any other dates when you had this smell?

A. I did not make a date; I did not put down the dates when I smelt this odor, but I did smell it in June; I won't say the date—

Q. Was it this year?

A. Yes, sir; June of this year.

Q. And did you smell it in July?

A. I don't remember smelling it in July.

Q. Did you smell it in August?

A. Yes, sir.

Q. How many times in August?

A. I only remember one day.

Q. The first of September it was very bad?

A. Yes, sir.

Q. Where were you on the first of September when you smelled it?

A. Between River Road and Undercliff Avenue.

Q. Do you mean on Edgewater Place?

A. No, sir; Garden Place.

Q. Were you walking?

A. Yes, sir.

Q. How near to the Sinclair factory were you at the time you noted it on the first of September?

A. That was about 800 feet, I should judge, South of Sinclair and Valentine's factory.

Q. Did you continue to walk in the direction of the Sinclair and Valentine factory?

A. No, sir; I walked down the River Road that ran parallel, East and West.

Q. At any time that day, did you get any nearer than 800 feet?

A. No, sir.

Q. (BY THE COURT) Tell me what effect the smell on September first had on you?

A. I knew the smell came from the ink works, and that is all; I was not badly affected by it.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. On August 10, how near were you to the place?

A. I was on Undercliff Avenue at that time; I passed up Undercliff Avenue, going North towards the ferry.

Q. That would be how far—400 feet?

A. From the River Road to Undercliff Avenue—I suppose that would be four or five hundred feet.

Q. What time of day was that?

A. I don't recall the hour.

Q. How bad was it that day?

A. It was very perceptible; I could smell it and I knew the smell; it was the same kind of odor.

Q. How do you fix those dates?

A. I fix them in my mind because I remember smelling it two or three times.

Q. How do you fix August 10th rather than August 8th?

A. I fix the dates because I know that I was out at that time and going by there, at that time, and I do not go by there every day in the business I do all around town.

Q. Where do you say you noticed it on the first of September?

A. In going from River Road to Undercliff Avenue at Garden Place.

Q. You were going West, then?

A. Yes, sir.

Q. Are you a candidate for office this fall—a candidate for election?

MR. GOURLEY.—Objected to.

THE COURT.—I shall sustain the objection to that question.

THE WITNESS.—I do not object to answering that.

THE COURT.—I know you don't, but I don't think you need to go into that.

WILLIAM G. BROOKS, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?
A. 119-123 Undercliff Avenue.
Q. Whereabouts on Undercliff Avenue is that?
A. Directly back of the Valvoline Oil Works.
Q. South of the new school?
A. Yes, sir.
Q. How long have you lived there?
A. Four months.
Q. Where did you live before that?
A. 4 Hilliard Avenue; that is just off the River Road.
Q. That is just off the River Road?
A. Yes, sir.
Q. How long have you lived there?
A. Eight months.
Q. Where did you live before that?
A. Weehauken Heights.
Q. What is your business?

A. Elevator constructor; I am now at the Warner Sugar factory, and I have been with them two weeks.

Q. Did you work in installing the elevator of the Sinclair and Valentine factory?

A. Yes, sir; for six weeks.

Q. When was that?

A. During the summer of 1912; I don't know the month we started.

Q. While you were doing that, were you around there all day?

A. Yes, sir.

Q. Now, what can you tell us about smells from the Sinclair and Valentine factory?

A. During the summer of 1911, when they first started there, the smells were pretty bad; I was then boarding with my sister at 4 Hilliard Avenue.

Q. When did you afterwards notice them after 1911?

A. I did not notice them at all for the eight months I lived at No. 4 Hilliard Avenue; I did not notice any smells.

Q. Did you notice any smells while you were installing the elevator?

A. No, sir.

Q. Have you noticed any smells since then?

A. No, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. The elevator is in the front of the building?

A. Yes, sir.

Q. Near the street?

A. Yes, sir.

Q. You were at work inside that building?

A. Yes, sir.

Q. The oil is boiled at the other end of the premises?

A. I took several trips down there, in the boiling room, that is during work, at noon hour, and I had occasion to go back there several times.

Q. Was there any smell down below?

A. No, sir.

Q. That was all covered up—the kettles were covered with covers?

A. I did not take any notice of that; I know they were boiling oil there.

Q. You did not notice whether the kettles were covered or not?

A. No, sir; I know they were boiling it, and I know they had the consumer running.

FRANK B. SIMONSON, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George W. C. McCarter:

Q. Where do you live?

A. 1308 River Road.

Q. Whereabouts is that with reference to the Sinclair and Valentine factory?

A. That is about a mile and a half North of it.

Q. Where do you work?

A. At the Warner Sugar factory.

Q. How long have you been working there?

A. Very nearly five years.

Q. Steadily?

A. Yes, sir.

Q. How long have you lived where you now live?

A. About a year and a half.

Q. Where did you live before that?
A. In Edgewater Place.
Q. What number?
A. They had no numbers at that time.
Q. Where, in relation to the Sinclair and Valentine factory?
A. I should say about 1,000 feet North of the Sinclair and Valentine factory.
Q. Come here and point out on the map, please.
A. About there.
Q. On the East or West side?
A. On the East side.
Q. North of Mrs. Harrigan's house?
A. Yes. sir.
Q. And how many lots North?
A. That I could not say.
Q. How long did you live there?
A. About two and a half years.
Q Were you living there when the Sinclair and Valentine factory was first built?
A. I was.
Q. Did you ever get any smells from the Sinclair and Valentine factory?
A. I did, when they first started.
Q. When was that that you got the smells?
A. Well, that was previous to 1912.
Q. Have you gotten any smells since then?
A. I cannot say that I have.
Q. Does your work keep you around the Warner Sugar plant all day?
A. More or less.
Q. Do you pass the Sinclair and Valentine factory in going to and from your work?
A. No, sir.
Q. Did you used to pass the Sinclair and Valentine plant in going to and from your work?

A. I went down Hilliard Avenue.

Q. (BY THE COURT) Give us the time when you last smelled the odor from the factory of the Sinclair and Valentine Company?

A. About the summer of 1912.

FURTHER DIRECT:

Q. How far is the entrance to the Warner Sugar plant from the Sinclair and Valentine property?

A. I should say about 500 feet.

Q. Can you, on this map, point out the location of the main gate of the Warner Sugar Refinery Company's plant?

A. I cannot.

Q. How many lots away from the Sinclair and Valentine Company's plant is the gate to the Warner plant—take a point directly opposite the Warner gate—how many lots is that away from the Sinclair and Valentine property?

A. About seven lots.

Q. Do you know how wide the lots are?

A. About 50 feet.

CROSS-EXAMINATION by Mr. Gourley:

Q. Mr. Simonson, what work did you do at the Sugar Refinery Company?

A. I am chief clerk.

Q. Where is the office?

A. In what we call our milt house.

Q. That is a very high building for Edgewater?

A. No, sir; it is not; it is about six stories.

Q. You think Edgewater has other buildings higher than that?

A. There are others there.

Q. Which floor are you on?
A. I am on the Sixth floor.
Q. How near to the River Road?
A. Face the river.
Q. Away from this place altogether?
A. Yes, sir.
Q. Now, at one time you lived in this house adjoining Mrs. Harrigan's?
A. Not adjoining, but on the same street with her.
Q. How far from her house?
A. It must be 500 feet or more.
Q. As far away as that; still, there you noticed the smell at one time?
A. At one time I did.
Q. Whose house is that you were living in?
A. Oman's.
Q. When did you move from there, how long ago?
A. About a year and a half ago.
Q. You say you did not notice it at all for the last year you were in that place in Mrs. Oman's house?
A. About one-half a year.
Q. You were there a year and a half all together?
A. No, sir.
Q. How long were you there all together?
A. About two and a half years.
Q. But you moved from there about a year and a half ago?
A. Yes, sir.
Q. Now, the last year you were in her house, did you smell it at all?
A. I should say about the last half of the year that I was there, I did not smell it.

Q. How frequently did you smell it then?

A. Not very frequently—occasionally—at irregular periods of, say about two or three weeks; at times it would be every week.

Q. Once a week sometimes, and then two or three weeks?

A. Yes, sir.

Q. That is all that bothered you at that time?

A. It did not really bother me a great deal down there.

Q. Down where?

A. At Oman's house.

Q. So far away, you mean?

A. It was quite a ways from Sinclair and Valentine's plant.

RE-DIRECT EXAMINATION by Mr. George McCarter:

Q. You go out to lunch at the noon hour now?

A. I go to lunch, yes, sir.

Q. You do that every day?

A. Yes, sir.

Q. Have you ever noticed any smells when you have been going to and from lunch?

A. I have not.

GEORGE H. MERRILL, sworn in behalf of the defendant, testified as follows:

DIRECT EXAMINATION by Mr. George McCarter:

Q. Where do you live?

A. On Undercliff Avenue, No. 412; I lived at No. 386, but I had to move on account of the stink.

Q. When was that?

A. Last May.

Q. Where do you live now?

A. 412 Undercliff Avenue.

Q. That is on which side of Undercliff Avenue?

A. On the Cliff side.

Q. And is that North or South of the church?

A. It is North of the church; I got away further up the street.

Q. The numbers run from South to North?

A. Yes, sir.

Q. When was it you moved?

A. I moved in May, May 1st.

Q. What year?

A. Last May.

Q. 1914, do you mean?

A. Yes, sir.

Q. You moved in May, 1914?

A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. What was this stink that you say caused you to move?

A. Because there was a very bad odor; there are so many bad odors in Edgewater, that it is pretty hard to tell one from the other, and as I have not a sample of those odors, I could not tell you.

Q. Do you know the odor from the ink factory?

A. I could not distinguish it from others; I could not say positively the odor that Valentine and Sinclair's had, or whether it was from Higgins' or from somebody else; they are all bad enough.

Q. Do you know the odor of burning oil?

A. Yes, sir; I discovered something of that the last week in August, 1914.

Q. Mr. Merrill, how long did you live at No. 412?

A. I have only lived there since May, 1914.

Q. Before that, what was your number?

A. No. 386.

Q. How long did you live at No. 386?

A. I was there four years.

Q. That was nearer the ink factory than No. 412?

A. Yes, sir.

Q. You knew which direction from the ink factory to move?

A. I certainly did.

MR. ROBERT H. McCARTER.—I wish to state to the Court that Mr. Sinclair had to leave on account of his health, so we are unable to produce him. His testimony would only be cumulative, anyway. Of course, we would like to offer the affidavit that he made on the rule to show cause; that would be the effect of his testimony. If objection is made to it, we cannot offer it.

MR. BARRETT recalled.

DIRECT EXAMINATION by Mr. Robert H. McCarter:

Q. Mr. Barrett, stand up. On September 1st, 1914, in what direction was the wind; have you got a note?

A. September 1st, wind South.

Q. Did you make that note on that day?

A. Yes, sir.

CROSS-EXAMINATION by Mr. Gourley:

Q. You have said that on the first of September the wind was South?

A. Yes, sir.

Q. On what do you base that statement?

A. I go out every morning and watch the direction of the wind and put it down on these sheets.

Q. What hour of the day was it that you went there, as you say?

A. In the morning.

Q. What hour?

A. It varies.

Q. Have you down on there, the hour?

A. No, sir; it was between 7:30 and 12.

Q. You have down in pencil the word "South?"

A. It is in ink.

Q. Was it written on that day?

A. Yes, sir

Q. Was it written when you noted the wind or at the end of the day?

A. This here is written as I started in the fires at 8 o'clock in the morning, I start that sheet.

Q. Answer my question; when did you write it?

A. Between 7:30 and 12.

Q. That is when you noted it?

A. When I noted the wind and put it down here.

Q. Did you put it down when you noticed it?

A. When I went out and took the course of the wind between 7:30 and 12, I came in and made that entry.

Q. What was there to indicate the course of the wind?

A. The direction of the flags and our stacks.

Q. Your stacks were all smoking at the time, were they?

A. Our main stack was.

Q. Does it indicate there on that paper what you looked at to observe the course of the wind?

A. No, sir.

Q. Can you tell us now, on the first of September, what course the wind was?

A. Yes, sir; it was observable from the smoke from our boiler stack, and from the smoke from the sugar refinery, and the flag floating at Borough Hall.

Q. You say "South;" did you distinguish between Southeast and Southwest?

A. My observation was South.

Q. Which direction was it going?

A. The wind coming from the South; the wind was blowing up towards the Borough Hall.

Q. It was blowing then in the direction of the North?

A. The smoke was going towards the Borough Hall.

Q. Did you have any flag up that day?

A. We did not carry a flag on our premises.

Q. Then the course of the wind was ascertained by you from the smoke from the big stack?

A. From the boilers of our stack, and from the smoke from the sugar refinery, and the flag floating at Borough Hall.

Q. Did you look at the smoke at the sugar refinery?

A. I did; I looked at the top of the stack.

Q. Do you do that every day?

A. Yes, sir.

Q. Cannot you tell by your own smoke?

A. Some days I cannot tell by my stack alone, because we don't burn soft coal.

Q. Did you know on that day, on the first of

September, whether or not your stack was smoking?

A. I don't know.

Q. When you say "South," you mean in a general Southerly direction it was coming from—

A. I mean that the smoke and the flag were all in the direction towards the ferry, towards Borough Hall; it meant to me that the wind was from the South.

DEFENDANT RESTS.

REBUTTAL.

ELLEN E. HARRIGAN, recalled in rebuttal, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Have you kept any record of the dates you noticed the smell from the Sinclair and Valentine factory since the last hearing, or since April of this year?

A. I have.

MR. ROBERT H. McCARTER.—I do not think that is rebuttal.

THE COURT.—Let her answer that question.

BY MR. ELLIS:

Q. Have you kept a record?

A. Yes, sir.

Q. Let us have it.

A. The 23rd of April; the 28th of April; May 4th; May 7th; May 11th; May 14th; May 21st; May 25th; May 26th; May 27th; May 28th; June 1st; June 3rd; June 4th; June 8th; June 9th; June 10th; June 11th; June 12th; June 18th; June 23rd; June 24th; June 29th; June 30th; July 1st; July 2nd; July 7th; July 8th; July 9th; July 10th; July 16th; July 17th; July 20th; July 21st; July 23rd; July 27th; August 3rd; August 6th; August 7th; August 10th; August 11th; August 12th; August 24th; August 27th; August 28th; August 31st; September 1st; September 2nd; September 4th; September 8th.

Q. Mrs. Harrigan, at the time—when did you mark the calendar that you have there?

A. When I got the smell in my house.

Q. On the different days?

A. Yes, sir; each time.

Q. Is that the calendar that you marked at the time you noticed the smell?

A. Yes, sir; I was not home all the time, so I have not got all the dates.

MR. GOURLEY.—We offer the calendar.

MR. McCARTER.—We object to the calendar.

MR. GOURLEY.—We will offer it for identification.

Marked "Exhibit G. B. 2 for identification."

Q. What can you say as to the odor on these different dates which you have given us with reference to the odor detected at previous times?

A. I got the same odor, and on the first of September of this month, I got it so bad that I was compelled to leave my home at 8 o'clock in the morning, me and all the people that were in the two houses.

Q. What is the odor like?

A. The same odor; you can tell by my throat what it is—don't you hear me talking?

Q. Mrs. Harrigan, Mr. Barrett has testified that you told him that the Sinclair and Valentine Company either would have to get out or they would have to buy you out?

MR. McCARTER.—That has already been gone into; Mrs. Harrigan was asked on her cross-examination if she had not said that.

THE WITNESS.—No, sir; I was not asked.

MR. McCARTER.—And then we proved by Mr. Barrett the fact—

THE COURT.—I will take it, and if it is improper, it can be struck out.

Q. (Question read).

A. No, sir; I said nothing of the kind; I never said such a thing.

Q. He has also testified, at page 592 or 593, he has also testified that you asked him how he would like to come around and find a pile of bricks there instead of his plant?

A. I never asked him such a question.

MR. McCARTER.—Where is that?

MR. ELLIS.—Page 593.

THE WITNESS.—I told him that the pile of bricks that I was living in, I said I had earned every brick of them with my own hands myself.

Q. Mrs. Harrigan, Mr. Smith has testified that he told you in July, 1912, that if you needed an affidavit from his wife you could get it?

MR. McCARTER.—Quote it right.

Q. (Page 739) Mr. Smith testified as follows: "I said it was in July, 1912; it must have been in July, 1912; my wife was away in Ohio." What can you say about that time?

A. It was not in July, it was in August.

MR. ROBERT H. McCARTER.—I cannot

understand how this witness can undertake to contradict what Mr. Smith said about his wife being in Ohio in July, 1912; it is not a conversation with her.

THE WITNESS.—Yes, I asked him.

MR. McCARTER.—Won't you keep still? This does not purport to be a conversation at all.

THE COURT.—Read prior to that one or two questions and see what we are talking about. Mr. McCarter's point is, that it must have been in July, 1912, that he had the conversation with Mrs. Harrigan, because in July, 1912, his wife was away; therefore, he does not think the witness is competent to contradict Mr. Smith as to what time his wife was away; that is your point, isn't it, Mr. McCarter?

MR. ROBERT H. McCARTER.—Yes.

Q. Did you have a conversation with Mr. Smith in July, 1912?

A. Not in July; the latter part of August, 1912.

Q. You heard the testimony yesterday of Mr. Bradley?

A. Yes, sir.

Q. Do you remember anything about this written complaint?

A. I never wrote a complaint to the Board of Health in my life.

CROSS-EXAMINATION by Mr. Robert H. McCarter:

Q. You stated that on September first, as I recall your testimony, September 1st, 1914, the stench was so bad that you were compelled to leave at 8 o'clock in the morning and go away for the day?

A. Yes, sir.

Q. What time did you get back?

A. Nine o'clock at night.

Q. Where were you all day?

A. I went down on the boat, on the Grand Republic, I believe.

Q. Then you did not talk with Mr. Carleton?

A. No, sir; I never saw him that day.

Q. You did not get back until nine o'clock?

A. And I got the same smell when I got back.

Q. You left as early as 8 o'clock in the morning?

A. Yes, sir.

Q. How early did you get it?

A. 6:10 in the morning, and I got it until I left the house.

Q. Let me look at that little memorandum of yours. What time did you get out on the 8th of September—that is the day after Labor Day?

A. On the 8th,—at 7:20 in the morning.

Q. How long did it continue?

A. I went out to New York.

Q. How long did you have this smell that day?

A. I left the house about eight o'clock; I went in the automobile; I got the smell up to the time I left the house.

MRS. KATE POPP, recalled in rebuttal, tesified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. What can you say with reference to the odors from the Sinclair and Valentine Company's plant since April of this year?

A. Well, the odors have been very bad, just the same as the first.

Q. Did you keep any record of them?

A. No, sir.

Q. Can you give us any idea as to how often you have noticed it?

A. Quite often this summer; I have been away about three weeks, but while I have been there, it has been quite often, very frequent; I smell it just as bad as ever.

Q. What can you say with reference to the odor?

A. The same as before; I don't see any difference; just the same, sir.

CROSS-EXAMINATION by Mr. Robert H. McCarter:

Q. You are the sister of Mrs. Harrigan?

A. Yes, sir.

MRS. MARGARET KENNEDY, sworn in rebuttal, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You live on the West side of Undercliff Avenue?

A. Yes, sir.

Q. With reference to the church, where was your house located?

A. West.

Q. Directly West of the church?

A. Yes, sir.

Q. And that is almost directly West of the Sinclair and Valentine factory?

A. Yes, sir.

Q. What can you say with reference to the odors from the Sinclair and Valentine Company's factory during the present year?

A. I have found it very bad at times.

Q. Did you keep any record?

A. I have a record, but I did not bring it along.

Q. Can you tell us the effect of the odors?

A. Well, it is very disagreeable; it seems to bother my throat a whole lot and burns my eyes.

Q. Can you say how often you have noticed the odors?

A. Well, I have noticed it two and three and four times a week, and different times, throughout this past year; very bad at times; the first of September is the last date I remember.

CROSS-EXAMINATION by Mr. Robert H. McCarter:

Q. What time did you notice it on the first of September?

A. It was in the middle of the day.

Q. Did you make a note of it?

A. No, sir; I did not; I remember the date well.

Q. How do you know it was the first of September?

A. The odor was very bad that day.

Q. You don't mean to say that the Sinclair and

Valentine concern is the only place that smells in Edgewater, do you?

A. It is the only place that annoys me.

Q. How do you know it comes from Sinclair and Valentine's?

A. I have been down close to it, and I know very well it comes from there, because I have been born and brought up there, and I never noticed any odor to bother like that does.

Q. When were you down close to it last?

A. I passed it through Edgewater Place on the first.

Q. With whom?

A. Up to my home.

Q. Whom were you with?

A. No one.

Q. When was the last time you were down there?

A. Well, I go through there quite often?

Q. You said you were down there near the plant?

A. I go there occasionally for my little boy, quite close to that chimney, in the back.

Q. You have been sitting here for two days?

A. Yes, sir.

Q. With Mrs. Harrigan?

A. Yes, sir.

Q. Did you come down with her?

A. No, sir; I did not come with her.

Q. Neither day?

A. No, sir.

Q. Did you come alone?

A. No, sir.

Q. Who brought you down?

A. I came with Mrs. Ryan; I met her accidentally.

Q. She is Mrs. Harrigan's sister?

A. Yes, sir.

Q. Where do you say the church is?

A. Right opposite my home, Undercliff Avenue.

Q. Where does the chruch lie with respect to the Sinclair and Valentine factory?

A. West.

Q. Directly West?

A. I know it is West; I could not say whether it is directly West.

Q. Why didn't you bring your record down?

A. I did not expect to go on the witness stand.

Q. You were here yesterday?

A. Yes, sir; I was.

Q. And you expected to come back today, didn't you?

A. Yes, sir.

Q. Why didn't you bring your record with you?

A. If I had known I was going on the witness stand, I would have brought it; I wish I had known it; I have a whole bunch of dates.

