

In Chancery.

Between
THE LONG BRANCH AND SEA SHORE
RAILROAD COMPANY,

Petitioner,

and

WILLIAM S. SNEDEN, Receiver of the
New Jersey Southern Railroad Com-
pany, *et al.*,

Defendants.

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*On supplemental
petition, &c.*

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Upon reading and considering the supplemental petition of the Long Branch and Sea Shore Railroad Company in this case, and the several affidavits and other papers thereunto annexed,

It is ordered, on motion of Abraham Browning, in behalf of said petitioner, of which he is counsel, on this twenty-eighth day of February, eighteen hundred and seventy-four, that said supplemental petition and affidavits, and other papers thereunto annexed, be filed in the office of the Clerk of this Court; and that a copy of said supplemental petition and of this order be served on Robert Gilchrist, Esq., the solicitor of the said defendants on or before Monday, the 2nd day of March proximo, and that also within the same period a copy of said supplemental petition and affidavits thereunto annexed, and of this order, be served on Benjamin Williamson, Esquire, one of the trustees of the mortgage of the New Jersey Southern Railroad Company, securing certain bonds of that Company, and upon Jacob Vanatta, Esq., the counsel of

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certain of said bondholders, in a foreclosure suit now pending in this Court, in the names of the said trustees as complainants, and the said New Jersey Southern Railroad Company and others as defendants; and that the copies of said papers, so to be served on said several persons, may be served on them respectively, personally, or by leaving a copy at their residences or places of business in case of their absence.

10 And it is further ordered that the said parties do severally show cause before me, at my chambers, in the City of Newark, New Jersey, at ten o'clock in the forenoon of Thursday, the fifth day of March proximo, why the prayer of the said Long Branch and Sea Shore Railroad Company, the petitioners in said supplemental petition, should not be granted.

(Signed)

THEODORE RUNYON,

C.

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[Supplemental Petition.]

IN CHANCERY.

To the Honorable THEODORE RUNYON, Chancellor of the State of New Jersey :

30 The humble petition of The Long Branch and Sea Shore Railroad Company, respectfully showeth: That your petitioner, being a Railroad Corporation of the State of New Jersey, and owning a railroad in the county of Monmouth in this State, extending from Sandy Hook to Long Branch in said county, a distance of about eleven miles, and its equipments, commonly denominated "rolling stock," on the sixteenth day of this present month of February exhibited a petition to your Honor in this Honorable Court, touching and concerning a proceeding then lately had in said Court, in a matter where-
 40 in Emanuel Wilks, John Aumack and Eugene Fay were petitioners and the New Jersey Southern Railroad Company was the principal party complained against, and in which proceeding one William S. Sneden has been ap-

pointed a Receiver, and authorized "to take possession of all the real and personal property" of the said New Jersey Southern Railroad Company, and to "operate" the railroad of that Company, and also the said railroad of your petitioner and of sundry other railroad companies therein mentioned, and that your petitioner, in said petition, among other things, prayed, in substance, that the said Receiver might be required to deliver up to your petitioner the said railroad and rolling stock of your petitioner, of which he, said Receiver, had, under the order of his appointment, taken possession, so that your petitioners might be enabled to operate its own railroad; and that such proceedings were afterwards had in this Honorable Court on the said petition of your petitioner, that your Honor denied to your petitioner the relief prayed for, but mainly on the ground that it did not then satisfactorily appear to your Honor that your petitioner was in a condition to operate the said railroad of your petitioner, as in and by the said petition and proceedings thereon in this Honorable Court will more fully appear, and to which your petitioner prays leave to refer, and that said petition and proceedings may be deemed and considered as incorporated herein and a part of this supplemental petition of your petitioner touching and concerning said matters. And your petitioner, for greater certainty, annexes hereto copies of the said petition of your petitioner and proceedings thereon, also copies of the aforesaid petition of Emanuel Wilks, John Aumack and Eugene Fay, and said proceedings thereon, and prays that they, too, may be taken and considered as a part of this, your petitioner's supplemental petition.