MRS. LOUISE J. BARNOLD, sworn in rebuttal, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 359 Undercliff Avenue.

Q. How long have you lived there?

A. About a month and a half.

Q. Previous to that, where did you live?

A. 66 Edgewater Place.

Q. And previous to that?

A. Previous to that, I was boarding with Mrs. Kennedy on Undercliff Avenue.

Q. What can you say about the odors of the Sinclair and Valentine ink factory?

MR. McCARTER.—I object to the question.

Q. What can you say with reference to the odors of the Sinclair and Valentine ink factory during the spring and summer of this year?

A. It has been very sickening.

Q. Have you smelled them.

A. Yes, sir.

Q. During this month at all?

A. Yes, sir.

Q. What days in this month?

A. I have two days here on a slip of paper that I put down; other days I smelt it also.

Q. Where did you make that record?

A. At the time I smelled, September 1st and the 4th.

Q. Where were you on those days?

A. In my flat.

Q. And your flat faces on what?

A. My flat faces on Edgewater Place; it is a rear flat, North of the church.

Q. How did it affect you those days?

A. It gave me a headache, and I had to go and lie down.

Q. How frequently did you get this during the last spring and summer?

A. I have noticed it quite frequently; sometimes it was two and three times a week.

Q. What can you say with reference to the odor; was it always the same, or did it vary?

A. No, sir; sometimes it was stronger, and sometimes it was lighter.

Q. You know Mrs. Murray?

A. Yes, sir.

Q. Did you ever visit her?

A. Yes, sir.

Q. Do you remember visiting Mrs. Murray in 1912?

A. Yes, sir.

Q. Do you know what time of the year it was?

A. It was in the fall.

Q. Why do you fix it as the fall?

A. Because I was visiting her at the time, and the heat was on.

Q. Do you remember having a conversation with Mrs. Murray in reference to the odors from the ink factory?

A. I do, sir.

Q. Mrs. Murray has testified that she never had any conversation with you in reference to the ink factory, and never told you that it made her deathly sick; is that correct?

A. It is not.

Q. Can you tell us what was said by Mrs. Murray?

MR. ROBERT H. McCARTER.—I think the question is "did she say that?"

A. She did.

CROSS-EXAMINATION by Mr. Robert H. McCarter:

Q. What time did you notice it on September 1st of this year?

A. That was in the morning; I noticed it slightly several times during the day.

Q. What time of day was it that you noticed it?

A. It was in the morning; I cannot exactly tell you the time.

Q. Did you make a note of it?

A. No, sir; I just made a note of the day; that was all.

Q. And on the 4th you noticed it?

A. Yes, sir.

Q. What time?

A. That was in the afternoon I noticed it.

Q. What time?

A. I could not exactly say; I did not put the time down; I thought it was sufficient to have the day and the date.

Q. Who suggested that you make these notes?

A. No one but myself.

Q. When did you commence making the notes?

A. Since I came back from California.

Q. When did you come back from California.

A. The 9th of February of this year.

Q. You know Mrs. Harrigan?

A. Yes, sir.

Q. You know her sister?

A. Yes, sir.

Q. Did you come down with them?

A. I came down in the train with them.

Q. No one suggested your making notes?

A. No, sir; I made them of my own accord.

Q. Have you got your notes there?

A. I have: "Lincoln's Birthday"—

Q. Wait a moment; now, on each of the days named on this memorandum that I have got in my hand, you noticed the smell from the ink works?

A. Yes, sir.?

Q. The first I notice is "Lincoln's Birthday;"

that was shortly after you got back from New York?

A. Yes, sir.

Q. Had you seen Mrs. Harrigan between the time of your going home and Lincoln's Birthday?

A. No, sir.

Q. The next time is "Ash Wednesday?"

A. Yes, sir.

Q. I judge from the fact that you put down these holy days, that you are a Catholic?

A. Yes, sir.

Q. The next day is Palm Sunday?

A. Yes, sir.

Q. Did you notice it that day?

A. Yes, sir

Q. Sure of that?

A. Yes, sir.

Q. Easter Sunday?

A. Yes, sir.

Q. And that is the smell that you mean that you noticed on both of these days?

A. Yes, sir.

Q. The same smell that you smelled on Palm Sunday and Easter Sunday?

A. Yes, sir.

Q. There is no doubt about that?

A. No, sir.

Q. How long had you been in California?

A. I was there exactly 11 months.

Q. And where were you before that—in Edgewater?

A. Yes, sir.

Q. Had you heard, while you were away, of the existence of this suit?

A. No, sir.

Q. You had not seen Mrs. Harrigan or any of

her sisters after your return and Lincoln's Birthday?

A. No, sir; I did not.

Q. Now, how do you know this smell came from the ink works?

A. Well, because I was told by Mrs. Murray what the smell was; and once I smelled it I never could forget it.

Q. Now, suppose you were told that upon Palm Sunday and Easter Sunday the ink works were not running, would you still say you smelt the ink works?

A. I know when I smelt it.

MR. ROBERT H. McCARTER.—We offer this marked card, marked for identification, "Murray's memorandum;" I offer it now in evidence. It is a paper that he copied from Mr. Grant.

MR. GOURLEY.—It is the card which he produced in Court as evidence of a statement here in Court.

MR. McCARTER.—We knew that he had no original memorandum of his dates, and we did not ask him for a single date. Mr. Gourley went into the dates. We simply asked him if he had been there with Mr. Grant. We knew he had no original memorandum; then Mr. Gourley said "How did you know?" and he produced this memorandum, and it appeared he had copied it.

THE COURT.—I shall receive it.

Marked "Exhibit G. B. 1."

DR. McKENNA, recalled in rebuttal, testified as follows:

DIRECT EXAMINATION by Mr. Gourley:

Q. Is there any recognized percentage of loss in making printer's ink, between the oil before it is boiled and afterwards?

MR. ROBERT H. McCARTER.—Objected to; it don't appear that this gentleman has ever made printer's ink; it don't appear that he has ever boiled a kettle of linseed oil; it is a mere theory.

THE COURT.—I think his testimony at the outset of the case was to the effect that he had made various experiments with boiling linseed oil in his laboratory.

MR. ROBERT H. McCARTER.—If he has ever weighed—

THE COURT.—I think he is qualified to answer. I shall allow him to answer the question.

A. In boiling linseed oil for the production of printers' ink, the loss is recognized to be as high as 16 per cent.

Q. Do you know Dr. Hennessey's book on linseed oil?

A. Yes, sir.

Q. Is this it here?

A. Yes, sir.

Q. Does that writer support that statement?

A. Yes, sir.

MR. McCARTER.—Objected to.

Q. Do you know Dr. Hennessey's book?

A. Yes, sir.

Q. What do you say to this proposition: "For printer's ink the concentration is carried on until the loss of the weight reaches about 16 per cent."

MR. McCARTER.—Objected to.

Q. Do you or not, agree with that statement?

MR. McCARTER.—Objected to for the same reason.

A. I consider it to be correct; I agree with it.

CROSS-EXAMINATION by Mr. McCarter:

Q. Do you know of any other authority that says that?

A. At the present moment I don't know of any other authority on that particular point of the percentage.

Q. Have you had any experience yourself in measuring before and after boiling to ascertain the percentage of loss?

A. No, sir.

Q. Then the testimony that you have given is entirely dependent upon the statement in the book that you have produced?

A. No, sir.

Q. What else?

A. Upon my observation of the excessive loss which there is, and shrinkage of volume in the boiling of linseed oil; and my knowledge also, that even where the loss is measured, there has no account been taken of the gain in weight by absorp-

tion of oxygen, which, if there was not any such gain, would cause even a larger figure of loss.

Q. Now, to what occasions are you referring when you are speaking of observations; observations when—made when?

A. The largest scale of my observation was at this plant.

Q. On the days you were up there?

A. Yes, sir; I should consider the loss was very much in excess of three per cent.

Q. That is your judgment?

A. Yes, sir.

Q. Based upon your observations of the quantity before and after?

A. Yes, sir.

Q. A surmise based upon that?

A. A judgment based on that.

Q. Any other observations?

A. No, sir.

Q. So that your observations, your judgment, then, is based upon those observations, the days you were there, and the statement in that book you have just referred to?

A. And my acquaintance also with the general theory of the breaking up of the fatty acids—

Q. What grade of varnish are you speaking of in this testimony?

A. I am not speaking of varnish; I am speaking of linseed oil.

Q. Of what specific gravity?

A. I cannot say.

Q. Does that make a difference?

A. Yes, sir.

Q. You have nó idea about that?

A. No definite figures.

MR. GOURLEY.—Your Honor, we cannot conclude now; we have done all we could to hasten the matter. I would like to have an opportunity to send an expert to the plant for the purpose of examining that chamber.

MR. McCARTER.—(Replies).

THE COURT.—The point, as I understand Mr. Gourley to make is, that his experts have not testified, and were not qualified upon construction; but you have put witnesses on the stand who were qualified upon this question of construction; that they have testified that this was an adequate construction for the consuming of this noxious odor. Now, Mr. Gourley's idea is, to call an expert and have him go down there and pass upon that, and see if he can rebut that. Your defence rests, in a large measure, on the idea that you have done everything that you could to abate this nuisance. I cannot see that anything will be accomplished by continuing this matter any further, and I cannot see the use of a further examination there. However, if the Court should conclude that we ought to have another inspection, I will make an order to that effect.

(Further Argument).

Adjourned to a day to be fixed.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Testimony.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Jersey City, New Jersey, on the fourth day of May, 1915, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances:

William E. Ellis, Esq., and William B. Gourley, Esq., for the complainant;

Hon. Robert H. McCarter and George W. C. McCarter, Esq., for the defendant.

MRS. WILLIAM POPP, recalled for the complainant, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. What would you say was the general condition of the Sinclair and Valentine plant since September 11, 1914?

MR. McCARTER.—Owing to the unfortunate interruptions which have occurred in the

progress of this case, we are now presented with a very novel question. Your Honor previously ruled that they could bring the situation down to the date of the then hearing, because we had carried our defensive evidence down to that time; that the character of our questions was such as to make it proper for them to rebut the evidence we had already offered. Then an adjournment occurred from September until the present time, and this question is intended to cover the period from September until the present time,—thus rebutting nothing at all.

We have no apprehension with regard to which has occurred since then, but I should think the ordinary progress of the cause would be subserved, and a stop put to it, by drawing the line somewhere.

Of course, if they carry this thing down until today, it will be up to us, again, to meet that, and I do not know where the thing will stop.

I suggest that to the Court more as a matter of practical convenience than as a legal objection.

MR. GOURLEY.—We were still on our rebuttal when the Court last adjourned. There is no danger of a further adjournment; we will close today.

THE COURT.—I suppose your questions will be very general and short?

MR. ELLIS.—Yes, sir.

THE COURT.—Very well. Go on.

A. No change whatever.

Q. Have you kept a record?

A. Yes, sir.

Q. Have you noticed the smells since the last hearing?

A. Yes, sir.

Q. At whose suggestion did you make this list?

A. You were the man who told me to keep them after the last hearing we had here.

THE COURT.—It makes no difference—she kept them.

THE WITNESS.—I kept them from the last time.

Q. When did you keep them?

A. If I smelled the smell in the house, around the porch or in the yard, I would come into the kitchen and take a lead pencil and mark over the date.

Q. What did you mark, the date?

A. On the calendar.

Q. Will you produce that record and read off the dates?

A. This is since the last time I was here. September 14th—this is 1914—15, 16, 17, 19, 21, 22, 23, 25, 29 and 30th.

The second—

Q. Of October?

A. This is October, yes, sir—the 3, 5, 6, 7, 8, 9, 10, 19, 20, 21, 23, 27, 28, 30 and 31st of October.

This is November—November 1, 2, 4, 5, 7, 11, 12, 13, 16, 17, 18, 21, 23, 24, 25 and 27th. This is in November.

December 11, 12, 14, 15, 16, 19, 21, 22, 23, 28, 29 and 30th.

That is in 1914, and this is January, 1915.

January 7, 8, 18, 19, 20, and the last is the 30th of that month.

Now, the next is February. February 1, 6, 8, 11, 12, 15, 17, 23, 24, 26 and 27th.

Now, March. March 1, 2, 19, 20, 23 and 24th. That is all in March.

The next is in April. April 2, 8, 9, 11, 12, 19, 20, 26, 27 and 29th. That was the last in April.

Q. Have you any in May?

A. No, sir, the 29th of April was the last.

Q. What can you say with reference to the odors on those days that you have given us?

A. Well, just the same as usual, no difference.

Q. Did it affect you in the same way?

A. It affects me just the same.

Q. Do those odors come from the small chimneys.

Objected to as leading.

Q. Where did those odors come from?

A. Sometimes from both chimneys, those two small chimneys, one is a little larger than the other.

MR. McCARTER.—That has been gone into, your Honor.

Q. Where else do the odors come from?

A. From back of the tanks.

Q. What do you mean?

A. I mean this way—I can recall the 29th, April 29th, that is the last time; I seen the odor coming from back of the tank, and I was out on my back porch, and I said to myself—

MR. McCARTER.—Never mind.

A. I have often seen it come from the same place, but this time I went down to see for myself, and when I got there I went down behind the tank, and there was coke and wood; I went right down into the plant, and the blue flame was coming out, and wood and coke—and the pot was a large pot (indicating about 4 feet).

Q. How deep was it?

A. It was a good, deep pot (indicating about 4 feet).

Q. What effect did it have on you?

A. My throat was affected and my nose; I felt like vomiting; it caught me in the throat; and that blue flame was coming—

Q. What date was this?

A. The 29th of April; that was the very last time I smelt it.

Q. Where were you standing with reference to this pot?

A. Right back of it; as near as I could get to it; I was back of this shed where it was boiling on a concrete walk, and I looked under the shed; you could look under and see this pot boiling, and it was the same odor and the same smell.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, this was last April, the 29th?

A. Yes, sir.

Q. And there was a pot in the open yard there with a shed over it?

A. Yes, sir.

Q. Now, the smell you noticed is the same smell that you have been speaking of?

A. Yes, sir.

Q. You did not go down and find out what it was that they were boiling in that open pot?

A. I went near enough to see the stuff in it boiling.

Q. What time was this?

A. Around 11 o'clock, between 10 and 11 o'clock in the morning.

Q. Now, on every one of the days since September 14th that you testify about, was the odor equally strong?

A. Some days it was not so strong as others, but the smell was just the same.

Q. Did you on your memorandum, make any mark to indicate whether it was stronger on some days than others?

A. No, sir, I just put a pencil mark at the date.

Q. What time of the day was it?

A. I did not note any of the days only this one day that I went down to see the pot boiling; I put a circle around that date, being as I saw it boiling; I did not keep any hours or time, only the date.

Q. You have been aware, haven't you, that the New York residents of West Side University Drive, have been making an investigation over there?

A. No, sir.

Q. Haven't you seen any articles in the papers about the stenches from the chemical company and other places there?

A. No, sir, I never heard of it.

Q. Now, you say you see an odor; can you see something that smells?

A. I see this blue flame coming up, and then I always get that odor.

Q. Where is it you live?

A. I live near the factory.

Q. What street do you live on?

A. Edgewater Place.

Q. Where, with reference to the complainant, your sister?

A. There is one lot between her and I; she is one lot from me.

Q. You live nearer to the plant?

A. Yes, sir.

Q. There has been a residence built on Edgewater Place between your sister's house and the plant, hasn't there—since we were here before?

A. Yes, sir.

Q. On the same side of the street?

A. Yes, sir.

Q. How near is that new residence to your place?

A. There are lots between.

Q. There have been four residences built on Undercliff Avenue since then?

A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. You testified on cross-examination, to a residence being erected South of your house?

A. It is an old barn put up there, bought for $50.00; it is a disgrace to the place.

Q. Is anyone living in it?

A. No, sir.

Q. With reference to the four houses built on Edgewater Place, is anyone living in those houses?

A. No, sir.

Q. With reference to the location of the Sinclair and Valentine factory, are they nearer or further away than your house?

A. I think I am as near as anyone, excepting the barn; that is a little nearer than myself.

RE-CROSS EXAMINATION by Mr. McCarter:

Q. Is not that barn that you call it, a residence?
A. No, sir.
Q. Are not they converting it into a residence?
A. It looks like it, but it does not appear to be a right house for that.
Q. But they are converting it into a residence?
A. They are trying to.
Q. The others are all brand new houses?
A. Yes, sir.
Q. And that is true of the four houses on Undercliff Avenue as well?
A. Yes, sir.
Q. And they are occupied, are they not?
A. No, sir.

THE COURT.—This is not cross-examination; you can prove this by your own witnesses.

MRS. MARGARET KENNEDY, being recalled, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Mrs. Kennedy, you testified on September 11th last, didn't you?
A. Yes, sir.
Q. Have you since that time kept a record of any dates?
A. Yes, sir.
Q. At whose suggestion?
A. My own and Mr. Ellis.
Q. How did you keep those dates?
A. On a calendar.

Q. What are these dates?

A. Every time I smelled a bad odor I marked them on the calendars.

Q. The dates of what bad odors did you keep?

A. September, 1914, first—the 4th of September, the 8th of September, the 14th, the 16th, the 17th, the 19th, the 21st, the 23d, the 26th, the 29th, the 30th; October 2d, the 6th, the 7th, the 9th, the 20th, the 23d, the 26th, the 27th, the 28th, the 30th; November the 2d, the 4th, the 5th, the 11th, the 13th, the 16th, the 18th, the 21st, the 23d, the 24th, the 27th; December 11, 12, 14, 16, 21, 22, 23, 29, 30; this is March, 1915: the 1st—

Q How about January?

A. January 7, 8, 20, 29, 30; February the 1st, 11th, 12th, 15th, 23d, 24th, 26th, 27th; March the 1st, 2d, 19, 24, 25; April 2d, 8th, 9th, 10th, 12th, 20th, 21st, 22d, 26th, 29th; that is the last.

Q. What can you say with reference to the odor on these particular days which you have mentioned.

A. They were very bad, the same as ever; sometimes stronger than others; for instance, on the 19th of March, they were very bad.

Q. How do you recollect that?

A. I was out, going through Edgewater Place, and I noticed them very bad, and I marked that date in particular—the only day that I have.

Q. How did they affect you?

A. Burned my throat and my eyes; it was a sort of choking sensation; it was very thick in the air.

Q. At the times that you noticed these odors, where were you?

A. Different times at my home, and going through Edgewater Place and Undercliff Avenue at times, and in my home at times.

CROSS-EXAMINATION by Mr. McCarter:

Q. What time was this on the 19th of March, Mrs. Kennedy?

A. I would judge it was between half-past eight and nine o'clock in the evening.

Q. Is that right?

A. It was around that time; I could not give the minute, but it was between half-past eight and nine o'clock.

Q. Do you know the smell of boiling rosin?

A. No, sir, I could not say that I do.

Q. And I have forgotten where it is that you live?

A. On Undercliff Avenue, 366 Undercliff Avenue; but I know what very bad odors are.

Q. Now, on every one of these days that you have mentioned, you took pains to write some mark on the diary, which indicates that on that day you smelt a particular smell, did you, about which this complaint is?

A. Yes, sir.

Q. There is no mistake about that?

A. There is no mistake whatever.

Q. Would you be surprised to learn that on some of those days the plant was not operating?

A. Then I don't know how we could have got those bad odors.

Q. You never had any odors from any other plant?

A. Yes, sir, but they are not disagreeable, and they did not affect your eyes or throat.

Q. Did you read in the newspapers of the complaint of the people at Riverside Drive?

A. No, sir, I have not.

THE COURT.—What part of Riverside Drive do you refer to?

MR. McCARTER.—A little further out than this.

MRS. ELLEN E. HARRIGAN, the complainant, being recalled, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Mrs. Harrigan, have you a record of the days on which you noticed smells?

A. Yes, sir, I have.

Q. Where did those smells come from?

A. From the Sinclair and Valentine Company's plant.

Q. What part of the plant?

A. Some from the back of the tanks, and some from the two chimneys.

Q. What do you mean by "back of the tanks;" what is down there?

A. One of the Board of Health went down there last September—

Q. What is down there?

A. There are pots boiling down there.

Q. You have seen those pots?

A. Yes, sir.

Q. What can you say with reference to this smell coming from Sinclair and Valentine Company's plant?

A. It is just the same as it was the first day, some times lighter, some times heavier.

Q. Have you seen the fumes coming out?

A. Yes, sir; the clear vapor goes out of the chimney.

Q. Is there any change in the color since you testified before?

A. Sometimes it is clear gas—smoke from the lower chimney—

Q. Kindly read off the dates that you have marked since September 11th of last year?

A. I testified up to the 8th of September, 1914; this is the 14th, 15th, 16th, 17th, 19th, 21st, 22d, 23d, 25th, 29th and 30th. October, 1914—the 2d, 3d, 5th, 6th, 7th, 8th, 9th, 10th, 19th, 20th, 21st, 23d, 26th, 27th, 28th, 30th, 31st. November, 1914: 1st, 2d, 4th, 5th, 7th, 11th, 12th, 13th, 16th, 17th, 18th, 21st, 23d, 24th, 25th, 27th. December, 1914—the 11th, 12th, 14th, 15th, 16th, 19th, 21st, 22d, 23d, 29th and 30th. January, 1915—7th, 8th, 18th, 19th, 20th, 29th and 30th. February, 1915—the 1st, 6th, 8th, 11th, 12th, 15th, 23d, 24th, 26th, 27th. March, 1915—the 1st, 2d, 19th, 20th, 24th and 25th. April, 1915—the 2d, 8th, 9th, 10th, 12th, 19th, 20th, 22d, 26th, 27th and 29th; that is the last I smelled it.

Q. What can you say with reference to the odor on these days which you have given us, and the odor at previous times?

A. Just the same odor; I got the varnish smell, and I got the liseed smell, and I got an acid smell from there; I got different smells from there, but the same original smell is there that it was the first day.

CROSS-EXAMINATION by Mr. McCarter:

Q. You know the difference, then, do you, between the linseed oil smell and the smell of boiling rosin?

A. Yes, sir.

Q. Well, now, you have given us a great many

days here from September 14th; are you able to tell which of those days the odor was linseed oil and which was rosin?

A. No, sir; I don't think I marked that; I have stated where it came from at the time I smelled it.

Q. You don't mean that all those days it was burning linseed oil?

A. No, sir.

Q. Some of these days then, mean rosin?

A. Yes, sir.

Q. In the pots?

A. I got the odor from there, and I got the odor from the chimneys, and I got the rosin the day they had the explosion down there.

Q. Are you able to locate the place where you saw the smoke on these different days?

A. I might.

Q. Whether it was down by the tanks or out of the chimney; are you able to tell us from your notes, on these particular dates?

A. You ask some date, and I will see if I cannot trace it on this paper.

Q. Take September 14th.

A. Of last year?

Q. Yes.

A. It was in the evening I got that, from twenty minutes to six in the evening I got it.

Q. Are you able to locate the place where you saw the smoke on these different days?

A. No, sir.

Q. Are you able to tell on the 15th of September, where it came from?

A. Back of the tank, in the afternoon, until six in the evening, from one until six.

Q. Back of the tank?

A. Yes, sir.

Q. The 16th of September?

A. Very light I got it that day; it came from the factory; we never had those smells until they came there.

Q. Can you tell whether it came from the tank or the chimney on that date?

A. No, sir.

Q. Now, look at your notes, and answer each date with reference to that question alone, whether it came from the tank or the chimney?

A. No, sir.

Q. The 17th of September?

A. Thursday, 11 o'clock in the morning I got it.

Q. I am asking you one question—

A. No, sir, it came from that factory; it came from the South and I got it; it came from the Valentine and Sinclair Company's factory.

Q. The 19th?

A. Saturday morning.

Q. Did it come from the tank?

A. I could not memorize that; Saturday morning—back of the tank, in the afternoon from 4 o'clock till 12 o'clock; and that was the day of the explosion.

Q. September 19th, did you get it from the chimneys?

A. I got it from the chimneys where that pot exploded down there; I came from Union Hill, and I remember it very well.

Q. Turn to the record, February 1, 1915; I want to know whether you are able to tell whether the fumes that you saw came from the chimneys or back of the tanks that day?

A. What date did you ask me?

A. February 1, 1915?

A. In the morning between 11 o'clock and 12 o'clock.

Q. One moment—

A. A smothering smell from that factory; it came when the wind comes from the South; I could not get a smell from any place else.

Q. I ask you whether you noticed on that particular day whether the fumes came from the chimneys or back of the tanks?

A. It was a smothering smell and it came from the South.

Q. Do you know the Chemical Company down at Shady Side?

A. Yes, sir.

Q. Did you ever get any smell from that?

A. Yes, sir, they get that over on Riverside Drive.

Q. I did not ask you that.

A. I know all about it.

Q. The February 1st smell, was that a rosin smell?

A. It was a smothering smell.

Q. Have you compared your notes with Mrs. Popp's?

A. No, sir, I did not know she had any.

Q. She is your own sister?

A. Yes, sir, but we did not know that we should have to go on the witness stand.

Q. So that you have not compared your dates with hers?

A. No, sir.

Q. You have seen her a great many times since then?

A. Every day.

ELLEN SCANLON, being recalled, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You testified June 27th, 1913?

A. Yes, sir.

Q. What can you say with reference to the odors from the Sinclair and Valentine plant since the 27th of June, 1913?

A. It is just the same, no change in it.

Q. Kindly describe it, if you will, as near as you can.

A. It is a choking smell; when it comes my way I have to get out.

Q. You still live in the same house?

A. Yes, sir, at 25 Garden Place.

Q. That is a little to the southwest of the Sinclair and Valentine Company's plant?

A. Yes, sir.

Q. Can you tell us about how often you noticed these odors or noticed those odors since the 27th of June, 1913?

A. I have not got any dates down up to last week.

Q. How often during all this time have you noticed it?

A. Some times twice a week; every time the wind would come that way I would get it good and strong.

Q. What is the character of the odor?

A. It is a choking and a rosin smell, sometimes, and different smells.

Q. Do you know where the rosin smell comes from?

A. Out of the pot; I went and saw it boiling.

Q. What did you see?

A. The first time I went over it was after the last trial; I saw the pot on a hook after being taken off the fire; it was full then.

Q. What kind of odor did you get then?

A. A choking smell; I had to go to New York and come back in the evening.

Q. Did you notice that same odor since?

A. Yes, sir, last Thursday morning.

Q. How did you come to notice it then?

A. I got such a choking the two days before, Wednesday especially, that I thought if I was going to get it the same on Thursday morning, I would go down to the Sinclair and Valentine Company's factory, and I saw the same old pot on the fire; and it was half full; it was not as full as the first time I saw it, and they were cooking it with a wood and coke fire under it; there were odors just the same.

Q. What did you do then?

A. I went home and I told the children—

Q. Never mind that; while you were looking at this pot, did you see anyone else there looking at it?

A. Yes, sir, Mrs. Popp.

Q. Who was there first?

A. I got there first.

Q. To reach Sinclair and Valentine Company's plant from your house, how do you walk?

A. You walk North.

Q. Along what street?

A. Through Edgewater Place.

Q. Edgewater Place has been opened up since the last time you testified?

A. Yes, sir.

CROSS-EXAMINATION by Mr. McCarter:

Q. You know the difference, don't you, between the odor of rosin and this odor from burning linseed oil?

A. Sure.

Q. Are you able to designate a single day since September, or since you were on the witness stand, when you noticed the linseed oil?

A. No, sir, I did not keep any dates only since last week and the first day I saw the pot boiling.

Q. And it was boiling in the open pot?

A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Ellis:

Q. Have you noticed any tenant houses erected at Edgewater Place?

A. Yes, sir, three by Thornton and Hayek.

Q. Where are they located?

A. There are three north of me; three north of me; one on the right hand side and two on the left of Edgewater Place.

Q. Where is that?

A. Right near Mrs. Popp's.

Q. What sort of a house is that?

A. It is a barn.

Q. What are the other houses?

A. They are shells.

Q. Are they new houses?

A. They are built of second-hand lumber on the interior.

Q. Are they occupied?

A. No, sir.

RE-CROSS EXAMINATION by Mr. McCarter:

Q. Have you ever been inside these new houses on the West side of Edgewater Place?

A. Yes, sir.

Q. When?

A. I think it is about three weeks ago.

Q. Well, they are built for occupancy, are they not?

A. Yes, sir.

Q. Who owns them?

A. Hayek and Thornton.

Q. They built them to be occupied?

A. Yes, sir.

Q. They are not quite finished yet, are they?

A. One is.

Q. And the other three are not?

A. The signs are up, yes, sir.

Q. They have just been built?

A. Yes, sir.

Q. Now, I show you this little sketch—here is Edgewater Place, and that is supposed to represent the Sinclair and Valentine Company's plant?

A. Yes, sir.

Q. Are there these four houses that I point to, about at the location they show there?

A. This is going North—no, sir, they are not quite as near as that to the factory.

Q. And the other house, which you say was formerly a barn, is nearer the factory than Mrs. Popp's?

A. Yes, sir.

Q. That is being converted into a residence?

A. They are trying to but they do not seem to be getting very far ahead.

Q. Did you notice some new building on the

East side of Undercliff Avenue, as indicated to you on this sketch?

A. Yes, sir.

Q. How many?

A. Four residences.

Q. They have gone up since last September?

A. Yes, sir.

Q. They are to be occupied as residences?

A. Yes, sir.

Q. They are occupied, are they not?

A. Yes. sir.

MRS. ELIZABETH KNAGGS, sworn.

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you live?

A. 37 Garden Place; it is on the North side of Garden Place.

Q. Do you know where the Sinclair and Valentine Company's factory is?

A. Yes, sir.

Q. With reference to that factory, in what direction are you from the factory?

A. I am about just South of the factory.

Q. Are you not a little to the West?

A. Yes, sir.

Q. Does your house face Garden Place?

A. Yes, sir.

Q. What does your back entrance face?

A. It did face the open lot before they built those houses up against them.

Q. How long have you lived there?

A. We moved in the 26th of February, 1914.

Q. Have you noticed any odors while living there?

MR. McCARTER.—That is opening the whole case; I suppose there has got to be an end to this case sometime.

THE COURT.—I think it is rebuttal; I will allow it.

Q. Have you noticed any odors?

A. I opened my windows in April.

Q. What year?

A. April, 1914; and then I noticed the odor coming.

Q. That is a year ago, you mean?

A. Yes, sir, 1914.

Q. You noticed an odor?

A. Yes, sir.

Q. Did you notice at that time where the odor came from?

A. At that time? No, sir, I did not know at that time.

Q. Did you find out subsequently where it came from?

A. Well, how I found it out, I used to take walks through the lots and walk along Edgewater Place; and this chimney is all made of brick, and you can see that vapor coming out of the chimney—

Q. Did you notice anything about the vapor?

A. I noticed it was a very bad odor.

Q. What kind of an odor?

A. It was very nauseating, and it affected me, and it affected my eyes very much ever since I moved there, and it makes me sick at my stomach, and I have to shut down my windows and sit inside.

Q. Has it made you very sick at your stomach?

A. Yes, sir.

Q. How often would that occur?

A. I should judge three or four times a week.

Q. Have you noticed it the same number of times every week?

A. I could not say about that.

Q. Did you notice it every week?

A. Every week, yes, sir.

Q. Since you have lived in that house?

A. Yes, sir.

Q. When was the last week that you smelled it?

A. Wednesday morning just past, and Thursday it was very bad; every time the wind comes from the North, we always get it; it comes in, comes in our side windows.

Q. Is it stronger when the wind is blowing in your direction than it is when it is not?

A. Yes, sir, very much stronger.

CROSS-EXAMINATION by Mr. McCarter:

Q. Now, Mrs. Knaggs, can you see those chimneys from your house?

A. I could see them until they built these houses up—

Q. Those new houses up right in between your house and the Sinclair and Valentine Company's plant?

A. Not exactly between, they are on the West side of the avenue, and the Sinclair and Valentine Company's plant is on the East Side.

Q. Look at this little sketch. (Witness examines sketch). Now, there is Edgewater Place going North and South; here is the Sinclair and Valentine plant; here is the River Road, and here is the river, and here is Garden Place.

A. If it was this way, I could tell it.

Q. Now, you live about there on Garden Place?

A. What do you mean?

Q. You live between Edgewater Place and Undercliff Avenue on Garden Place?

A. Yes, sir, but on the left to Edgewater Place.

Q. And the houses that I speak of that have been built, are located as about indicated on that sketch on Edgewater Place?

A. Yes, sir.

Q. And are some of those houses occupied?

A. One or two of them are finished, and there are signs on them "For Sale," and the others are not.

Q. Now, did you ever notice smells from any other factory in Edgewater?

A. No, sir.

Q. Have you ever been down there and seen the rosin boiling in the tanks when you noticed this smell?

A. What do you mean?

Q. Have you ever been down there and seen rosin boiling in the tank when you noticed this smell you spoke of?

A. No, sir, I have not.

Q. And you say you have been nauseated?

A. Yes, sir.

Q. Actually vomited?

A. Positively.

Q. When?

A. I had one sick spell last Thursday morning.

Q. Is that the only time?

A. No, sir, I had it all summer; I was not always home—we went away.

Q. I am speaking of the time when you have

been nauseated there; you were sick at your stomach last Thursday morning?

A. Yes, sir.

Q. What time?

A. It was around half-past eight.

Q. Did you make a note of the thing?

A. No, sir.

Q. Whom did you tell about it?

A. My landlord.

Q. Who is that?

A. Mrs. Gotthold.

Q. You told her that on Thursday?

A. No, sir, I did not tell anyone on Thursday.

Q When did you tell Mrs Gotthold?

A. About the smell—

Q. About this Thursday incident?

A. I did not tell her anything about my being sick on Thursday.

Q. I asked you whom you told about the smell on Thursday?

A. I was talking to my son, that is all.

Q. What did you tell Mrs. Harrigan about it?

A. I have not spoken to her; I was introduced to her once on Undercliff Avenue.

Q. Who brought you down here?

A. Mr. Ellis served me with a subpoena.

Q. Yesterday?

A. No, sir, Friday.

Q. What kind of smell was it on last Thursday?

A. The same smell that I have been noticing ever since I have been there.

Q. Whatever the smell was on Thursday, it was the same smell that you have always noticed?

A. Yes, sir, the smell was very bad; I went out around half-past eleven; I always go out in the afternoons.

Q. Did you go out there on Thursday morning?

A. I went on my back stoop.

Q. Could you see from your back stoop?

A. When I went on the sidewalk—I went out on the back porch to get fresh air, and instead of getting it I got worse, and I had to go inside, and then I went out on the sidewalk that runs past our house; it runs at the side of the house.

Q. You mean on your own lot—the sidewalk on your own lot?

A. Yes, sir.

Q. Could you see from the sidewalk?

A. Yes, sir.

Q. The Sinclair and Valentine Company's plant?

A. Yes, sir.

Q. The houses do not interrupt your view?

A. No, sir.

Q. Are you sure about that?

A. Positive.

Q. What did you see on Thursday?

A. Just the same as you would see if coming from a radiator.

Q. When was that?

A. Last Thursday morning.

Q. What time?

A. About half-past eight, I think.

Q. How often do you say you have been sick—every week?

A. I cannot say that I have been sick every week, but I have had very poor health since I moved there.

Q. Have you bad health now?

A. Every now and then I get nauseated at my stomach.

Q. Have you any children?

A. I have one.

Q. When did you move to Edgewater?

A. The 26th of February, 1914.

Q. Where did you move from?

A. The Bronx.

Q. Does your husband work in Edgewater?

A. No, sir; New York.

Q. You know there are a great many factories there, don't you?

A. Where do you mean?

Q. What do you think I am speaking of?

A. I don't know.

Q. Do you know there are a great many factories in Edgewater?

A. Yes, sir.

Q. For instance, the Warner Sugar Refining Works?

A. Yes, sir.

Q. Do you know whether any odor ever comes from that?

A. No odor whatsoever.

Q. How do you know?

A. Because there is always that same one smell.

Q. Do you say there is no odor comes from the Warner Sugar Refining Company?

A. No, sir.

Q. Do you know the General Chemical Company down at Shady Side?

A. No, sir.

Q. Do you ever have any smells from there?

A. No, sir.

MRS. ANNIE PFITZNER, being recalled, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. You live on the East side of Undercliff Avenue?

A. Yes, sir; directly East of the Sinclair and Valentine Company's factory.

Q. In the same house in which you lived on the 27th of June, 1913, when you testified before?

A. Yes, sir; the same house.

Q. You have lived there right along ever since?

A. Yes, sir.

Q. What have you to say with reference to the odors of the Sinclair and Valentine Company's plant from June 27th, 1913, to date?

A. Any time that I ever smelled it, it was just the same smell.

Q. How did it affect you?

A. Just the same; it made me feel sick at the stomach.

Q. Can you tell us how often you noticed that smell at your home?

A. No, sir; I did not keep any dates or any time.

Q. Now, are there any times when you noticed it more than others?

A. Yes, sir; sometimes it was worse than others.

Q. About how often; can you tell us?

A. No, sir; I did not keep any time.

Q. Did you notice it once a week?

MR. McCARTER.—Please don't lead her.

Q. Did the direction of the wind make any difference?

A. When the wind is directly East, that is the time we smell it in the house; and we can smell it when we are coming up from the ferry, also.

Q. (BY THE COURT) What time of the day do you notice it coming up from the ferry?

A. I could not state that.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mrs. Pfitzner, have you ever noticed any difference in these odors?

A. No, sir; never any difference; always the same when I noticed it.

Q. So that the odor that you are speaking of now is not a different odor from the odor you testified to before?

A. No, sir; no different.

Q. (BY THE COURT) Have you been to the factory?

A. No, sir; I never went down.

FURTHER CROSS:

Q. You have two houses there?

A. Yes, sir; two; they are six-family houses.

Q. All occupied?

A. Yes, sir.

MRS. MARIE MUSTER, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Ellis:

Q. Where do you reside?

A. East of the Sinclair and Valentine Company's plant.

Q. On what street?

A. On Undercliff Avenue, 333 Undercliff Avenue.

Q. Do you know the location of the Sinclair and Valentine Company's factory?

A. Yes, sir.

Q. Have you ever been on it?

A. Only as far as Edgewater Place.

Q. Have you noticed anything particular about this factory?

A. The bad odor.

Q. Do you know where the odor comes from?

A. Yes, sir.

Q. How do you know that?

A. Because I walked down as far as Edgewater Place there, and saw it come out of the chimney.

Q. What did you see come out of the chimney?

A. Blue fumes.

Q. What did you notice about them?

A. Very sickening odor.

Q. What do you say with reference to the odors for the past three years?

MR. McCARTER.—I object—for the past three years—I think it ought to be rebuttal.

Q. The last year and a half?

A. It has been just the same.

Q. What do you mean by that?

A. I smell bad odors.

Q. Do they come from the same place?

A. Yes, sir.

Q. Just describe the odors.

A. It makes me feel like vomiting; it is nauseating; it makes you sick at the stomach, and the throat.

Q. Does it affect you in any other way?

A. The eyes.

Q. How often have you noticed these odors?

A. I really did not keep any dates or any times.

Q. (BY THE COURT) Do you remember when you last noticed them?

A. Just recently, but I could not tell you the day, but it is just recently.

Q. Was it within the last two weeks?

A. Yes, sir; within a week.

FURTHER DIRECT:

Q. About how often?

A. I could not tell you.

Q. Would it make any difference in the direction of the wind?

A. When I got the East wind, I got it directly in the house.

CROSS-EXAMINATION by Mr. McCarter:

Q. Mrs. Muster, I will ask you now to confine your attention to the last one and a half years; have you been down to the Sinclair and Valentine Company's works during the last year and a half?

A. No, sir; only as far as Edgewater Place.

Q. When was the last time you were there at the time you noticed this smell?

A. Only last week; I passed through to go to my store to do my shopping.

Q. Did you notice them boiling something in the pot?

A. No, sir; I never went down that near.

Q. You never have actually seen what was going on there?

A. No, sir; only the smoke coming out of the chimneys, and if you get the smoke you get the fumes.

Q. What day last week was it that you say you noticed this smell?

A. I could not tell you what day.

Q. Whom did you speak of this to?

A. No one.

Q. How did Mr. Ellis know about it?

A. I don't know.

Q. You spoke to no one about it?

A. No, sir.

Q. Where do you live with reference to these new houses on Undercliff Avenue?

A. I live South of the new houses on Undercliff Avenue.

Q. Do you live North of Garden Place?

A. No, sir; South of Garden Place; well, I don't know where Garden Place is, to tell the truth.

Q. When you go down to Edgewater Place, how do you go down there?

A. Through our back yard, and cut through the lots.

Q. Do you know where this Mrs. Scanlon lives?

A. Yes, sir.

Q. She lives at Garden Place, I believe?

A. Oh, is that Garden Place?

Q. Yes.

A. I did not know that.

Q. You live below Garden Place?

A. Yes, sir; towards the ferry there from Garden Place, South.

Q. Near the ferry?

A. North of Garden Place, that is it.

Q. North of Garden Place?

A. Yes, sir.

Q. Do you live between Garden Place and the new houses on Undercliff Avenue?

A. No, sir; I am further away from the new houses; the new houses are nearer Garden Place than I am.

Q. Where do you live with reference to Mrs. Pfitzner?

A. Right next door.

Q. Between her two houses?

A. No, sir; her two houses and then mine.

Q. When you go to the ferry, you go down Undercliff Avenue?

A. Yes, sir.

Q. You do not often have occasion to go near Sinclair and Valentine's plant, do you?

A. No, sir; but we are right in back of them, you know.

Q. Have you any children?

Q. How many?

A. Yes, sir.

A. Two.

Q. How old are they?

A. One is 20 and another one 21.

Q. Does your husband work in Edgewater?

A. No, sir.

Q. How long have you lived there?

A. Two years next June.

Q. You came from some other place?

A. From New York

Q. You moved into a new house?

A. Yes, sir.

Q. Who owns your house?

A. We do.

Q. You bought it?

A. My husband and I built it.

Q. You built it then in June, 1913?

A. Yes, sir.

Q. Have you ever been near enough to notice if they were boiling something in pots in the shed?

A. No, sir.

MR. ELLIS.—I offer the calendars that they kept the memorandums on.

MR. McCARTER.—I object to that.

THE COURT.—There is no good burdening the record.

MR. ELLIS.—We offer the maps. I also offer small photographs; they were used, and I believe they were offered sometime ago and have not been marked.

Maps marked "Exhibits C. L. 1, C. L. 2."