And this petition of your petitioner further showeth that your petitioner is perfectly solvent and not only able, but desirous of operating its said railroad, and has ample means to do so; that your petitioner has no floating debt to embarrass it, and has no arrears of wages owing to any employees, and has an ample supply of rolling stock for the proper and efficient operation of its said railroad; that, as stated in the said original petition of your petitioner, the said railroad of your petitioner

had been leased to the said New Jersey Southern Railroad Company for a term which had then expired, together, also, with the rolling stock belonging to your petitioner at the time of making said lease, a schedule of which rolling stock, marked Schedule A, is hereunto annexed; and your petitioner now also owns, entirely free from encumbrances, an additional amount of rolling stock, amply sufficient for the equipment of the said railroad of your petitioner, which was not, and is not, included in said lease, and to which your petitioners ac-

10 quired title, after the making of said lease, by a sale and transfer from Jay Gould, Esquire, of the city of New York, who purchased the same, at a foreclosure sale of the Vineland Railroad of this State and its equipments, made by William L. Dayton, Esquire, as Master in Chancery, a list of which additional railroad stock is set forth in Schedule B, hereunto annexed, and which Schedules A and B your petitioner prays may be taken and considered as a part of this petition.

20 And this petition of your petitioner further showeth that the said rolling stock of your petitioner is of the value of about eighty thousand dollars, and is the same rolling stock which the said William S. Sneden, as the Receiver of the property of the said New Jersey Southern Railroad Company, as such Receiver, took from your petitioner and now holds in his possession, against which your petitioner, respectfully protesting against the validity of the Statute on which the appointment of said Receiver

30 submits and claims that said order, if valid, in no-wise authorized the said Receiver to take such rolling stock, and that his taking and detention thereof was, and is, unlawful and unauthorized; and that the said rolling stock should be at once surrendered up and delivered to your petitioner for its own use.

And this petition of your petitioner further showeth that no notice or information whatever was given to your petitioner of the application for, or the appointment of,

40 said Receiver, nor had your petitioner any notice or information thereof, until after the said Receiver had taken

possession of said rolling stock ; and that at and before the time of said appointment your petitioner was preparing, in good faith, to operate its said railroad, using said rolling stock for that purpose ; and but for the said Receiver's taking possession of said railroad and rolling stock, your petitioners, as soon as practicable, would have commenced operating said railroad.

And this petition of your petitioner further showeth that while your petitioner is perfectly solvent, and competent to operate its said railroad as aforesaid, and without any embarrassment from floating debt, yet that there is a mortgage, bearing date the first day of December, A. D. eighteen hundred and sixty-nine, on the said railroad of your petitioner, and its corporate franchises and appurtenances, made about the day of the date thereof to George B. Upton, Henry L. Gaw, and Abraham Browning, Esquires, as trustees, to secure bonds not due until December 1st, A. D. 1899, amounting in the aggregate to the sum of two hundred thousand dollars, the interest on which is payable half-yearly, on the first days of the months of June and December of each year ; that your petitioner has kept the interest of said bonds paid up to and including that which came due on the first day of December last ; and that if the said Receiver shall be permitted to retain the said railroad of your petitioner and its rolling stock, your petitioner will necessarily be deprived of all the profits of operating said railroad, and consequently unable to pay at maturity the current half-year's interest on said bonds coming due on the first day of June next, which might, and probably would, result in a foreclosure of said mortgage, and the sacrifice of the mortgaged premises by a judicial sale thereof. Your petitioner, therefore, respectfully submits that, without an imperious and overruling necessity, such irreparable injury should not be inflicted upon your petitioner, and that no such necessity exists ; and that, even admitting the validity of all the proceedings under which the said railroad and rolling stock of your petitioner has been taken, yet that your petitioner has in no proper sense so failed or neglected to operate its said railroad as to require or justify a longer retention of its property.

And this petition of your petitioner further shows, and respectfully submits, that there is now no sufficient reason existing for longer inflicting on your petitioner (if any such reason ever did exist) the severe penalties of the recent Statute of the Legislature of this State, under which the aforesaid petition of Emanuel Wilks, John Aumack and Eugene Fay was filed; and that at least your petitioner should now be excluded from the operation of said Statute; and that your petitioner now tender itself ready
 10 to furnish and give such full and satisfactory assurances as may be considered by your Honor equitable and just; that your petitioner can and will, immediately after the restoration of the said property of your petitioner, commence and continue to operate the said railroad of your petitioner, in all its parts, up to the full requirements of all the contract and obligations of your petitioner, expressed or implied.