MR. GOURLEY.—Some question has been raised about the bill not containing the word "Premises" in the bill, and I think your Honor said that could be done.

MR. McCARTER.—We object to that; this bill was framed, as your Honor will recall, entirely to the alleged nuisance arising from the burning of linseed oil in the manufacture of printers' ink. The odors were alleged to come from structures that were erected on the land in which this burning of linseed oil was said to take place. Upon the application for a preliminary injunction, made before Vice-Chancellor Howell, the testimony on both sides was directed wholly to that. We showed in those affidavits, which have been offered here, that we were then engaged in correcting the trouble, and in disposing of the fumes arising from the burning of linseed oil, and in burning up or causing a complete combustion of the acrolein that goes off from the manufacture of printers' ink, which involves the burning

of linseed oil. All our testimony was wholly directed to that. They, apparently feeling that we had beaten them on that, have now come, and undoubtedly we have shown that some of the smells that the witnesses have testified to on rebuttal, have been smells that come from burning rosin in open vats, right in plain sight—nothing to do with the structure that was complained of at all; and they now seek to amend the bill to cover that thing. There has been no issue framed upon it. There was no complaint heretofore that the rosin was the cause of this trouble at all; and if the bill is going to be amended, we want to answer that thing and meet the issue.

THE COURT.—The evidence, this morning, as I recall it now, was not directed to the rosin alone, was it?

MR. McCarter.—If it was not directed to the rosin, of course, it is competent, but what I am objecting to now is an amendment of this bill to create a new cause of action, namely, the burning of rosin in open vats.

MR. GOURLEY.—The objection was not made by counsel on the other side to the question of amending the bill as to the rosin; that was not the point. The point was, that even as to the noxious vapors, if it came from any other source than the buildings and chimney—

THE COURT.—I remember there was some suggestion about amending the papers. There was some discussion about the amending of the bill in some particulars.

MR. GOURLEY.—Nothing was said about the question of the rosin at all, that was not discussed; what counsel had in mind was the fact—

THE COURT.—I cannot see any material difference in allowing the amendment to go in in conformity with the proofs, as the Court will have to deal with the whole matter. I shall allow the framing of the papers in conformity with the proof.

MR. GOURLEY.—Put it in the third page.

MR. McCARTER.—We object to this amendment. Counsel says that he proposes to amend a verified bill, verified by affidavit, by inserting in the middle paragraph of the third page, in the second lne of that paragraph, the word "premises."

THE COURT.—Put in the word in the very place you need put it in. I shall allow it to go in.

COMPLAINANT RESTS.

SUR-REBUTTAL.

SEYMOUR BARRETT, recalled in sur-rebuttal, testified as follows:

DIRECT EXAMINATION by Mr. McCarter:

Q. Have you the memorandum with you that you kept of the days you were operating and the days you were not operating, burning linseed oil?

A. Yes, sir.

Q. Turn to April 23, 1914.

A. Yes, sir.

Q. Were you operating that day?

A. We were not boiling linseed oil that day.

Q. On the 28th?

A. Yes, sir; April 28, 1914, we did boil linseed oil.

Q. On the 10th of July?

A. On the 10th,—no, sir, we did not boil linseed oil.

Q. On the 17th of July?

A. No, sir; we did not boil linseed oil.

Q. On the 7th of August?

A. On the 7th of August, 1914, no, sir, we did not boil linseed oil.

Q. On the 28th of August?

A. August 28th,—no, sir, we did not boil linseed oil.

Q. Did you boil linseed oil on Palm Sunday or Easter Sunday?

A. We never boil linseed oil on any Sunday.

Q. Turn to September 1, 1914; what time did you commence to boil that day, if you are able to tell from your record?

A. September 1, 1914, we started the fires under the kettles, that is, the wood and coke, at 8 A. M. in the morning.

Q. And in the regular course of events, what time would you commence to boil?

MR. GOURLEY.—I object to this; that is in the original case?

THE COURT.—The objection will be overruled.

Q. If you started your fire at 8 o'clock, what time would linseed oil commence to burn, in the regular course of events?

MR. GOURLEY.—That is objected to.

THE COURT.—The objection is overruled.

A. We started that morning; we started the consumer at 250 degrees at ten o'clock in the morning.

Q. Now, taking up the dates that have been testified to this morning, will you get out your memoranda and tell us for September, 1914, whether you were burning linseed oil on September 14th?

A. September, 1914?

Q. On the 14th of that month?

A. September 14th, yes, sir.

Q On the 15th?

A. Yes, sir.

Q. On the 16th?

A. Yes, sir.

Q. On the 17th?

A. Yes, sir.

Q. On the 19th?

A. No, sir.

Q. On the 21st?

A. Yes, sir.

Q. On the 22nd?

A. Yes, sir.

Q. On the 23rd?

A. Yes, sir.

Q. On the 25th?

A. Yes, sir.

Q. On the 29th?

A. No, sir.

Q. On the 30th?

A. Yes, sir; on the 30th.

Q. October 2nd?

A. October 2nd, yes, sir.

Q. Please run down your memorandum during October, and see if there are any days that you were not operating.

A. October 3rd, no, sir; when I say "No," I mean not boiling linseed oil.

Q. 5th of October?

A. Yes, sir.

Q. 6th of October?

A. Yes, sir.

Q. Any other days that month you were not boiling linseed oil?

A. On the 10th we did not boil—on the 11th, on the 17th, on the 18th.

MR. GOURLEY.—They are charged.

Q. The 19th?

A. Yes, sir.

Q. The 20th?

A. Yes, sir.

Q. The 21st?

A. Yes, sir.

Q. The 23rd?
A. Yes, sir.
Q. The 26th?
A. Yes, sir.
Q. The 27th?
A. Yes, sir.
Q. The 30th?
A. Yes, sir.
Q. The 31st?
A. No, sir.
Q. Now, in November were you operating on the 21st?
A. No, sir.
Q. Were there any other days in November that you were not operating?
A. We did not operate on the first of November.

MR. GOURLEY.—We did not say they did.

MR. McCARTER.—Mrs. Popp said they did.

A. November 3rd we did not operate; November 7th—November 8th—November 14th—November 15th—November 21st.
Q. Now, take December.
A. I did not finish with November; there are other days we did not operate.
Q. What other days?
A. November 22nd we did not operate.
Q. November 26th?

MR. GOURLEY.—That is not charged.

Q. Now, take December; were you operating on the 19th?

A. No, sir.

Q. Take January, 1915?

A. Yes, sir.

Q. Were you operating on the 19th?

A. The 19th of January, yes, sir.

Q. 1915?

A. Yes, sir.

Q. How about the 30th?

A. No, sir.

Q. You are sure about the 19th?

A. January 19th was on Tuesday—we boiled linseed oil, yes, sir.

Q. Now, February 1st?

A. No, sir.

Q. The 6th?

A. No, sir.

Q. The 8th?

A. No, sir.

Q. The 27th?

A. No, sir.

Q. March 20th?

A. No, sir.

Q. April 10th?

A. No, sir.

Q. The 27th?

A. No, sir.

Q. The 29th?

A. Yes, sir.

Q. Some evidence has been given about an explosion on September 19, 1914; do you remember about that?

A. Yes, sir; it was a leak in the casting; there was a crack in the bottom of the still.

Q. Was it an explosion?

A. In a sort of a way; the gases came down in

the fire box after the fires were withdrawn, and exploded—

Q. This has nothing to do with the burning of linseed oil?

A. Not in the least.

Q. Where is this rosin boiled?

A. We boil rosin in that still house, and we boil it in two kettles outside of the linseed oil boiling house.

Q. Now, you were not boiling linseed oil on the 19th of September?

A. No, sir.

Q. Now, this little arrangement you have—whatever you have—for boiling rosin, is entirely distinct from the linseed oil plant?

A. Yes, sir.

Q. Now, how often do you boil rosin, and how is that boiled?

A. In the outside kettle?

Q. Yes.

A. We boil rosin pretty nearly every day in the week out there.

Q. What kind of smell comes from this rosin?

A. (No answer).

Q. (BY THE COURT) Suffocating?

A. No, sir.

FURTHER DIRECT:

Q. Is it anything like the smell from linseed oil?

A. Nothing like linseed oil at all; the vapors from rosin are entirely different from that.

Q. Can you liken it to anything?

A. Well, as near as I can describe it, it might be like—

Q. (BY THE COURT) Its effect—if you can state it?

A. I have smelled plenty of it, but I don't know that I can describe it.

FURTHER DIRECT:

Q. Is it anything like burning pine?

A. Yes, sir; it is like pine wood.

Q. Now, some evidence has been given about last Thursday; did anything occur at the plant last Thursday—the 29th of April?

A. No, sir; we boiled oil that day, but nothing happened; I was around the plant all day long, and I did not notice anything; the system worked as it does every day.

Q. Now, have you got on any of these dates since April, 1914, when there was any accident to your plant, your linseed oil plant?

A. Yes, sir; I have.

Q. When there was any breakdown in the system?

A. Yes, sir; I have got all the records of anything that transpired at all.

Q. Now, what days, if any, since April, 1914, have you got memoranda of, made at the time, indicating that there was a break or accident to your linseed oil plant, that prevented the system from operating successfully?

A. That is including the month of April, 1914?

Q. Yes.

A. On April 8, 1914, at 11 A. M., No. 1 and No. 2 kettles flashed; that means there is a possibility of some of the odor coming out while we are fighting the fires and pumping the kettles out, there is a possibility of the smell arising from the burning

oil coming out from the crevices between the brick work and the roof.

Q. What caused the flashes of oil?

A. It is due mostly to the consuming of the gases there.

Q. Give us any other date.

A. On May 26, 1914, at half-past four P. M., the burner choked for about five minutes.

Q. At what hour?

A. At 4:30 P. M. in the afternoon.

Q. How long did that last?

A. About five minutes; we go and hit it with a piece of pipe.

Q. That was accidental and was disposed of in about five minutes' time?

A. Yes, sir.

Q. Now, go on; what other date, if any?

A. On May 27th, at 6:45 o'clock in the morning, the burner was choked, repaired and started at 7 o'clock.

Q. 15 minutes, then?

A. Yes, sir.

Q. Now, the next day when there was any accident?

A. On June 23rd, 1914, we had a new burner installed that we tried out on a Sunday, and we started the consumer with this new burner on June 23rd, and it did not work very satisfactorily, so the fires were choked and I had the machinist take that new burner off and put the little one that is in use now, I had him put that back again.

Q. What time was that?

A. At 7 A. M. the large burner was removed; I got there at 1 o'clock in the morning and had the large burner removed.

Q. Anything more until September—any cases

in—take September 14th down to the present time —have you any memorandum of any unusual occurrence with the linseed oil apparatus?

A. I had no trouble, no, sir.

Q. From then up to the present time?

A. No, sir.

Q. Now, some evidence was given in rebuttal by Dr. McKenna with reference to the loss in the operation of burning linseed oil; have you made some investigation upon that in the regular course of your manufacture?

A. I have, some.

MR. GOURLEY.—One minute; this has been gone into by this same witness.

MR. McCARTER.—The situation, as my son reminds me, is just this: during Mr. Barrett's testimony he stated one instance of the weight before and after—indicating how much loss had occurred through the exudation of the linseed oil, and he gives evidence of one experiment or one test. Then along comes Dr. McKenna, who read from some chemical book, and showed that that book said there was a loss of some 15 per cent, or 16 per cent. Now, whether it is technically rebuttal or not, we would like to show that, since that evidence has been given, this witness has by actual test of different kinds of oil—of course, everything depends on the specific gravity, as Dr. McKenna admitted, of the oil—he has found differences of certain amounts; it is not theory, it is actual fact; and if your Honor will look at Dr. McKenna's testimony, he said it depended entirely upon the specific gravity of the oil; and we desire to show by this witness

what the average specific gravity of the oil is, and what the weight is before and after that specific gravity; I think it is competent, your Honor.

THE COURT.—I will note an objection to it, and I think I will admit it.

Q. Now, Mr. Barrett, just state; is this a memorandum of what you did?

A. Yes, sir.

Q. You may use it. Tell us what you discovered; in the first place, I will ask you, in the manufacture of your ink such as you make up there, what specific gravity of oil do you generally use; what is the type of the oil; give us the tests.

A. Four degrees is next to our softest grade—

Q. That is the type of finished varnish?

A. Yes, sir; this is raw linseed oil, boiled to these various grades of varnishes; four degrees is next to our softest grade; I weighed six barrels of oil—net weight 2,092 pounds. After finishing the 4 degree varnish, I re-weighed that varnish—it weighed 2,061 pounds—a loss of 31 pounds.

Q. Now, take the next one.

A. The next grade is 00—00 or No. 00 are medium grades of our varnishes, and the ones that we produce the most of. On 00 six barrels weigh 2,162 pounds, before; after, 2,125 pounds—difference 37 pounds.

Q. The single 0?

A. Single 0 six barrels weigh 2,076 pounds before; 2,029 pounds after—showing a loss of 47 pounds. No. 1 varnish, six barrels, before, 2,262 pounds—after, 2,198 pounds—showing a loss of 64 pounds. No. 2, six barrels weigh 2,203 pounds, be-

fore—after, 2,122 pounds, showing a loss of 81 pounds. No. 3, varnish—six barrels before, 2,179 pounds—after, 2,084 pounds, showing a loss of 95 pounds. No. 5 varnish—six barrels weigh 2,093 pounds, before—1,985 pounds after; showing a loss of 108 pounds. No. 8, which is the heaviest grade that we make, and seldom make, and it is bordering on to what the linseed oil people call confections—sweetmeats. No. 8, six barrels, before, 2,240 pounds—after, 2,125 pounds, showing a loss of 115 pounds.

Q. Some evidence has been given of some dwelling houses that have been built in this vicinity since our last hearing; just tell the Vice-Chancellor about them.

THE COURT.—That is not rebuttal at all; it is simply reopening your case; I know there are houses there, if that is all you want; I know they are building houses there.

MR. GOURLEY.—Perhaps, they are speculating on the result of this case.

Q. Look at your notes again of May 26th and 27th, 1914.

A. Yes, sir.

Q. Can you tell what time the oil commenced to boil that day; are you able to tell us from your notes to what temperature the oil had reached at the time your accident happened on May 27th?

A. Yes, sir; I can tell you; the temperature was 250 degrees, because a man had just started this burner when he telephoned for me to come up to the plant, and I told him to open—

Q. Never mind that. Now, June 23rd; what

temperature had the oil reached at the time of the accident?

A. The temperature then at that time—the fuel oil consumer was started at six o'clock that morning.

CROSS-EXAMINATION by Mr. Gourley:

Q. These days that you have mentioned as not burning linseed oil—were you boiling rosin?

A. If I can refer to my book. I say, most every day.

Q. The 19th of September last, were you boiling rosin?

A. That is the day we had trouble with the still leak—had a fire in the still—not on the outside kettles, no, sir—rosin was in the still.

Q. The 29th of September, were you burning rosin?

A. Not in the outside kettles.

Q. Anything?

A. Yes, sir; in the still room.

Q. Were you burning rosin, I ask you?

A. We were boiling in the still room, yes, sir.

Q. The 3rd of October were you burning rosin?

A. No, sir.

Q. On the 10th of October were you burning rosin?

A. Yes, sir.

Q. The 31st of October were you burning rosin?

A. No, sir; we did not boil it at all that day.

Q. (BY THE COURT) Where were you burning it on the 10th of October?

A. In the outside kettle.

FURTHER CROSS:

Q. November 21st?

A. No, sir.
Q. The 19th of December?
A. No, sir.
Q. The 30th of January?
A. Yes, sir; inside the still room.
Q. The 1st of February?
A. Yes, sir; in the outside kettle.
Q. The 6th of February?
A. No, sir.
Q. The 8th of February?
A. No, sir.
Q. The 27th of February?
A. No, sir.
Q. The 20th of March?
A. No, sir.
Q. The 10th of April?
A. No, sir.
Q. The 27th of April?
A. Yes, sir; in the outside kettle.
Q. Were those memorandums made in your handwriting?
A. Yes, sir.
Q. And by you?
A. Yes, sir.
Q. And made when?
A. At the expiration of the business of the day.
Q. What time, as a matter of practice?
A. Any time that is convenient to enter them up.
Q. But during the day?
A. Yes, sir; during each day.
Q. From September last, since you were last here, until now, was the business carried on in the same way?
A. Ever since I came to that plant in Edgewater, it has been carried on in the same way.
Q. As to your burning oil and boiling rosin,

there has been no change in your system since last September?

A. Oh, no; we operate the same way.

Q. Just tell me what time this gas is turned off since last September, in the ovens?

Q. The consumer, you mean?

Q. Yes.

A. All hours of the night, whenever the kettle is down to the temperature to shut them off.

Q. Now, these tests that you made were made for the purpose of testifying here, naturally?

A. No, sir; not particularly; I wanted them for the use of the main office, so that the clerks over there could figure up the actual losses on linseed oil; I did it of my own free will, and so that I would know the loss myself.

Q. You heard the testimony of 16 per cent.?

A. Yes, sir.

Q. You heard the authority from some chemical book?

A. Yes, sir.

Q. Now, of course, I assume if one desired, they could burn oil and have very little loss?

A. I don't understand that question.

Q. If you set out to have a small loss in burning oil, could you not create conditions that would do that?

A. No, sir.

Q. Then do I understand the heavier the oil the greater the loss?

A. Yes, sir.

Q. These barrels were weighed by whom?

A. By myself.

Q. On what scale?

A. On a Fairbanks' scale.

Q. Now, you spoke something about this temporary defect of the gas burner?

A. Yes, sir.

Q. Now, when did you ascertain the fact, that there was something wrong with the gas?

A. I was telephoned for; the man started the burner, and he found it was choked, and he telephoned for me to come up, and I went up there.

Q. When was the new burner put in?

A. We tried the burner out on a Sunday to see if it would work.

Q. Did that burner work that Sunday?

A. Yes, sir.

Q. Was it before or after this so-called accident?

A. We tried it out on a Sunday before this accident.

Q. It worked all right then?

A. Yes, sir.

Q. What day of the week was it that it did not work right?

A. The following day.

Q. What was the complaint?

A. He could not light this burner.

Q. Is any examination made during the process, from the time it is lit; is any examination made to see the quantity of the flame?

A. I am in and out of that room every five or ten minutes of the day.

Q. (Question read).

A. Yes, sir; I examine it every time it is in operation.

Q. Examine it when?

A. Maybe every ten minutes in the day I go in that room.

Q. Now, do you want the Court to understand you go into that room purposely—

A. I don't open the chamber door; I can see the flame from the door.

Q. You can see it through this little aperture that admits the air?

A. Yes, sir.

Q. Do you do that every ten or fifteen minutes?

A. I do that about every ten minutes of the day.

Q. Then you are apprehensive that it will not burn properly?

A. No, sir; not for that.

Q. Then, what is the object of your visiting it every ten or fifteen minutes?

MR. McCARTER.—This is not cross-examination.

RE-DIRECT EXAMINATION by Mr. McCarter:

Q. Now, Mr. Barrett, I don't want you to go back to the time prior to the last testimony; but, coming down from the last time we were here, which I believe was in September, what has been the success or failure of this plan for disposing of the fumes from the burning linseed oil?

MR. GOURLEY.—One minute—if you open that door—

Q. Has there been any smell from the linseed oil in the regular manufacture there since we were here before, that you have noticed?

A. I don't know of any smell that I could detect from linseed oil at all; it seems perfect to me.

Q. Now, this question of rosin comes up today for the first time; now, about this still that is inside; just explain that and explain any odors that

come from that; and then explain the rosin outside.

A. Well, from the rosin still there can be no possibility of any odors, because the still is sealed up—a head is put on; after the still is charged the head is put on and sealed.

Q. So that it is impossible for any odors to come from the inside still?

A. That is right; that comes through coil.

Q. Explain to the Vice-Chancellor and to me the process of distilling rosin in the inside apparatus; there cannot be any smell from the inside?

A. No, sir.

Q. On some occasions you have burned rosin on the outside?

A. Yes, sir.

Q. Just how?

A. We put a certain amount of water and a certain amount of sal. soda, and a certain proportion of rosin in a kettle.

Q. The kettle is where?

A. Two of them outside of the linseed oil boiling house, in the yard under a roof, under a shed.

Q. And under the vats what do you put?

A. Under the pits, we put a wood and coke fire and start them up.

Q. And those are right on the floor level?

A. Yes, sir.

Q. And from that you say sometimes an odor does come, this piney odor that you speak of?

A. That is all.

Q. That is the outside?

A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Gourley:

Q. You said that was quite a different odor than what came from the burning oil?

A. I say the odor from linseed oil is a vast difference between the odor from rosin.

Q. What is that difference?

A. The linseed oil odor is pretty bad; if you get it good and strong, it is bad; but rosin don't smell hardly at all when it is burned.

Q. So the people outside would get it good and bad if this chamber did not consume it?

A. Yes, sir; if this thing did not work all right, they would get it.

BOTH SIDES REST.

MR. McCARTER.—Your Honor, I think we are through, and yet if we could come back at two o'clock we could finally decide, but I think we are all through.

MR. GOURLEY.—We are all through.

MR. McCARTER.—Now, suppose we are through, will your Honor take up the summing up this afternoon or wait until tomorrow morning?

THE COURT.—Well, I suppose you are entitled to wait until tomorrow morning.

RECESS TO 2 P. M.

AFTER RECESS.

MR. McCARTER.—We have nothing further to offer.

EXHIBIT G-B-1.

Fake runs at the ink plant

Friday, June 6, 1913.
Monday, June 9, 1913.
Tuesday, June 24, 1913.
Thursday, June 26, 1913.
Tuesday, Jan. 20, 1914.
Tuesday, Jan. 13, bad smell, notified Mr. Barrett, They had trouble with oil. Zero weather.

EXHIBIT.

December 16, 1911.

Messrs. Sinclair & Valentine,
611 West 129th St.,
New York City.

Dear Sirs:

This Board has received information that you are the owners of the property in Edgewater on the west side of the River Road opposite the Sugar Refinery on which property you are erecting a factory. If these facts are correct, we are obliged to call your attention to the nuisance existing there concerning which we have received many complaints.

In the first place, the smell rising from the building in the rear of your plant in which you have apparently already begun some form of manufacturing, affects the entire neighborhood, and has become a nuisance and a menace to the health of the residents, and something should be done to abate

it. Will you be kind enough to see the nuisance is stopped.

It has also been noted that the sewer immediately adjoining your property on the north, since you have commenced building operations, has overflowed and now runs across the side walk. If this has been caused through any act of yours, please be kind enough to remedy it.

There also seems to be no reason why the side walk should become impassible by reason of the mud and dirt from your premises. It would be an easy matter, it seems, with a little care on your part, to have this side walk in a fit condition for pedestrians.

Trusting you will give these matters your immediate attention and advise us how soon we may expect that this nuisance of the odor from your factory will be abated.

Yours very truly,

ARTHUR J. CARLETON,
Secretary.

EXHIBIT.

Dec. 20, 1911.

Mr. Arthur J. Carleton,
Secretary, Board of Health,
Edgewater, N. J.

Dear Sir:

Your letter of Dec. 16th duly received and is very much appreciated.

SEWER—Regarding this matter, beg to say that this sewer does not belong to us and at the

present time is injuring our property very much indeed. You ask if we have done anything to disturb the sewer and in reply beg to say that we have not. The sewer formerly overflowed our property, but since we have put up the new building the sewer runs alongside the new wall and is damaging our property. We would appreciate it very much if you will direct the proper authorities to look into this matter as it is doing serious damage.

SIDE-WALK—We have given explicit instructions that the side walk must be kept absolutely clear. The writer personally made an inspection this morning and found no obstructions at all on the side-walk and this will be kept up. We want to co-operate with you in every way.

MANUFACTURING — Our building is only partly completed and we are manufacturing in a small way. When we have finished our construction we believe you will have no fault to find as we expect to burn anything that might be objectionable. We beg to say, however, that at the present time whatever odor you get is absolutely healthful and there is absolutely nothing injurious in any way.

The Board of Health of the City of New York, who you know are very particular, allow the same process of manufacture to be continued right in the heart of the Bronx, where it is thickly populated, and we can also say the same thing about Brooklyn. They are doing the very same work only in very much larger quantities.

We believe when we have our factory complete that you will be well pleased with the addition of our business in Edgewater and you will have no

fault to find whatsoever. It is our desire to co-operate with you in every way. The writer would personally be very glad to make your personal acquaintance, which he hopes to do at an early date.

Yours truly,

SINCLAIR & VALENTINE CO.,
Francis D. Sinclair, Pres.

FMS-B

EXHIBIT.

January 12th, 1914.

Messrs. Sinclair & Valentine,
Edgewater, New Jersey.

Dear Sirs:

Numerous complaints have been made to this Board in reference to the vapors and odors arising from your factory at Edgewater; and, at a meeting held on Friday last (January 9th), I was directed to notify you to attend at a special meeting of our Board, to be held in the Municipal Building, at Edgewater, New Jersey, on Friday Evening next (January 16th), at 8:30 o'clock, in reference to this matter.

Very truly yours,

BOARD OF HEALTH,
By Arthur J. Carleton,
Secretary.

EXHIBIT.

January 16th, 1914.

The Board of Health,
Edgewater, New Jersey.

Gentlemen:

We acknowledge receipt of your letter of the 12th, which was just delievered to us this morning. Note that you would like us to attend a special meeting of the Board to be held this evening at 8:30 o'clock.

You are undoubtedly aware that at the present time there is suit pending in reference to our Edgewater plant, and even though we did attend the meeting tonight, we could not make any statement whatsoever, until the suit above mentioned is settled.

Sorry to advise you to this effect, but we are doing so on advice of our counsel.

Trusting that you will realize our position in the matter, we are,

Yours truly,

SINCLAIR & VALENTINE CO.,
A. O. E.

AOE-E

Exhibit—Defendants' Factory Record

MAY, 1913.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Thurs. 1/13	Yes				
Fri. 2/13	Yes				
Sat. 3/13	No				
Sun. 4/13	No				
Mon. 5/13	Yes				
Tues. 6/13	Yes				
Wed. 7/13	Yes				
Thurs. 8/13	Yes				
Fri. 9/13	Yes				
Sat. 10/13	No				
Sun. 11/13	No				
Mon. 12/13	Yes				
Tues. 13/13	Yes				
Wed. 14/13	Yes				
Thurs. 15/13	Yes				
Fri. 16/13	Yes				
Sat. 17/13	No				
Sun. 18/13	No				
Mon. 19/13	Yes				
Tues. 20/13	No				
Wed. 21/13	Yes				
Thurs. 22/13	Yes				
Fri. 23/13	Yes				
Sat. 24/13	No				
Sun. 25/13	No				
Mon. 26/13	Yes				
Tues. 27/13	Yes				
Wed. 28/13	Yes				
Thurs. 29/13	No				
Fri. 30/13	No				
Sat. 31/13	No				

Exhibit—Defendants' Factory Record

JUNE, 1913.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Sun. 1/13	No	.....	.....	.....	.....
Mon. 2/13	Yes	.....	.....	.....	.....
Tues. 3/13	Yes	.....	.....	.....	.....
Wed. 4/13	Yes	.....	.....	.....	.....
Thurs. 5/13	Yes	.....	.....	.....	.....
Fri. 6/13	No	.....	.....	.....	Murray & Grand
Sat. 7/13	No	.....	.....	.....	.....
Sun. 8/13	No	.....	.....	.....	.....
Mon. 9/13	No	.....	.....	.....	.....
Tues. 10/13	No	.....	.....	.....	.....
Wed. 11/13	Yes	.....	.....	.....	.....
Thurs. 12/13	Yes	7 A. M.	8:45 A. M.	11 A. M. 555°-550°	12:15 P. M. 250°-230°
Fri. 13/13	Yes	6:45 A. M.	8:30 A. M.	10:30 A. M. 560°-520°	11 P. M. 250°-235°
Sat. 14/13	No	.....	.....	.....	.....
Sun. 15/13	No	.....	.....	.....	.....
Mon. 16/13	Yes	7:30 A. M.	9:15 A. M.	12 A. M. 570°-550°	2 A. M. 250°-245°
Tues. 17/13	Yes	5:15 A. M.	7 A. M.	9 A. M. 560° 550°	10:30 P. M. 250°-225°
Wed. 18/13	Yes	5:15 A. M.	7 A. M.	10 A. M. 575°-560°	10:30 P. M. 250°-230°
Thurs. 19/13	Yes	5:10 A. M.	7 A. M.	10:15 A. M. 570°-550°	10:15 P. M. 250°-225°
Fri. 20/13	Yes	5:10 A. M.	7 A. M.	10 A. M. 575°-535° Storm	7:20 P. M. 340°-325°
Sat. 21/13	No	.....	.....	.....	.....
Sun. 22/13	No	.....	.....	.....	.....
Mon. 23/13	Yes	7:40 A. M.	9:30 A. M.	11:45 A. M. 550°-525°	11:45 P. M. 250°-225°
Tues. 24/13	No	.....	.....	.....	.....
Wed. 25/13	Yes	5:15 A. M.	7:15 A. M.	10 A. M. 580°-560°	10:30 P. M. 250°-230°
Thurs. 26/13	No	.....	.....	.....	Murray & Grand
Fri. 27/13	No	.....	.....	.....	.....
Sat. 28/13	No	.....	.....	.....	.....
Sun. 29/13	No	.....	.....	.....	.....
Mon. 30/13	Yes	7:30 A. M.	9 A. M.	10:30 A. M. 550°-500°	10:15 P. M. 250°-200°

Exhibit—Defendants' Factory Record

JULY, 1913.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Tues. 1/13	No	.....	.....	.....	.....
Wed. 2/13	Yes	5:15 A. M.	7 A. M.	9 A. M. 575°-560°	10:30 P. M. 250°-230°
Thurs 3/13	No	.....	.....	.....	.....
Fri. 4/13	No	.....	.....	.....	.....
Sat. 5/13	No	.....	.....	.....	.....
Sun. 6/13	No	.....	.....	.....	.....
Mon. 7/13	Yes	7:30 A. M.	9:15 A. M.	10:30 A. M. 590°-560°	11 P. M. 250°-225°
Tues. 8/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 585°-560°	10 P. M. 250°-220°
Wed. 9/13	Yes	5:15 A. M.	7 A. M.	10 A. M. 550°-530°	9 P. M. 250°-220°
Thurs. 10/13	Yes	6:05 A. M.	7:45 A. M.	10:30 A. M. 560°-555°	10 P. M. 250°-230°
Fri. 11/13	Yes	5:45 A. M.	7:15 A. M.	10 A. M. 560°-550°	10 P. M. 250°-235°
Sat. 12/13	No	.....	.....	.....	.....
Sun. 13/13	No	.....	.....	.....	.....
Mon. 14/13	Yes	7:35 A. M.	9: 15 A. M.	11:25 A. M. 550°-525	10:30 P. M. 250°-220°
Tues. 15/13	Yes	6 A. M.	7:45 A. M.	10 A. M. 580°-565°	1:30 P. M. 300°-215°
Wed. 16/13	No	.....	.....	.....	.....
Thurs. 17/13	Yes	5:15 A. M.	7 A. M.	9:30 A. M. 560-550	10 P. M. 250-230
Fri. 18/13	Yes	6 A. M.	7:15 A. M.	11:15 A. M. 560-555	11 P. M 250-240
Sat. 19/13	No	.....	.....	.....	.....
Sun. 20/13	No	.....	.....	.....	.....
Mon. 21/13	No	.....	.....	.....	.....
Tues. 22/13	Yes	5 A. M.	7:30 A. M.	9:30 A. M. 560°-530°	1 A. M. 250°-220°
Wed. 23/13	Yes	6:45 A. M.	8:30 A. M.	10:30 A. M. 560°-550°	12 P. M. 250°-240°-220°
Thurs. 24/13	Yes	6 A. M.	7:45 A. M.	10:30 A. M. 570°-560°	5 P. M. Pumped Kettles
Fri. 25/13	Yes	6 A. M.	7:30 A. M.	9:15 A. M. 560°-550°	5 P. M. Pumped Kettles
Sat. 26/13	No	.....	.....	.....	.....
Sun. 27/13	No	.....	.....	.....	.....
Mon. 28/13	Yes	7:30 A. M.	8:30 A. M.	11:15 A. M. 560°-555°	4:45 P. M. Pumped Kettles
Tues. 29/13	Yes	6:30 A. M.	8 A. M.	10:45 A. M. 575°-550°	5:00 P. M. Pumped Kettles
Wed. 30/13	Yes	5:15 A. M.	7:15 A. M.	10 A. M. 580°-560°	9:30 P. M. 250°-225°
Thurs. 31/13	No	.....	.....	.....	.....

AUGUST, 1913.

Exhibit—Defendants' Factory Record

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Fri. 1/13	Yes	6:30 A. M.	8 A. M.	10:30 A. M. 560°-550°	4:45 P. M. Kettles Pumped
Sat. 2/13	No	.....	.....	.....	.....
Sun. 3/13	No	.....	.....	.....	.....
Mon. 4/13	Yes	7 A. M.	8:45 A. M.	11:30 A. M. 565°-550°	4:30 P. M. Kettles Pumped
Tues. 5/13	Yes	6 A. M.	8 A. M.	9:45 A. M. 550°-550°	4 P. M. Kettles Pumped
Wed. 6/13	Yes	6 A. M.	7:30 A. M.	9:45 A. M. 565°-560°	4:30 P. M. Kettles Pumped
Thurs. 7/13	Yes	6:30 A. M.	8 A. M.	10 A. M. 575°-565°	1 A. M. 250-225
Fri. 8/13	Yes	6 A. M.	7:45 A. M.	9:15 A. M. 550°-425°	10 P. M. 250-200
Sat. 9/13	No	.....	.....	.....	.....
Sun. 10/13	No	.....	.....	.....	.....
Mon. 11/13	Yes	7:30 A. M.	9 A. M.	11 A. M. 550°-525°	4:45 P. M. Kettles Pumped
Tues. 12/13	Yes	5 A. M.	7 A. M.	9 A. M. 570°-560°	4:30 P. M. Kettles Pumped
Wed. 13/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 560°-560°	4:45 P. M. Kettles Pumped
Thurs. 14/13	Yes	6 A. M.	7:30 A. M.	9:30 A. M. 560°-550°	4:30 P. M. Kettles Pumped
Fri. 15/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 580°-550°	10:45 P. M. 250°-220°
Sat. 16/13	No	.....	.....	.....	.....
Sun. 17/13	No	.....	.....	.....	.....
Mon. 18/13	Yes	7:30 A. M.	9 A. M.	11:15 A. M. 555°-555°	4:30 P. M. Kettles Pumped
Tues. 19/13	Yes	6 A. M.	7:30 A. M.	9:30 A. M. 560°-560°	4:30 P. M. Kettles Pumped
Wed. 20/13	Yes	6 A. M.	7:45 A. M.	9:30 A. M. 560°-550°	4 P. M. Kettles Pumped
Thurs. 21/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 560°-550°	4 P. M. Kettles Pumped
Fri. 22/13	Yes	6 A. M.	7:30 A. M.	9:45 A. M. 565°-550°	4:15 P. M. Kettles Pumped
Sat. 23/13	No	.....	.....	.....	.....
Sun. 24/13	No	.....	.....	.....	.....
Mon. 25/13	Yes	7:30 A. M.	8:45 A. M.	11 A. M. 550-560	12 P. M 250°-250°-240°
Tues. 26/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 570°-550°	1 A. M. 250°-240°
Wed. 27/13	Yes	7:30 A. M.	9 A. M.	11 A. M 560°-550°	11 P. M. 250°-240°
Thurs. 28/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 580°-550°	1 A. M. 250°-250°
Fri. 29/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 560°-540°	12 M.
Sat. 30/13	No	.....	.....	.....	.....
Sun. 31/13	No	.....	.....	.....	.....

Exhibit—Defendants' Factory Record

SEPT., 1913.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Mon. 1/13	No	.....	.....	.....	.....
Tues. 2/13	Yes	7:30 A. M.	9 A. M.	11 A. M. 560°-550°	1:30 A. M.
Wed. 3/13	Yes	6:45 A. M.	8;15 A. M.	10:30 A. M. 550°-550°	1 A. M. Power off 6:30 10 min 300° Heat
Thurs. 4/13	Yes	6 A. M.	7:30 A. M.	10:20 A. M. 550°-560° 550°	Power off at 11 P. M. on a/c Elec. Storm
Fri. 5/13	Yes	6 A. M.	7:30 A. M.	10:30 A. M. 550°-540°	1:30 A. M.
Sat. 6/13	No	.....	.....	.....	.....
Sun. 7/13	No	.....	.....	.....	.....
Mon. 8/13	Yes	7:30 A. M.	9 A. M.	11 A. M. 550-550	12 P. M. worn fuse out
Tues. 9/13	Yes	6 A. M.	7:15 A.M.	9:25 A. M. 575-550	11 P. M.
Wed. 10/13	Yes	6 A. M.	7:15 A.M.	9:30 A. M. 575°-550°	10 P. M.
Thurs. 11/13	Yes	5:50 A. M.	7 A. M.	9:20 A. M. 575-560	11 P. M.
Fri. 12/13	Yes	6 A. M.	7:15 A. M.	10:15 A. M. 580-560	12 P. M.
Sat. 13/13	No	.....	.....	.....	.....
Sun. 14/13	No	.....	.....	.....	.....
Mon. 15/13	Yes	7:30 A. M.	9 A. M.	10:45 A. M. 560°-550°	12 P. M.
Tues. 16/13	Yes	6 A. M.	7:30 A. M.	9:30 A. M. 550°-550°	11 P. M.
Wed. 17/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 550-550	11:30 P. M.
Thurs. 18/13	Yes	6 A. M.	7:30 A. M.	10:05 A. M. 570-560	12 P. M.
Fri. 19/13	Yes	6 A. M.	7:15 A. M.	9:25 A. M. 560-550	12 P. M.
Sat. 20/13	No	.....	.....	.....	.....
Sun. 21/13	No	.....	.....	.....	.....
Mon. 22/13	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-560	12 P. M.
Tues. 23/13	Yes	6 A. M.	7:30 A. M.	9:30 A. M. 560-550	10:30 P. M.
Wed. 24/13	Yes	6 A. M.	7:15 A. M.	9:30 A. M. 570-550	12 P. M.
Thurs. 25/13	Yes	6 A. M.	7:30 A. M.	9:45 A. M. 570-570	11:30 P. M.
Fri. 26/13	Yes	6 A. M.	7:15 A. M.	9:30 A. M. 570-560	12 P. M.
Sat. 27/13	No	.....	.....	.....	.....
Sun. 28/13	No	.....	.....	.....	.....
Mon. 29/13	Yes	6:30 A. M.	8 A. M.	10 A. M. 560-550	12:30 P. M.
Tues. 30/13	Yes	6 A. M.	7:30 A. M.	9:20 A. M. 565°-560	11:30 P. M.

Exhibit--Defendants' Factory Record

OCTOBER, 1913.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Wed. 1/13	Yes	6 A. M.	7:30 A. M.	9:40 A. M. 560-570	12:30 P. M.
Thurs. 2/13	Yes	6 A. M.	7:30 A. M.	9:30 A. M. 560-550	12 P. M.
Fri. 3/13	Yes	6 A. M.	7:15 A. M.	9:40 A. M. 570-560	12:30 P. M.
Sat. 4/13	No	.....	.....	.....	.....
Sun. 5/13	No	.....	.....	.....	.....
Mon. 6/13	Yes	7:30 A. M.	9 A. M.	11 A. M. 570-560	12:30 P. M.
Tues. 7/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 570-560	12:00 P. M.
Wed. 8/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 570-550	12 P. M.
Thurs. 9/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 570-560	11:30 P. M.
Fri. 10/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 570-560	11:30 P. M.
Sat. 11/13	No	.....	.....	.....	.....
Sun. 12/13	No	.....	.....	.....	.....
Mon. 13/13	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-565	1 A. M.
Tues. 14/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-560	12:30 A. M.
Wed. 15/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 560-550	11:45 P. M.
Thurs. 16/13	Yes	6 A. M.	7:15 A. M.	10:15 A. M. 560-560	12 P. M.
Fri. 17/13	Yes	7 A. M.	8:45 A. M.	11 A. M. 550-500	10:30 P. M.
Sat. 18/13	No	.....	.....	.....	.....
Sun. 19/13	No	.....	.....	.....	.....
Mon. 20/13	Yes	7:30 A. M.	9 A. M.	11:55 A. M. 575-550	1 A. M.
Tues. 21/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580°-500°	12:30 P. M.
Wed. 22/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 450°-580°	12 P. M.
Thurs. 23/13	Yes	6 A. M.	7:15 A. M	10:30 A. M. 560°-550°	11:30 P. M.
Fri. 24/13	No	.....	.....	.....	.....
Sat. 25/13	No	.....	.....	.....	.....
Sun. 26/13	No	.....	.....	.....	.....
Mon. 27/13	Yes	7:30 A. M.	9 A. M.	11:45 A. M. 560-550	11:30 P. M.
Tues. 28/13	No	.....	.....	.....	.....
Wed. 29/13	Yes	6 A. M.	7:40 A. M.	9:30 A. M. 575-560	11:30 P. M.
Thurs. 30/13	No	.....	.....	.....	.....
Fri. 31/13	No	.....	.....	.....	.....

Exhibit—Defendants' Factory Record

NOVEMBER, 1913.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Sat. Nov. 1/13	No	.....	.....	.....	.....
Sun. Nov. 2/13	No	.....	.....	.....	.....
Mon. Nov. 3/13	Yes	7:30 A. M.	9:15 P. M.	11 A. M. 560-550	12:30 P. M.
Tues. Nov. 4/13	No	.....	.....	.....	.....
Wed. Nov. 5/13	No	.....	.....	.....	.....
Thrs. Nov. 6/13	No	.....	.....	.....	.....
Fri. Nov. 7/13	No	.....	.....	.....	.....
Sat. Nov. 8/13	No	.....	.....	.....	.....
Sun. Nov. 9/13	No	.....	.....	.....	.....
Mon. Nov. 10/13	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 580-575	12 P. M.
Tues. Nov. 11/13	No	.....	.....	.....	.....
Wed. Nov. 12/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 570-550	11:30 P. M.
Thrs. Nov. 13/13	Yes	6:50 A. M.	8 A. M.	11:10 A. M. 565-550	12 P. M.
Fri. Nov. 14/13	Yes	6:45 A. M.	8 A. M.	10:30 A. M. 550-560	12 P. M.
Sat. Nov. 15/13	No	.....	.....	.....	.....
Sun. Nov. 16/13	No	.....	.....	.....	.....
Mon. Nov. 17/13	Yes	7:30 A. M.	9 A. M.	11:15 A. M. 575-580	11 P. M.
Tues. Nov. 18/13	Yes	Belt broke 8:45 A. M.	7:30 to 8 P. M. 10 A. M.	steam 12:30 A. M. 580-550	12 P. M.
Wed. Nov. 19/13	Yes	Mr. Warner st 6 A. M.	ated he smelt it 7:15 A. M.	at 9:15 A. M. 9:20 A. M. 580-560	12 P. M.
Thrs. Nov. 20/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-575	12 P. M.
Fri. Nov. 21/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-570	12 P. M.
Sat. Nov. 22/13	No	Belt broke	from 5:30 to 6	.....	.....
Sun. Nov. 23/13	No	.....	.....	.....	.....
Mon. Nov. 24/13	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 580-570	12 P. M.
Tues. Nov. 25/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-580	12 P. M.
Wed. Nov. 26/13	No	.....	.....	.....	.....
Thrs. Nov. 27/13	No	.....	.....	.....	.....
Fri. Nov. 28/13	No	.....	.....	.....	.....
Sat. Nov. 29/13	No	.....	.....	.....	.....
Sun. Nov. 30/13	No	.....	.....	.....	.....