Your petitioner therefore prays that the said railroad of your petitioner, and said rolling stock, may be surrendered and delivered up to your petitioner, on the line of
 20 its said railroad, by said Receiver, and that all other property of your petitioner, which said Receiver has taken, may also be delivered up to your petitioner; and that your petitioner may have such other and further relief as the circumstances of the case require, and as may be agreeable to equity and good conscience.

And your petitioner will ever pray.

LEON ABBETT,
Sol'r for Petitioner.

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A. BROWNING,
Of Counsel with Pet'r.

SCHEDULE "A."

Equipment of the Long Branch and Sea Shore R. R. Co., now in possession of W. S. Sneden, Esq., Receiver:
 40 8 coaches, original Sea Shore, now marked "N. J. S.," Nos. 39 to 46, inclusive.

7 of them are at Long Branch and
1 at Ridgway on N. J. S. R. R.

Original Sea Shore Machinery, now at Manchester:

1 stationary engine and boiler.
1 double acting pump.
1 block and fall.
1 hydraulic jack.
1 small screw.
1 portable Forge. 10

SCHEDULE B.

Equipment purchased by the Long Branch and Sea Shore R. R. Co., originally the property of the Vineland Railway, and now in the possession of W. S. Sneden Esq., Receiver:

3 locomotives marked "Vineland R'way," Nos. 1, 2, and 3. 20
4 passenger coaches marked "Vineland R'way," Nos. 1, 2, 3, and 4.
2 baggage cars marked, "Vineland R'way," A and B.
10 box cars marked "Vineland R'way," Nos. 81, 83, 85, 87, 89, 91, 93, 95, 97, 99.
10 flat cars marked "Vineland R'way," Nos. 1, 3, 5, 9, 27, 51, 61, 65, 69, 77.

SCHEDULE "C."

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[Original Petition.]

To the Honorable THEODORE RUNYON, Chancellor of the State of New Jersey :

The petition of the Long Branch and Sea Shore Railroad Company, a corporation of the State of New Jersey, respectfully sheweth :

1. That your petitioner was incorporated by an Act of 40 the Legislature of this State, approved on the 20th day

of March, 1863, and by a supplement to the said Act, approved February 16th, 1870, to which said Acts and the supplements thereto, your petitioner prays leave to refer, as fully as if they were herein set forth at large.

10 2. That shortly after the approval of the Supplemental Act above mentioned, your petitioner, having previously constructed the railroad authorized by the original Act, executed a lease thereof to another corporation of this State, known as the New Jersey Southern Railroad Company, which lease included also all the locomotives, cars and other rolling stock of your petitioner, and such railroad and rolling stock were accordingly transferred into the possession of the said New Jersey Southern Railroad Company, and that Company continued to operate the said railroad, and to use the said rolling stock of your petitioner, until about one month prior to this date, although the lease executed by your petitioner expired about one year ago, since which time the position of the
20 said New Jersey Southern Railroad Company has been that of a simple tenant at will to your petitioner.

3. That the said New Jersey Southern Railroad Company is a corporation incorporated under the laws of this State, by an Act approved February 16th, 1870, to which said Act, and the several supplements thereto, your petitioner craves leave to refer, the same as if fully set forth herein. That the said railroad company operated a road from Atsion to Port Monmouth, with a branch connecting it with your petitioner's road at Long Branch, and
30 also operated your petitioner's railroad, as hereinbefore set forth, but has paid no rent to your petitioner for more than two years.

4. That in or about the month of November, 1873, proceedings were commenced in the District Court of the United States for the District of New Jersey, in bankruptcy, to have the said New Jersey Southern Railroad Company adjudicated bankrupt, and these proceedings are still pending and undetermined.

40 5. That at or about the same time, a bill was filed by the trustees of the first mortgage bondholders of the New

Jersey Southern Railroad, in the Court of Chancery of the State of New Jersey, to foreclose mortgages, amounting to two million dollars, on its railroad property and franchises. That under the provisions of the mortgage, the trustees, Benjamin Williamson and George B. Upton, took possession of the New Jersey Southern Railroad.