DECEMBER, 1913.

Exhibit—Defendants' Factory Record

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Fuel Oil Burner Shut Off
Mon. Dec. 1/13	Yes	7:30 A. M.	9 A. M.	11:10 A. M. 580-570	12 P. M.
Tues. Dec. 2/13	Yes	6:30 A. M.	7:45 A. M.	10:20 A. M. 560-550	10:30 P. M.
Wed. Dec. 3/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 580-575	10 P. M.
Thrs. Dec. 4/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-570	10:30 P. M.
Fri. Dec. 5/13	Yes	6:30 A. M.	7:45 A. M.	10:10 A. M. 580-570	10 P. M.
Sat. Dec. 6/13	No	.....	.....	.....	.....
Sun. Dec. 7/13	No	.....	.....	.....	.....
Mon. Dec. 8/13	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-555	12 P. M.
Tues. Dec. 9/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-560	at 10 P. M.
Wed. Dec. 10/13	Yes	6 A. M.	7:15 A. M.	10:45 A. M. 580-570	at 1 A. M.
Thrs. Dec. 11/13	Yes	6 A. M.	7:15 A. M.	10:45 A. M. 580-570	at 12 P. M.
Fri. Dec. 12/13	Yes	6 A. M.	7:15 A. M.	11 A. M. 580-575	at 12:30 P. M.
Sat. Dec. 13/13	No	.....	.....	.....	.....
Sun. Dec. 14/13	No	.....	.....	.....	.....
Mon. Dec. 15/13	Yes	7:30 A. M.	9:30 A. M.	12 A. M. 580-570	at 12 P. M.
Tues. Dec. 16/13	Yes	6:45 A. M.	8:05 A. M.	12 A. M. 580-570	at 10 P. M.
Wed. Dec. 17/13	Yes	6 A. M.	7:15 A. M.	9:45 A. M. 580-575	10:30 P. M.
Thrs. Dec. 18/13	Yes	6 A. M.	7:30 A. M.	10 A. M. 580-575	at 10:15 P. M.
Fri. Dec. 19/13	Yes	6 A. M.	7:15 A. M.	9:30 A. M. 580-575	at 10 P. M.
Sat. Dec. 20/13	No	.....	.....	.....	.....
Sun. Dec. 21/13	No	.....	.....	.....	.....
Mon. Dec. 22/13	Yes	7:40 A. M.	9:15 A. M.	11:30 A. M. 580-575	12 P. M.
Tues. Dec. 23/13	Yes	6 A. M.	7:15 A. M.	10 A. M. 580-575	at 9:30 P. M.
Wed. Dec. 24/13	Yes	6 A. M.	8 A. M.	10:10 A. M. 580-575	at 10 P. M.
Thrs. Dec. 25/13	Yes	.....	.....	.....	.....
Fri. Dec. 26/13	Yes	6:30 A. M.	9:15 A. M.	11 A. M. 580-575	at 10:30 P. M.
Sat. Dec. 27/13	No	.....	.....	.....	.....
Sun. Dec. 28/13	No	.....	.....	.....	.....
Mon. Dec. 29/13	Yes	7:30 A. M.	9:15 A. M.	11 A. M. 580-570	at 12 P. M.
Tues. Dec. 30/13	Yes	6 A. M.	7:15 A. M.	10:30 A. M. 580-575	at 9 P. M.
Wed. Dec. 31/13	Yes	6 A. M.	7:30 A. M.	11 A. M. 585-575	at 8:10 P. M.

Exhibit—Defendants' Factory Record

JANUARY, 1914.

Date		Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Thurs.	1/14	No	.....	.....	.....	.....	.....
Fri.	2/14	Yes	6 A. M.	7:30 A. M.	10:30 A. M. 580-575	West	12 P. M.
Sat.	3/14	No	.....	.....	.....	.....	.....
Sun.	4/14	No	.....	.....	.....	.....	.....
Mon.	5/14	Yes	7:30 A. M.	9:15 A. M.	11 A. M. 575-575	North	11 P. M.
Tues.	6/14	Yes	6 A. M.	7:30 A. M.	10 A. M. 585-575	N. W.	11:30 P. M.
Wed.	7/14	Yes	6 A. M.	8 A. M.	9:30 A. M. 575-575	South S. W.	
Thurs.	8/14	Yes	6 A. M.	8 A. M.	9:20 A. M. 580-575	South	12 P. M.
Fri.	9/14	Yes	6 A. M.	8:10 A. M.	10:30 A. M. 580-575	West, North, N. W.	12 P. M.
Sat.	10/14	No	.....	.....	.....	.....	.....
Sun.	11/14	No	.....	.....	.....	.....	.....
Mon.	12/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 580-575	South.	12 P. M.
Tues.	13/14	Yes	6 A. M.	9 A. M.	10:45 A. M. 580-575	S. W. West	11 P. M.
Wed.	14/14	No	.....	.....	.....	Below*	.....
Thurs.	15/14	Yes	6 A. M.	8 A. M.	10:15 A. M. 580-575	S., S.W.	11:15 P. M.
Fri.	16/14	Yes	6 A. M.	.....	10:15 A. M. 580-575	South	11:20 P. M.
Sat.	17/14	No	.....	.....	.....	.....	.....
Sun.	18/14	No	.....	.....	.....	.....	.....
Mon.	19/14	Yes	7:30 A. M.	9:15 A. M.	10:40 A. M. 575-565	South S. E.	10:30 P. M. Fake Run
Tues.	20/14	No	8 A. M.	9:45 A. M.	.....	North N. E.	Grand Murray Sidnend
Wed	21/14	Yes	6 A. M.	8:30 A. M.	10:35 A. M. 580-575	S., S. West	12:15 A. M.
Thurs.	22/14	Yes	6 A. M.	8 A. M.	10 A. M. 580-575	West	11:30 P. M.
Fri.	23/14	Yes	6 A. M.	8 A. M.	10:20 A. M. 580-575	N, N. West	12:30 P. M.
Sat.	24/14	No	.....	.....	.....	.....	.....
Sun.	25/14	No	.....	.....	.....	.....	.....
Mon.	26/14	Yes	7:30 A. M.	8:30 A. M.	10:45 A. M. 580-575	North	11:30 P. M.
Tues.	27/14	Yes	6 A. M.	9:30 A. M.	10:20 A. M. 575-565	North S. E. to	1:30 A. M. Katzenholtz
Wed.	28/14	No	7:50 A. M.	9:30 A. M.	.....	North	Grasse Fake Run
Thurs.	29/14	Yes	6 A. M.	8:30 A. M.	11:45 A. M. 580-575	North, N. E.	1 A. M.
Fri.	30/14	Yes	6 A. M.	7:45 A. M.	10:30 A. M. 580-575	So., So East	12 P. M.
Sat.	31/14	No	.....	.....	.....	.....	.....

*Too cold; it would not work.

Exhibit—Defendants' Factory Record

FEBRUARY, 1914.

Date		Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Sun.	1/14	No	.....	.....	.....	.....	.....
Mon.	2/14	Yes	7:40 A. M.	9:30 A. M.	11 A. M. 575-575	West N. W.	1:30 A. M.
Tues.	3/14	No	8 A. M.	9:45 A. M.	.....	South-West	Katzenholtz Fake Run
Wed.	4/14	Yes	6 A. M.	7:30 A. M.	10:30 A. M. 580-575	South	1 A. M.
Thurs.	5/14	Yes	6:45 A. M.	9 A. M.	11 A. M. 580-575	North-west	1:30 A. M.
Fri.	6/14	Yes	6 A. M.	7:45 A. M.	9:45 A. M. 575-565	North, N. E.	1 A. M.
Sat.	7/14	No	.....	.....	.....	.....	.....
Sun.	8/14	No	.....	.....	.....	.....	.....
Mon.	9/14	Yes	7:30 A. M.	9 A. M.	10:10 A. M. 580-575	South, S. W.	11:30 P. M.
Tues.	10/14	Yes	6 A. M.	7:30 A. M.	9:40 A. M. 580-570	South, West	11:10 P. M.
Wed.	11/14	Yes	9:45 A. M.	11:30 A. M.	2:30 P. M. 550-560	West,N West	1:15 A. M.
Thurs.	12/14	Yes	6 A. M.	9:50 A. M.	10:45 A. M. 580-575	North, West	12 P. M.
Fri.	13/14	Yes	7:45 A. M.	9 A. M.	10:25 A. M. 580-575	North-west	12 P. M.
Sat.	14/14	No	.....	.....	.....	.....	.....
Sun.	15/14	No	.....	.....	.....	.....	.....
Mon.	16/14	Yes	7:40 A. M.	10 A. M.	11:20 A. M. 575-570	North	10:30 P. M.
Tues.	17/14	Yes	6 A. M.	8 A. M.	10:45 A. M. 575-575	South, S. W.	11 P. M.
Wed.	18/14	Yes	6 A. M.	7:45 A. M.	10 A. M. 580-575	North	12 P. M.
Thurs.	19/14	Yes	6 A. M.	8 A. M.	11:15 A. M. 580-575	North	11:45 P. M.
Fri.	20/14	Yes	6 A. M.	7:30 A. M.	9:45 A. M. 580-575	North, N. W.	11:30 P. M.
Sat.	21/14	No	.....	.....	.....	.....	.....
Sun.	22/14	No	.....	.....	.....	.....	.....
Mon.	23/14	No	.....	.....	.....	.....	.....
Tues.	24/14	Yes	6 A. M.	8:15 A. M.	10:25 A. M. 580-575	N. W. & North	12:30 P. M.
Wed.	25/14	Yes	6 A. M.	8:15 A. M.	10 A. M. 580-575	North N. W.	1:30 P. M.
Thurs.	26/14	No	.....	.....	.....	.....	.....
Fri.	27/14	No	.....	.....	.....	.....	.....
Sat.	28/14	No	.....	.....	.....	.....	.....

Exhibit—Defendants' Factory Record

MARCH, 1914.

Date		Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Sun.	1/14	No	.....	.....	.....	.....	.....
Mon.	2/14	No	.....	.....	.....	.....	.....
Tues.	3/14	Yes	6:15 A. M.	8 A. M.	10:20 A. M. 580-575	West	250— 1 A.M.
Wed.	4/14	Yes	6:30 A. M.	8:10 A. M.	10:15 A. M. 575-560	North, West	250— 1 A.M.
Thurs.	5/14	Yes	6 A. M.	8:15 A. M.	10:10 A. M. 580-565	North, N. E.	250—10:30
Fri.	6/14	Yes	6:15 A. M.	8 A. M.	10:40 A. M. 560-550	North, N. W.	.....
Sat.	7/14	No	.....	.....	.....	.....	.....
Sun.	8/14	No	.....	.....	.....	.....	.....
Mon.	9/14	Yes	7:35 A. M.	9:15 A. M.	10:50 A. M. 570-560	S. West	250— 1 A.M.
Tues.	10/14	Yes	6:15 A. M.	8 A. M.	10 A. M. 560-560	South	250— 1:15A.M.
Wed.	11/14	Yes	6 A. M.	7:30 A. M.	10:45 A. M. 525-525 525-525	West, N. W.	250—12:30M.
Thurs.	12/14	Yes	6:45 A. M.	7:20 A. M.	10:30 A. M. 525-525 525-525	North	1 P.M.
Fri.	13/14	Yes	7 A. M.	8:15 A. M.	9:25 A. M. 565-550	North, West	12:50P.M.
Sat.	14/14	No	.....	.....	.....	.....	.....
Sun.	15/14	No	.....	.....	.....	.....	.....
Mon.	16/14	Yes	7:40 A. M.	8:45 A. M.	11 A. M. 560-560	North, East	1:15A.M.
Tues.	17/14	Yes	6:45 A. M.	8:15 A. M.	10:15 A. M. 560-560	North, West	1:15A.M.
Wed.	18/14	Yes	6:45 A. M.	8:20 A. M.	10:30 A. M. 560-560 550-555	North, N. E.	12:30P.M.
Thurs.	19/14	Yes	6:30 A. M.	7:15 A. M.	10 A. M. 560-560 560-560	West	1 P.M.
Fri.	20/14	Yes	6:40 A. M.	8:25 A. M.	9:45 A. M. 560-550 560-550	North, West	12:30
Sat.	21/14	No	.....	.....	.....	.....	.....
Sun.	22/14	No	.....	.....	.....	.....	.....
Mon.	23/14	Yes	7:35 A. M.	9:15 A. M.	11 A. M. 560-560 570-560	South	12 M.
Tues.	24/14	Yes	6:30 A. M.	7:25 A. M.	9:30 A. M. 570-560 570-560	West N.West	12:30P.M.
Wed.	25/14	Yes	7 A. M.	8:30 A. M.	9:50 A. M. 570-570 570-570	North	11:45P.M.
Thurs.	26/14	Yes	6:30 A. M.	7:30 A. M.	10:30 A. M. 570-570 570-570	South	1:30A.M.
Fri.	27/14	Yes	6:40 A. M.	8:10 A. M.	10:45 A. M. 570-570 550-540	South, S. W.	11:30P.M.
Sat.	28/14	No	.....	.....	.....	.....	.....
Sun.	29/14	No	.....	.....	.....	.....	.....
Mon.	30/14	Yes	7:30 A. M.	9:20 A. M.	12 A. M. 565-555	North, East	11:30P.M.
Tues.	31/14	Yes	6:10 A. M.	8 A. M.	9:45 A. M. 565-555	North, West	11:45P.M.

Exhibit—Defendants' Factory Record

APRIL, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Wed. 1/14	Yes	6 A. M.	8 A. M.	10 A. M. 550-550	North, East	12:15P.M.
Thurs. 2/14	Yes	6 A. M.	7:50 A. M.	9:45 A. M. 550-550	South, West	11:45P.M.
Fri. 3/14	Yes	6 A. M.	7:45 A. M.	9:45 A. M. 550-550	South & West	12 P.M
Sat. 4/14	No	.....	.....	.....	.....	.....
Sun. 5/14	No	.....	.....	.....	.....	.....
Mon. 6/14	Yes	7:30 A. M.	9 A. M.	11 A. M. 560-570 560-560	South S. E.	250— 1:30
Tues. 7/14	Yes	6:45 A. M.	7:30 A. M.	9 A. M. 555-550 555-550	North & East	12:15
Wed. 8/14	Yes	6:15 A. M.	7:30 A. M.	9:50 A. M. 570-500 530-500	South, S. E.	8:30P.M.
Thurs. 9/14	Yes	6 A. M.	7:45 A. M.	10:15 A. M. 560-550	South, S. W.	10:30P.M.
Fri. 10/14	Yes	6 A. M.	8 A. M.	10:15 A. M. 550-545	South, S. W.	10 P.M.
Sat. 11/14	No	.....	.....	.....	.....	.....
Sun. 12/14	No	.....	.....	.....	.....	.....
Mon. 13/14	Yes	7:30 A. M.	9:15 A. M.	11 A. M. 550-530 550-530	North, N. W.	10:30P.M.
Tues. 14/14	Yes	6:30 A. M.	7:45 A. M.	10 A. M. 550-530 540-550	South, S. W.	12:30P.M.
Wed. 15/14	Yes	7:45 A. M.	9 A. M.	10:45 A. M. 550-500 500-450	North, N. E.	1:30A.M.
Thurs. 16/14	Yes	6:15 A. M.	8:45 A. M.	10 A. M. 550-550 540-530	North, N. W.	2 A.M.
Fri. 17/14	Yes	6:15 A. M.	7:30 A. M.	9:30 A. M. 540-540 500-530	North, N. W.	2:30A.M.
Sat. 18/14	No	.....	.....	.....	.....	.....
Sun. 19/14	No	.....	.....	.....	.....	.....
Mon. 20/14	Yes	7:30 A. M.	9:15 A. M.	10:45 A. M. 550-550 540-530	South E.	2:15A.M.
Tues. 21/14	No	.....	.....	.....	.....	.....
Wed. 22/14	No	.....	.....	.....	.....	.....
Thurs. 23/14	No	.....	.....	.....	.....	.....
Fri. 24/14	Yes	6 A. M.	7 A. M.	10:15 A. M. 560-550	South	250— 3 A.M.
Sat. 25/14	No	.....	.....	.....	.....	.....
Sun. 26/14	No	.....	.....	.....	.....	.....
Mon. 27/14	Yes	7:30 A. M.	8:55 A. M.	11 A. M. 565-550 540-540	North, West	250— 3:15
Tues. 28/14	Yes	5:45 A. M.	7 A. M.	9:30 A. M. 565-540 540-540	North	250— 2:10
Wed. 29/14	Yes	6:30 A. M.	8 A. M.	10:30 A. M. 550-550 540-540	South, S. E.	250— 2:30
Thurs. 30/14	Yes	5:50 A. M.	6:45 A. M.	9:30 A. M. 560-550 540-540	North	250— 1:30

Exhibit—Defendants' Factory Record

MAY, 1914.

Date	Boiled	Started Fires	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burn Shut Off
Fri. May 1/14	Yes	6:15 A. M.	7:45 A. M.	10:30 A. M. 550-550	North, West	250— 2
Sat. May 2/14	No	.....	.....	.....	.....	.....
Sun. May 3/14	No	.....	.....	.....	.....	.....
Mon. May 4/14	Yes	7:30 A. M.	8:50 A. M.	11 A. M. 570-550 540-540	South, S. E.	250— 1:45
Tues. May 5/14	Yes	6:15 A. M.	7 A. M.	10:30 A. M. 550-550 540-540	North	250— 1:30
Wed. May 6/14	Yes	5:45 A. M.	7 A. M.	9:05 A. M. 550-550 550-550	North, N. W.	250— 2:30
Thrs. May 7/14	Yes	5:30 A. M.	7 A. M.	10:45 A. M. 550-540 540-540	West	250— 2:30
Fri. May 8/14	Yes	5:50 A. M.	7:15 A. M.	9:30 A. M. 550-550 550-550	North	250— 3
Sat. May 9/14	No	.....	.....	.....	.....	.....
Sun. May 10/14	No	.....	.....	.....	.....	.....
Mon. May 11/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 550-550 550-550	North, West	250— 3
Tues. May 12/14	Yes	5 A. M.	6 A. M.	8 A. M. 565-565 550-550	North, N. E.	250— 2:30
Wed. May 13/14	Yes	6 to 7 A. M.	7:15 A. M.	11:30 A. M. 570-570	North	250— 2
Thrs. May 14/14	Yes	7:45 A. M.	9 A. M.	11 A. M. 570-565	West, S. W.	250— 2:30
Fri. May 15/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-565	North, N. W.	250— 3
Sat. May 16/14	No	.....	.....	.....	.....	.....
Sun. May 17/14	No	.....	.....	.....	.....	.....
Mon. May 18/14	Yes	7:15 A. M.	9 A. M.	11:30 A. M. 560-560 560-540	North, N. W.	250— 3
Tues. May 19/14	Yes	7:45 A. M.	9 A. M.	11:30 A. M. 570-565	North, N. W.	250— 2:10
Wed. May 20/14	Yes	5:50 A. M.	7:20 A. M.	9:30 A. M. 570-570		250— 2:30
Thrs. May 21/14	Yes	4 A. M.	5:50 A. M.	9 A. M. 570-565	West, N. W.	250—10:30
Fri. May 22/14	Yes	4 A. M.	5:45 A. M.	7:45 A. M. 570-560	West	250— 9:15
Sat. May 23/14	No	.....	.....	.....		.....
Sun. May 24/14	No	.....	.....	.....		.....
Mon. May 25/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 575-575 550-550	South, S. W.	250— 2:15
Tues. May 26/14	Yes	7:30 A. M.	8:45 A. M.	11 A. M. 570-570	South, S. W.	250— 2:30
Wed. May 27/14	Yes	5:30 A. M.	7 A. M.	9:30 A. M. 570-565	South, S. W.	250— 2:45
Thrs. May 28/14	Yes	4 A. M.	6 A. M.	8:45 A. M. 575-575	West	250— 1:30
Fri. May 29/14	No	.....	.....	.....	.....	.....
Sat. May 30/14	No	.....	.....	.....	.....	.....
Sun. May 31/14	No	.....	.....	.....	.....	.....

Exhibit—Defendants' Factory Record

JUNE, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Mon. 1/14	Yes	7:20 A. M.	8:45 A. M.	10:45 A. M. 570-570	South, S. W.	250— 1 A.M.
Tues. 2/14	Yes	4:20 A. M.	6 A. M.	9:15 A. M. 570-570	North, N. W.	250— 1:15
Wed. 3/14	Yes	4:20 A. M.	5:45 A. M.	8:40 A. M. 570-570	South, West	250— 9:45
Thurs. 4/14	Yes	4:50 A. M.	6 A. M.	9:30 A. M. 570-565	South	250—11:45
Fri. 5/14	Yes	5:05 A. M.	6:05 A. M.	8:15 A. M. 560-550	North, West	4:30P.M. Kettles Pumped 10
Sat. 6/14	No	.....	.....	.....	.....	.....
Sun. 7/14	No	.....	.....	.....	.....	.....
Mon. 8/14	Yes	6:15 A. M.	7:45 A. M.	10 A. M. 570-565	West, S. W.	250— 1 A.M.
Tues. 9/14	Yes	4:40 A. M.	6 A. M.	9 A. M. 570-565	North, N. E.	250—11:30
Wed. 10/14	Yes	4:10 A. M.	6 A. M.	.....	South	250—10:30
Thurs. 11/14	Yes	4:30 A. M.	6:15 A. M.	9:30 A. M. 570-565	North, West	250—11:50
Fri. 12/14	Yes	4:30 A. M.	6:10 A. M.	9:30 A. M. 570-560	South, East	250— 4:30
Sat. 13/14	No	.....	.....	.....	.....	.....
Sun. 14/14	No	.....	.....	.....	.....	 20
Mon. 15/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570°-570°	South, S. E.	250— 1:20
Tues. 16/14	Yes	4:30 A. M.	6 A. M.	8:30 A. M. 570°-570°	West, N. W.	250— 2:30
Wed. 17/14	Yes	4:45 A. M.	6:15 A. M.	9:00 A. M. 570°-565° 570°-560°	West	250— 1:15
Thurs. 18/14	Yes	7:30 A. M.	9:30 A. M.	11:30 A. M. 570°-570°	South, S. E.	250— 3:10
Fri. 19/14	Yes	4:40 A. M.	6:15 A. M.	9:00 A. M. 550°-540°	North, N. W.	4:30P.M.
Sat. 20/14	No	.....	.....	.....	.....	.....
Sun. 21/14	No	.....	.....	.....	.....	 30
Mon. 22/14	Yes	7:30 A. M.	9 A. M.	11 A. M. 570-565	North, East	250—12:35
Tues. 23/14	Yes	4 A. M.	6 A. M.	10 A. M. 570-570	South, East	250— 1:15
Wed. 24/14	Yes	4:15 A. M.	6:15 A. M.	8:30 A. M. 570-565-570	South	250—11:50
Thurs. 25/14	Yes	5:35 A. M.	7:15 A. M.	.....	West	250—10 P.M.
Fri. 26/14	No	.....	.....	.....	.....	.....
Sat. 27/14	No	.....	.....	.....	.....	.....
Sun. 28/14	No	.....	.....	.....	.....	.....
Mon. 29/14	Yes	7:30 A. M.	9:15 A. M.	11:45 A. M. 570-570	South	250—11:15 40
Tues. 30/14	Yes	4:25 A. M.	7:10 A. M.	.....	South, West	250—11:35

Exhibit—Defendants' Factory Record

JULY, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Wed. 1/14	Yes	4:20 A. M.	6:20 A. M.	9 A. M. 570-565	North, West	250—11:15
Thurs. 2/14	Yes	4:15 A. M.	6:10 A. M.	8:45 A. M. 570-570-550	South, West	250—10:55
Fri. 3/14	No	.....	.....	.....	.....	.....
Sat. 4/14	No	.....	.....	.....	.....	.....
Sun. 5/14	No	.....	.....	.....	.....	.....
Mon. 6/14	Yes	7:30 A. M.	9:15 A. M.	11:45 A. M. 570-570	North	250—11:45
Tues. 7/14	Yes	4:35 A. M.	6:30 A. M.	9:15 A. M. 570-565	South	250— 1:10
Wed. 8/14	Yes	4:20 A. M.	6:10 A. M.	9:30 A. M. 575-570	South	250—12:10
Thurs. 9/14	Yes	4:25 A. M.	6 A. M.	9 A. M. 575-575	South	250— 3 A.M.
Fri. 10/14	No	.....	.....	.....	.....	.....
Sat. 11/14	No	.....	.....	.....	.....	.....
Sun. 12/14	No	.....	.....	.....	.....	.....
Mon. 13/14	Yes	7:30 A. M.	9 A. M.	11:45 A. M. 570-570	North, East	250— 2:30
Tues. 14/14	Yes	5:50 A. M.	6:55 A. M.	9:10 A. M. 570-570	North, East	250—12:20
Wed. 15/14	Yes	5:30 A. M.	6:45 A. M.	9:30 A. M. 570-570	North	250— 1 o'clock
Thurs. 16/14	Yes	5:10 A. M.	6:45 A. M.	9:30 A. M. 570-570	South	250—12:40
Fri. 17/14	No	.....	.....	.....	.....	.....
Sat. 18/14	No	.....	.....	.....	.....	.....
Sun. 19/14	No	.....	.....	.....	.....	.....
Mon. 20/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-570	West	250—11:45
Tues. 21/14	Yes	5 A. M.	6:15 A. M.	9:35 A. M. 570-565	North, West	250—11:30
Wed. 22/14	Yes	5:10 A. M.	6:45 A. M.	9:30 A. M. 570-570	West	250—11:20
Thurs. 23/14	Yes	5:10 A. M.	6:45 A. M.	9:45 A. M. 570-565	North, West	250—11 o'clock
Fri. 24/14	No	.....	.....	.....	.....	.....
Sat. 25/14	No	.....	.....	.....	.....	.....
Sun. 26/14	No	.....	.....	.....	.....	.....
Mon. 27/14	Yes	7:30 A. M.	9:10 A. M.	11:30 A. M. 570-570	North, East	250— 1:10
Tues. 28/14	Yes	5 A. M.	6:55 A. M.	9:30 A. M. 570-570	South, East	250—11:15
Wed. 29/14	Yes	4:45 A. M.	6:30 A. M.	9:45 A. M. 570-570	North, West	250—11:10
Thurs. 30/14	Yes	5 A. M.	6:40 A. M	10:30 A. M. 570-570	North	250—12:10
Fri. 31/14	No	.....	.....	.....	.....	.....

Exhibit—Defendants' Factory Record

AUGUST, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Sat. 1/14	No	.....	.....	.....	.....	.....
Sun. 2/14	No	.....	.....	.....	.....	.....
Mon. 3/14	Yes	7:30 A. M.	9 A. M.	11:30 570-570-570	North, N. W.	250— 2:25
Tues. 4/14	Yes	7:30 A. M.	9:15 A. M.	11:45 570-570	North, N. E.	250— 4:45
Wed. 5/14	Yes	5:05 A. M.	6:45 A. M.	9:30 A. M. 570-570	North, N. W.	250—11 o'clock
Thurs. 6/14	Yes	5:15 A. M.	7 A. M.	10:15 A. M. 570-570-565	North, West	250—12:10
Fri. 7/14	No	.....	.....	.....	.....	.....
Sat. 8/14	No	.....	.....	.....	.....	.....
Sun. 9/14	No	.....	.....	.....	.....	.....
Mon. 10/14	Yes	7:30 A. M.	9 A. M.	11:25 A. M. 570-570	South	250— 2:10
Tues. 11/14	Yes	4:50 A. M.	6:45 A. M.	9:30 A. M. 570-570	South, S. E.	250— 1:45
Wed. 12/14	Yes	5 A. M.	6:30 A. M.	9:15 A. M. 570-570	North, N. W.	250— 1:30
Thurs. 13/14	Yes	5 A. M.	6:45 A. M.	10:30 A. M. 570-570	South	250— 1:15
Fri. 14/14	No	.....	.....	.....	.....	.....
Sat. 15/14	No	.....	.....	.....	.....	.....
Sun. 16/14	No	.....	.....	.....		.....
Mon. 17/14	Yes	7:30 A. M.	9:15 A. M.	11:45 A. M. 570-570	North, West	250— 2 A.M.
Tues. 18/14	Yes	5 A. M.	6:45 A. M.	10:30 A. M. 570-570	South	250—12:10
Wed. 19/14	Yes	5 A. M.	7 A. M.	9:55 A. M. 570-570	S. E.	250— 1:15
Thurs. 20/14	Yes	5 A. M.	6:40 A. M.	10:10 A. M. 570-570	N E.	250—11:30
Fri. 21/14	No	.....	.....	.....	.....	.....
Sat. 22/14	No	.....	.....	.....	.....	.....
Sun. 23/14	No	.....	.....	.....	.....	.....
Mon. 24/14	Yes	7:30 A. M.	8:45 A. M.	11:20 A. M. 570-570	West	250— 2:10
Tues. 25/14	Yes	5 A. M.	6:45 A. M.	9:00 A. M. 570-570	North, N. W.	250— 1:10
Wed. 26/14	Yes	5 A. M.	6:45 A. M.	10:45 A. M. 570-570	North,	250—12:10
Thurs. 27/14	Yes	5 A. M.	6:30 A. M.	10 A. M. 570-570 540-540	North	250—11:45
Fri. 28/14	No	.....	.....	.....	.....	.....
Sat. 29/14	No	.....	.....	.....	.....	.....
Sun. 30/14	No	.....	.....	.....	.....	.....
Mon. 31/14	Yes	7:30 A. M.	9 A. M.	12 A. M. 570-570 570-570	South	250— 8 P.M.

Exhibit—Defendants' Factory Record

SEPTEMBER, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Tues. 1/14	Yes	8 A. M.	10 A. M.	12:30 A. M. 570-570 570-570	South	250— 5 A.M.
Wed. 2/14	Yes	8 A. M.	9:30 A. M.	12:05 A. M. 570-570 570-570	South	250— 3 A.M.
Thurs. 3/14	Yes	8:10 A. M.	10:10 A. M.	12:30 A. M. 570-570 570-570	North, N. W.	250— 4:45A.M.
Fri. 4/14	Yes	8:10 A. M.	10:05 A. M.	12:30 A. M. 570-570 570-570	North, N. E.	250— 1:30A.M.
Sat. 5/14	No	.....	.....	.....	.....	.....
Sun. 6/14	No	.....	.....	.....	.....	.....
Mon. 7/14	No	.....	.....	.....	.....	.....
Tues. 8/14	Yes	5:25 A. M.	7:15 A. M.	10:10 A. M. 570-570 570-570	North	250— 1:30
Wed. 9/14	Yes	6:45 A. M.	7:10 A. M.	11:45 A. M. 570-570 570-570	North, N. W.	250—12:10
Thurs. 10/14	Yes	5 A. M.	6:10 A. M.	10:45 A. M. 570-570	North, N. W.	250—11:45
Fri. 11/14	Yes	5 A. M.	6:30 A. M.	11 A. M. 570-570	North, East	250—11:30
Sat. 12/14	No	.....	.....	.....	.....	.....
Sun. 13/14	No	.....	.....	.....	.....	.....
Mon. 14/14	Yes	7:30 A. M.	9:25 A. M.	1 P. M. 570-570	North, N. W.	250— 4 A.M.
Tues. 15/14	Yes	6 A. M.	6:30 A. M.	9:30 A. M. 570-570	North	250— 1 A.M.
Wed. 16/14	Yes	5:55 A. M.	7:25 A. M.	10 A. M. 570-570-570	North	250— 1 A.M.
Thurs. 17/14	Yes	6 A. M.	7:45 A. M.	9:45 A. M. 570-570 570-570	North, N. W.	250— 1:30
Fri. 18/14	Yes	6 A. M.	7:45 A. M.	11:30 A. M. 570-570 570-570	North	250—12:30
Sat. 19/14	No	.....	.....	.....	.....	.....
Sun. 20/14	No	.....	.....	.....	.....	.....
Mon. 21/14	Yes	7:30 A. M.	9 A. M.	12 A. M. 570-570	North, N. E.	250— 2:30
Tues. 22/14	Yes	5:45 A. M.	7:10 A. M.	10:45 A. M. 570-570	North	250— 1:45
Wed. 23/14	Yes	5:30 A. M.	7 A. M.	10:30 A. M. 570-570	East	250— 2 A.M.
Thurs. 24/14	Yes	5:10 A. M.	6:45 A. M.	10 A. M. 570-570	North, N. W.	250— 1:30
Fri. 25/14	Yes	5:30 A. M.	7:15 A. M.	11:15 A. M. 570-570	North, West	250—11:50
Sat. 26/14	No	.....	.....	.....	.....	.....
Sun. 27/14	No	.....	.....	.....	.....	.....
Mon. 28/14	Yes	5:30 A. M.	7:10 A. M.	11:55 A. M. 570-570	West,	250—12:10
Tues. 29/14	No	7:45 A. M.	8 A. M	.....	N. W.	Fake Run
Wed. 30/14	Yes	5:30 A. M.	6:50 A. M.	11:45 A. M. 570-570	N. W.	250— 1:15

Exhibit—Defendants' Factory Record

OCTOBER, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Thrs. Oct. 1/14	Yes	6 A. M.	7:10 A. M.	10:30 A. M. 570-570	West, N. W.	250—12:10
Fri. Oct. 2/14	Yes	6 A. M.	7:20 A. M.	10:45 A. M. 570-570 570-570	North, N. W.	250— 1:45
Sat. Oct. 3/14	No	.....	.....	.....	.....	.....
Sun. Oct. 4/14	No	.....	.....	.....	.....	.....
Mon. Oct. 5/14	Yes	7:30 A. M.	9:30 A. M.	11:45 A. M. 570-570	South	250— 1:30
Tues. Oct. 6/14	Yes	5:45 A. M.	7:15 A. M.	10:30 A. M. 570-570	North, N. E.	250— 2
Wed. Oct. 7/14	Yes	5:30 A. M.	7:15 A. M.	11:15 A. M. 570-570	East	250— 1:15
Thrs. Oct 8/14	Yes	5:30 A. M.	7:15 A. M.	10:35 A. M. 570-570	South	250—12:45
Fri. Oct. 9/14	Yes	5:45 A. M.	7:20 A. M.	11:30 A. M. 570-570 570-570	South, S. E.	250— 2
Sat., Oct. 10/14	No	.....	.....	.....	.....	.....
Sun. Oct. 11/14	No	.....	.....	.....	.....	.....
Mon. Oct. 12/14	Yes	5:30 A. M.	7:20 A. M.	11 A. M. 570-570	West, N. W.	250—11:30
Tues. Oct. 13/14	Yes	6 A. M.	7:20 A. M.	11 A. M. 570-570-570	North	250—12:15
Wed. Oct. 14/14	Yes	7:30 A. M.	8:45 A. M.	12:15 A. M. 570-570	North, N. E.	250—12
Thrs. Oct. 15/14	Yes	8 A. M.	10 A. M.	1 P. M. 570-570	North, N. E.	250—12:15
Fri. Oct. 16/14	Yes	8 A. M.	9:45 A. M.	12:15 A. M. 570-570	North, N. E.	250— 2:30
Sat. Oct 17/14	No	.....	.....	.....	.....	.....
Sun. Oct. 18/14	No	.....	.....	.....	.....	.....
Mon. Oct. 19/14	Yes	7:30 A. M.	9:15 A. M	11:15 A. M. 570-570	West, S. W.	250—12:45
Tues. Oct. 20/14	Yes	8 A. M.	9:30 A. M.	11:30 A. M. 570-570	North, N. W.	250— 2:15
Wed. Oct. 21/14	Yes	8 A. M.	9:20 A. M.	12 A. M. 570-570	North	250— 2:30
Thrs. Oct. 22/14	Yes	8:15 A. M.	9:30 A. M.	1:15 P. M. 570-570	North, West	250— 2:30
Fri. Oct. 23/14	Yes	6 A. M.	6:15 A. M.	11 A. M. 570-570	North, N. W.	250—11:30
Sat. Oct. 24/14	No	.....	.....	.....	.....	.....
Sun. Oct. 25/14	No	.....	.....	.....	.....	.....
Mon. Oct. 26/14	Yes	7:30 A. M.	9:30 A. M.	1:15 P. M. 570-570	South, S. E.	250— 3
Tues. Oct. 27/14	Yes	8 A. M.	9:40 A. M	1:15 P. M. 570-570	North, N. W.	250— 1:30
Wed. Oct. 28/14	Yes	8 A. M.	9:30 A. M	1:15 A. M. 570-570	South	250— 1:30
Thrs. Oct. 29/14	Yes	7:45 A. M.	9:15 A. M.	12:15 A. M. 570-570	East, S. E.	250— 2:10
Fri. Oct. 30/14	Yes	8:15 A. M.	9:45 A. M.	12:30 A. M. 550-550 570-570	West, S. W.	250—11:30
Sat. Oct. 31/14	No	.....	.....	.....		.....

Exhibit—Defendants' Factory Record

NOVEMBER, 1914.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Sun. Nov. 1/14	No	.....	.....	.....	.....	.....
Mon. Nov. 2/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-570	South, S. E.	3 P. M.
Tues. Nov. 3/14	No	.....	.....	.....	.....	.....
Wed. Nov. 4/14	Yes	8 A. M.	9:30 A. M.	11:30 A. M. 570-570	South, S. E.	250— 2
Thrs. Nov. 5/14	Yes	8 A. M.	9:30 A. M.	11:45 A. M. 570-570	West	250— 1:30
Fri. Nov. 6/14	Yes	7:45 A. M.	9:15 A. M.	12:15 A. M. 570-570	South, East	250— 1
Sat. Nov. 7/14	No	.....	.....	.....	.....	.....
Sun. Nov. 8/14	No	.....	.....	.....	.....	.....
Mon. Nov. 9/14	Yes	7:30 A. M.	8:45 A. M.	11:45 A. M. 570-570	North, N. W.	250— 1:10
Tues. Nov. 10/14	Yes	7:45 A. M.	9 A. M.	12 A. M. 570-570	North, West	250— 1:30
Wed. Nov. 11/14	Yes	7:50 A. M.	9:30 A. M.	12 A. M. 570-570	South, S. W.	250— 2
Thrs. Nov. 12/14	Yes	8 A. M.	9:30 A. M.	12:30 A. M. 570-570	North, N. W.	250— 1
Fri. Nov. 13/14	Yes	7:55 A. M.	9:45 A. M.	12:05 A. M. 570-570-550	South, S. E.	250—11:30
Sat. Nov. 14/14	No	.....	.....	.....	.....	.....
Sun. Nov. 15/14	No	.....	.....	.....	.....	.....
Mon. Nov. 16/14	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 570-570-570	North, N. W.	250— 1
Tues. Nov. 17/14	Yes	8 A. M.	9:30 A. M.	12 A. M. 570-570-570	North	250— 2
Wed. Nov. 18/14	Yes	8 A. M.	9:30 A. M.	12 A. M. 570-570 570-570	North, N. W.	.....
Thrs. Nov. 19/14	Yes	8 A. M.	9:30 A. M.	12:30 A. M. 570-570 570-550	North, N. E.	250—11:30
Fri. Nov. 20/14	Yes	8 A. M.	9:30 A. M.	12 A. M. 570-570 570-550	West, N. W.	250— 1
Sat. Nov. 21/14	No	.....	.....	.....	.....	.....
Sun. Nov. 22/14	....	.....	.....	.....	.....	.....
Mon. Nov. 23/14	Yes	7:30 A. M.	9:15 A. M.	12:10 A. M. 570-570	West	250—12
Tues. Nov. 24/14	Yes	8 A. M.	9:30 A. M.	12 A. M. 570-570	West	250—12
Wed. Nov. 25/14	Yes	5:55 A. M.	8:40 A. M.	9:45 A. M. 570-570-500	South, S. E.	250—12
Thrs. Nov. 26/14	No	.....	.....	.....	.....	.....
Fri. Nov. 27/14	Yes	5:50 A. M.	7:10 A. M.	9:20 A. M 570-570 570-570	South	250— 1:30
Sat. Nov. 28/14	No	.....	.....	.....	.....	.....
Sun. Nov. 29/14	No	.....	.....	.....	.....	.....
Mon. Nov. 30/14	Yes	7:30 A. M.	8:30 A. M.	10:30 A. M. 570-570	North	250—12

Exhibit—Defendants' Factory Record

DECEMBER, 1914.

Date	Boiled	Started Fires	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Tues. Dec. 1/14	Yes	6:05 A. M.	7:30 A. M.	9 A. M. 570-570	North	250— 1:30
Wed. Dec. 2/14	Yes	6 A. M.	7:45 A. M.	9:30 A. M. 570-570-550	North	250—11:30
Thrs. Dec. 3/14	Yes	6 A. M.	7:30 A. M.	10:30 A. M. 570-570	North, N. W.	250— 1:30
Fri. Dec. 4/14	Yes	6 A. M.	7:35 A. M.	9:30 A. M. 570-570 550-540	North	250—11:30
Sat. Dec. 5/14	No	.....	.....	.....	.....	.....
Sun. Dec. 6/14	No	.....	.....	.....	.....	.....
Mon. Dec. 7/14	Yes	7:30 A. M.	9:05 A. M.	11:20 A. M. 570-570	North,	250— 2:30
Tues. Dec. 8/14	Yes	6 A. M.	7:30 A. M.	9:30 A. M. 570-570	North,	250—12
Wed. Dec. 9/14	Yes	8 A. M.	9:30 A. M.	12 A. M. 570-570 550-550	North N. W.	250— 1
Thrs. Dec. 10/14	Yes	7:45 A. M.	10 A. M.	12:20 A. M. 570-575 565-550	N. W.	250— 2
Fri. Dec. 11/14	Yes	7:45 A. M.	8:45 A. M.	11:30 A. M. 550-550 550-550	South,	250— 1
Sat. Dec. 12/14	No	.....	.....	.....	.....	.....
Sun. Dec. 13/14	No	.....	.....	.....	.....	.....
Mon. Dec. 14/14	Yes	7:30 A. M.	9 A. M.	11:45 A. M. 570-570 550-550	West	250—11:30
Tues. Dec. 15/14	Yes	6:05 A. M.	8 A. M.	10:30 A. M. 550-550 550-550	West, S. W.	250— 1
Wed. Dec. 16/14	Yes	7:45 A. M.	9:15 A. M.	12:15 A. M. 570-560 550-550	West	250— 2
Thrs. Dec. 17/14	Yes	8 A. M.	9:30 A. M.	12:15 A. M. 570-565 550-550	North,	250— 1:30
Fri. Dec. 18/14	Yes	8 A. M.	9:30 A. M.	11:45 A. M. 570-570 560-550	West, N. W.	250— 2
Sat. Dec. 19/14	No	.....	.....	.....	.....	.....
Sun. Dec. 20/14	No	.....	.....	.....	.....	.....
Mon. Dec. 21/14	Yes	7:30 A. M.	9:15 A. M.	12:45 A. M. 560-560 550-550	North N. W.	250— 2
Tues. Dec. 22/14	Yes	7:45 A. M.	9:30 A. M.	11:45 A. M. 550-550 500-550	West, S. W.	250— 2
Wed. Dec. 23/14	Yes	7:45 A. M.	9:30 A. M.	12:10 A. M. 570-550-550	South, S. W.	250— 2:30
Thrs. Dec. 24/14	Yes	6 A. M.	8 A. M.	10:45 A. M. 560-550 550-500	West	250—10:30
Fri. Dec. 25/14	No	.....	.....	.....	.....	.....
Sat. Dec. 26/14	No	.....	.....	.....	.....	.....
Sun. Dec. 27/14	No	.....	.....	.....	.....	.....
Mon. Dec. 28/14	Yes	7:30 A. M.	9 A. M.	..... 560-560 550-550	West. S. W.	250— 2:30
Tues. Dec. 29/14	Yes	8:15 A. M.	9:45 A. M	12 A. M. 570-560 550-550	South, East	250— 2:15
Wed. Dec. 30/14	Yes	8 A. M.	9:30 A. M.	11:45 A. M. 570-540 550-560	South, S. E.	250— 1:30

Exhibit—Defendants' Factory Record

JANUARY, 1915

Date		Boiled	Started Fires	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Fri.	1	No	.....	.....	.....	.....	.....
Sat.	2	No	.....	.....	.....	.....	.....
Sun.	3	No	.....	.....	.....	.....	.....
Mon.	4	Yes	7:30 A. M.	9 A. M.	11:45 A. M. 570-585 570-565	North N. W.	250— 2:10
Tues.	5	Yes	6 A. M.	7:45 A. M.	10:30 A. M. 550-540-550	South S. W.	250—10:30
Wed.	6	Yes	8 A. M.	9:30 A. M.	11:30 A. M. 570-560 570-550	North	250— 1:30
Thurs.	7	Yes	8:15 A. M.	10 A. M.	12 A. M. 560-570 560-560	South	250— 1 A.M.
Fri.	8	Yes	8 A. M.	9:20 A. M.	12 A. M. 560-550	South S. W.	250— 1:15
Sat.	9	No	.....	.....	.....	.....	.....
Sun.	10	No	.....	.....	.....	.....	.....
Mon.	11	Yes	7:30 A. M.	9 A. M.	11:15 A. M. 560-560 560-500	North East	250—12 P.M.
Tues.	12	Yes	6:20 A. M.	8 A. M.	9:30 A. M. 560-550 560-550	North N. E.	250— 1:30
Wed.	13	Yes	8:15 A. M.	9:30 A. M.	12 A. M. 570-570	North N. W	250— 1 A.M.
Thurs.	14	Yes	6:30 A. M.	8:45 A. M.	11:45 A. M. 570-550 570-550	North N. W	250— 1 A.M.
Fri.	15	Yes	6:15 A. M.	7:45 A. M.	10:20 A. M. 570-550 570-550	North West	250— 1 A.M.
Sat.	16	No	.....	.....	.....	.....	.....
Sun.	17	No	.....	.....	.....	.....	.....
Mon.	18	Yes	7:30 A. M.	9 A. M.	11:30 A. M. 560-550 560-550	North N. E.	250— 1:30
Tues.	19	Yes	6:20 A. M.	7:45 A. M.	10:50 A. M. 560-560 570-550	West, S. W.	250—11 P.M.
Wed.	20	No	.....	.....	.....	.....	.....
Thurs.	21	No	.....	.....	.....	.....	.....
Fri.	22	No	.....	.....	.....	.....	.....
Sat.	23	No	.....	.....	.....	.....	.....
Sun.	24	No	.....	.....	.....	.....	.....
Mon.	25	No	.....	.....	.....	.....	.....
Tues.	26	No	.....	.....	.....	.....	.....
Wed.	27	Yes	8 A. M.	9:30 A. M. Below†	11:30 A. M.	North	250—1 A.M.
Thurs.	28	Yes	6:45 A. M.	7:35 A. M.	10:10 A. M. 570-560	North	250— 2:10
Fri.	29	Yes	6:30 A. M.	8 A. M. Below*	10:30 A. M. 570-570-560	South S. W.	250—12:10
Sat.	30	No	.....	.....	.....	.....	.....
Sun.	31	No	.....	.....	.....	.....	.....

†About 10 A. M. trouble with burner. Dirt in tank.
*Smoke from still stack leaked. Gravity oil tank cleaned out.

Exhibit—Defendants' Factory Record

FEBRUARY, 1915.

Date		Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Mon.	1	No					
Tues.	2	No					
Wed.	3	No					
Thurs.	4	No					
Fri.	5	No					
Sat.	6	No	.....	.....	Below*	.....	.....
Sun.	7	No					
Mon.	8	No	.....	.....	Below†	.....	.....
Tues.	9	No	.....	.....	Below‡	.....	.....
Wed.	10	Yes	6:45 A. M.	9 A. M.	11:15 A. M. 570-565	North N. W.	250— 1:30
Thurs.	11	Yes	8 A. M.	8:55 A. M.	10:45 A. M. 560-550	South S. E.	250—12 P.M.
Fri.	12	Yes	6:30 A. M.	8:15 A. M.	11 A. M. 570-565 565-560	South	250—12:30
Sat.	13	No			.....	.....	.....
Sun.	14	No			.....	.....	.....
Mon.	15	Yes	8 A. M.	9:15 A. M.	11:30 A. M. 570-570	South	250— 1:20P.M.
Tues.	16	Yes	7:30 A. M.	8:45 A M.	11 A. M. 570-560 570-560	North N. W.	250—12:30
Wed.	17	Yes	6:30 A. M.	7:45 A. M.	10:30 A. M. 570-550 560-550	North N. E.	250— 1:30
Thurs.	18	Yes	7:45 A. M.	9:15 A. M.	11:30 A. M. 560-560 550-550	North West	250— 2 P.M.
Fri.	19	Yes	8:15 A. M.	9:15 A. M.	10:05 A. M. 570-570-565	North West	250— 9 P.M.
Sat.	20	No			.....	.....	.....
Sun.	21	No			.....	.....	.....
Mon.	22	No			.....	.....	.....
Tues.	23	Yes	6:30 A. M.	7:55 A. M.	10 A. M. 570-570	North N. E.	250— 1 A.M.
Wed.	24	Yes	6:30 A. M.	8:15 A. M.	10:15 A. M. 570-570-550	South S. E.	250—2 A.M.
Thurs.	25	Yes	6:30 A. M.	8 A. M.	10:30 A. M. 570-570	North N. W.	250—11:30
Fri.	26	Yes	6:30 A. M.	8:15 A. M.	9:45 A. M. 550-550	South West	250— 2 A.M.
Sat.	27	No					
Sun.	28	No					

*New valve on air line. Tried out burner afternoon.
†Tried burner. Boiled water out of oil from bottom tank 212°.
‡Boiled water out of oil from bottom tank 212°.

Exhibit—Defendants' Factory Record

MARCH, 1915.

Date		Boiled	Started Fires	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Mon.	1	Yes	7:30 A. M.	9:15 A. M.	11 A. M. 570-565 570-560	South S. W.	250—12 A.M.
Tues.	2	Yes	6:30 A. M.	9 A. M.	10:45 A. M. 550-550 560-560	West	220—12 A.M.
Wed.	3	Yes	8:25 A. M.	9:50 A. M.	12 A. M. 570-565	West	220—12 A.M.
Thurs.	4	Yes	8:30 A. M.	9:45 A. M.	12:15 A. M. 570-570	North N. W	250— 1:30
Fri.	5	Yes	6:30 A. M.	8 A. M.	10:30 A. M. 570-570 570-570	North N. W.	250—11:45
Sat.	6	No			.....	.....	.....
Sun.	7	No			.....	.....	.....
Mon.	8	Yes	7:30 A. M.	9 A. M.	11 A. M. 570-570	North- west	250— 1:30
Tues.	9	Yes	7:30 A. M.	9 A. M.	10:45 A. M. 570-570-550	North- west	250—12:30 250—12:30
Wed.	10	No	8:30 A. M.	9:15 A. M.	Below*	.....	6:45 P.M.
Thurs.	11	No			.....	.....	.....
Fri.	12	No			.....	.....	.....
Sat.	13	No			.....	.....	.....
Sun.	14	No			.....	.....	.....
Mon.	15	No			.....	.....	.....
Tues.	16	Yes	6:15 A. M.	7:45 A. M.	10 A. M. 570-570-550	North- west	250—12:30
Wed.	17	Yes	7:45 A. M.	9:15 A. M.	11:30 A. M. 570-570	North- west	250— 2 A.M.
Thurs.	18	Yes	5:55 A. M.	8 A. M.	10:30 A. M. 570-570	West, N. W.	250—12:30
Fri.	19	Yes	6:10 A. M.	8 A. M.	11:15 A. M. 570-570-550 Below†	North	250—10:30
Sat.	20	No			.....	.....	.....
Sun.	21	No			.....	.....	.....
Mon.	22	Yes	7:30 A. M.	9 A. M.	10:30 A. M. 570-570	South S. E.	250—12:15
Tues.	23	Yes	6:15 A. M.	8 A. M.	10:30 A. M. 570-570-560	North N. W.	250—12:10
Wed.	24	Yes	6:45 A. M.	9 A. M.	11 A. M. 570-570	West	250—12:30
Thurs.	25	Yes	6:15 A. M.	8:05 A. M.	10:30 A. M. 560-570-570	South- west	250— 1 A.M.
Fri.	26	No		8:50 A. M.	Fake Run	.....	5:30 P.M.
Sat.	27	No			.....	.....	.....
Sun.	28	No			.....	.....	.....
Mon.	29	Yes	7:25 A. M.	9:20 A. M.	11 A. M. 570-570	West	250—12 M.
Tues.	30	Yes	6:05 A. M.	7:45 A. M.	9:15 A. M. 570-570	West	250— 1:30
Wed.	31	Yes	6:05 A. M.	7:40 A. M.	10:15 A. M. 570-560-560	North west	250—12:05

*No oil in kettles. Fake run 8:30 to 9:30. Fire in consumer to clean out. Smoke leaked badly.

†Trouble between 7:45 and 8:15. Burners, dirt, adjusted and O.K. Kettles low.

Exhibit—Defendants' Factory Record

APRIL, 1915.

Date	Boiled	Fires Started	Fuel Oil Burner Started	High Heat	Wind	Fuel Oil Burner Shut Off
Thurs. 1	Yes	6:30 A. M.	7:45 A. M.	9:15 A. M. 570-570-560	North-west	250—12:30
Fri. 2	Yes	6:30 A. M.	7:45 A. M.	10 A. M. 570-570	North-west	250—12:30
Sat. 3	No	.....	.....	.....	.....	
Sun. 4	No	.....	.....	.....	.....	
Mon. 5	Yes	7:30 A. M.	8:53 A. M.	10:45 A. M. 570-570	North-west	250—12.15
Tues. 6	Yes	6:30 A. M.	8:15 A. M.	10:30 A. M. 570-570	South	250—12:30
Wed. 7	Yes	6:05 A. M.	7:35 A. M.	9:30 A. M.	North N. W.	250— 1:30
Thurs. 8	Yes	6 A. M.	7:30 A. M.	10 A. M. 570-570	West	250—11:30
Fri. 9	Yes	6:15 A. M.	8 A. M.	9:30 A. M. 570-570-550	North	250—11:30
Sat. 10	No	.....	.....	.....	.....	
Sun. 11	No	.....	.....	.....	.....	
Mon. 12	Yes	7:30 A. M.	8:45 A. M.	10:30 A. M. 570-570	South-west	250— 1:30
Tues. 13	Yes	7:30 A. M.	8:45 A. M.	11 A. M. 570-550-550	North-west	250— 2 A.M.
Wed. 14	Yes	5:15 A. M.	7:15 A. M.	9:30 A. M. 570-550-550	North	250—12:30
Thurs. 15		6:30 A. M.	7:45 A. M.	10:15 A. M. 570-570-550	North N. E.	250—12:25

FINAL DECREE

Filed May 25, 1915.

This cause coming on to be heard before the Court in the presence of William B. Gourley and William E. Ellis, of Counsel with the complainant, and McCarter & English, of Counsel with the defendant, and the proofs having been taken before the Court, and the argument of counsel having been heard thereon, and the pleadings having been read, and the proofs, argument and pleadings having been considered, and it appearing to the Court that the said defendant, Sinclair & Valentine Company, a body corporate, is the owner and proprietor of certain premises and buildings situate as described in the bill of complaint wherein it carries on the business of boiling linseed oil for the purpose of making printer's ink and printer's ink varnish, wherein and whereby it pollutes the air in the neighborhood of said premises and buildings and the residence of complainant with foul and noxious odors, gases, vapors and fumes and thereby creates a nuisance and that the complainant is entitled to the relief sought and prayed for by her in her bill of complaint;

It is on this 21st day of May, Nineteen hundred and fifteen, By Edwin Robert Walker, Chancellor of the State of New Jersey, by virtue of the power and authority of this Court ordered, adjudged and decreed and the said Chancellor by virtue of the power and authority of this Court doth hereby order, adjudge and decree that before and at the time of the filing of the bill of complaint in this cause the defendant's business was so conducted as to create a nuisance by polluting the air in and about the neighborhood of the defendant's prem-

ises and buildings and the residence of the complainant with foul and noxious odors, gases, vapors and fumes; and that the said Sinclair & Valentine Company, its officers, servants, workmen and agents, be restrained by an injunction from further maintaining and continuing its said business in such a manner as to suffer or permit the escape of noxious and offensive odors, gases vapors and fumes from their said premises, buildings and chimneys situate as in said bill of complaint described and from doing any and all acts that may pollute the air in the neighborhood of the complainant's residence and render it noxious, unwholesome, unsanitary or uncomfortable to the complainant or interfere with or diminish the comfort and enjoyment of life of the complainant and her family in and about her residence.

And it is further ordered that the defendant be allowed a period of forty days after the date of this decree in which to make such necessary changes or alterations in its said works as will enable it to comply with the terms thereof.

And it is further ordered, adjudged and decreed, that the defendant pay to the complainant the costs of this suit to be taxed, including therein one-half of the cost of the transcript of the testimony in this cause furnished by the stenographer to the court for the use of the court and paid for by the complainant; and that in default of such payments execution may issue therefor in accordance with the course of practice of this court.

And it is further ordered, adjudged and decreed that the complainant be allowed a counsel fee of One thousand ($1,000) dollars to be taxed as part

of her costs and that either party have leave to apply to this court for such other or further order herein as they may be advised is proper.

E. R. WALKER,
C.

Respectfully advised,
Vivian M. Lewis,
V. C.

NOTICE OF APPEAL

Filed May 28, 1915.

The defendant hereby appeals from the final decree made in this Court in the above stated cause on the twenty-first day of May, Nineteen Hundred and Fifteen, and from the whole and every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

Dated, May 27, 1915.

McCARTER & ENGLISH,
Defendant's Solicitors.

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

ROBERT H. McCARTER,
Of Counsel with Defendant.

PETITION OF APPEAL

Filed June 16, 1915.

To the Honorable Court of Errors and Appeals in the Last Resort in all Causes.

The petition of Sinclair & Valentine Company, defendant, the appellant in the above entitled cause, respectfully shows:

That the said appellant finds itself aggrieved by the final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the twenty-first day of May, Nineteen Hundred and Fifteen, in a cause wherein the said Ellen E. Harrigan was complainant, and the said Sinclair & Valentine Company was defendant, in this respect, to wit: That the said Chancellor did thereby order, adjudge and decree that before and at the time of the filing of the bill of complaint in this cause the defendant's business was so conducted as to create a nuisance by polluting the air in and about the neighborhood of the defendant's premises and buildings and the residence of the complainant, with foul and noxious odors, gases, vapors, and fumes, and that the said Sinclair & Valentine Company, its officers, servants, workmen and agents, be restrained by an injunction from further maintaining and continuing its said business in such a manner as to suffer or permit the escape of noxious and offensive odors, gases and fumes from their said premises, buildings and chimneys, situated as in the bill of complaint described, and from doing any and all acts that may pollute the air in the neighborhood of the complainant's residence, and render it noxious and unwholesome, unsanitary or uncomfort-

able to the complainant, or interfere with or diminish the comfort and enjoyment of life of the complaintiff, and her family, in and about her residence, and that the defendant pay to the complainant her costs to be taxed, including therein one-half of the cost of the transcript of the testimony in this cause furnished by the stenographer to the Court for its use, and paid for by the complainant, and also including a counsel fee of One Thousand Dollars allowed to the complainant, and that in default of such payments, execution may issue therefor in accordance with the practice of the Court of Chancery.

And your petitioner humbly appeals from that part of the decree of the Chancellor which decrees as aforesaid upon the ground that the same is erroneous for that the said Chancellor should have adjudged and decreed that the defendant did not conduct or maintain a nuisance, and should have dismissed the complainant's bill with costs to the defendant.

Your petitioner, therefore, prays that the said decree of the Chancellor may, in the particulars aforesaid, be reversed, set aside and for nothing holden, and that your petitioner may have such relief in the premises as to this honorable court shall seem meet and just.

McCARTER & ENGLISH,
Solicitors for Appellant.

ROBERT H. McCARTER,
Of Counsel.

Formal Answer to Petition of Appeal filed.

In Chancery of New Jersey

Between
ELLEN E. HARRIGAN,
Complainant,
and
SINCLAIR and VALENTINE COMPANY,
Defendant.

On Bill, &c., Memorandum.

Mr. William E. Ellis, and Mr. William B. Gourley, solicitors of the complainant.

Mr. Robert H. McCarter and Mr. George W. C. McCarter, solicitors of the defendant.

LEWIS, V. C. (Orally):

Counsel for the defendant having stated that they do not desire an appeal, I will briefly indicate my views so that there may be no further delay:

The application is that an injunction may issue, restraining the Sinclair and Valentine Company, a corporation doing an ink business in the Borough of Edgewater, from maintaining a nuisance upon its premises. The complainants, Mrs. Ellen E. Harrigan, and a large number of the residents of the place, property owners, allege that there issues from the defendant's property, a noxious and unwholesome fume, which renders living in the vicinity of it not only unbearable, so far as physical comfort goes, but destructive to health. A very large number of witnesses have appeared in support of the complainant. They uniformly testified

that they had detected the fume almost daily and related the effect it had upon them. Almost invariably these witnesses stated that they had suffered from irritation of the throat while the fumes were passing through the air, and in some cases it resulted in violent vomiting spells. Many dates have been given upon which the fumes were seen, and an attempt has been made by the defendant corporation to show that at some of these times they were not operating the factory. While there are some slight contradictions of the witnesses of the complainant, yet on this point I am satisfied, beyond peradventure, that on most of the dates they enumerated seeing or feeling the effect of the fumes, that the conditions prevailed as described by them. Compaints have been made by the Board of Health, and the corporation has been notified to stop the nuisance, and it has also been indicated by the Bergen County Grand Jury for maintaining a nuisance upon its premises. There is no doubt in my mind that the defendant made several attempts to stop the nuisance, and, in fact, the testimony of some of its experts is that with the plant as now constructed a fume as described by the complainant and her witnesses could not come from it. Experts of the complainant who visited the plant since the improvements, however, state that they still find in the atmosphere the presence of these noxious fumes. I cannot believe that the large number of witnesses of the complainant willfully mis-stated facts to the court in this issue. They all say they have noticed the fumes recently and since the improvements. The fact that the fume is not noticed by some of the neighbors does not prove that it is not a nuisance to others. Many of the complainant's witnesses before me have been long residents of the Borough of Edgewater, and some for a con-

siderable period before the factory of the Sinclair and Valentine Company was located there. The topographical conditions at Edegwater must be considered in dealing with this case. The dwellings of the complainant and of the larger part of the population of Edgewater are situated along the side of the Palisades, some distance up the mountainside. The place selected by the Sinclair and Valentine Company for its factory site is at the base of these cliffs. In locating here they must have had in view the fact that when the prevailing wind was favorable that any odor or fume from their ground would necessarily affect the complainants in their homes.

In a long line of cases this court has dealt with situations similar to the one disclosed by the evidence in this case. Recently, Chancellor Walker, in the Camden Coke Company Case, 82 N. J. Equity, and Vice-Chancellor Stevens, in the Board of Health of Irvington vs. Schmidt, 83 N. J. Equity, have expressed views which I shall follow now.

It seems to me clear that upon the facts in this case the court must grant the relief desired by the complainant.