6. That in the month of December, 1873, a suit was commenced in the Court of Chancery of the State of New Jersey, wherein Frederick Gerkir was complainant, 10 and the New Jersey Southern Railroad Company was defendant, praying that a Receiver be appointed of the property and franchises of the New Jersey Southern Railroad Company, and for other relief therein mentioned, and that in this suit such proceedings were had that Robert F. Stockton was appointed Receiver of the New Jersey Southern Railroad Company.

7. That the said Receiver attempted to take possession of the said New Jersey Southern Railroad and its rolling stock, and found that the trustees under the mortgage were in possession of and operating the said railroad; that early in the month of January the employés of the New Jersey Southern Railroad Company, by force, took possession of the rolling stock of said Company, and also that of your petitioner, and certain other engines, cars and rolling stock formerly belonging to the Vineland Railroad Company, but now belonging to your petitioner, and refused, and have continued to refuse, to permit the same to be used until certain claims, which they allege are due 30 to them from the New Jersey Southern Railroad Company, but not from your petitioner, for wages, shall have been paid; that subsequent to the seizure of said rolling stock the said trustees delivered the possession of the property of the New Jersey Southern Railroad Company into the hands of the Receiver, so that the same might be in the custody of the Court until such time as they would be in a position to operate the road, which they were prevented from doing by the acts of said employés, and the rolling stock of your petitioner is now in 40 the custody of the said Receiver.

8. That about two weeks since the Receiver of the New Jersey Southern Railroad Company executed a lease (subject to the approval of the Chancellor) to your petitioner, by the terms of which your petitioner was to operate, in connection with its own road, the road of the New Jersey Southern Railroad Company, and in consideration thereof it was to pay the back wages due to the employés of the New Jersey Southern Railroad Company out of the earnings of the two companies, as speedily as the profits would warrant, but in any event the whole of said back wages was to be paid on or before the first day of November, 1874, when the said lease expires. Among other provisions of the lease the two trustees under the first mortgage of the New Jersey Southern Railroad Company, and Nehemiah Perry, the Mayor of the City of Newark, and Hugh J. Hastings were to be elected as directors of your petitioner, and these four, with Robert F. Stockton, Ashbel Green and Robert S. Green, would constitute a majority of the thirteen directors of your petitioner.

9. That subsequent to the execution of this lease, as aforesaid, and on the 11th day of February, 1874, an Act was passed by the Legislature of the State of New Jersey entitled A Further Supplement to an Act entitled an Act to Prevent Frauds by Incorporated Companies, approved April 15th, 1846, under the provisions of which Act the Receiver of the New Jersey Southern Railroad Company is empowered to operate said railroad for the use of the public, subject to the orders of the Chancellor, and all expenses incident to the operation of said railroad are made a first lien on the receipts, to be paid before any other incumbrance whatever.

10. That forthwith said Receiver commenced perfecting arrangements for the running and operation of the New Jersey Southern Railroad, and to that end sent his agent to Manchester to obtain the rolling stock which was there in the possession of the employés of the Company, and make arrangements with your petitioner by which the Receiver was to deliver to your petitioner the

rolling stock, and your petitioner was to run and operate its road in connection with certain boats, hired by it, from the City of New York to Long Branch; or, in case of his failure to make such delivery, he was to operate your petitioner's road until such time as delivery could be made by him.

11. That there is now in existence a contract by which your petitioner is bound to pay the hire of the boats which connect the railroad of your petitioner with the city of New York, and in addition to the expenses under this contract, which are continuing expenses, your petitioner is obliged to pay the interest on its mortgage debt and to provide the necessary means for keeping the road in a condition fit for traffic from Long Branch to Sandy Hook, which expenses are in no way provided for by the appointment of William S. Sneden, Receiver, as hereinafter mentioned, and portions of which several expenses and liabilities will have to be paid for twice over if said Receiver proceeds independently to operate said road. That there could have been no delay or difficulty in carrying out the arrangement hereinbefore stated, unless delay was caused by proper legal measures to obtain possession of the property in the hands of the said employés in case of their refusal to deliver the said property to the said Receiver, which was not apprehended at the time said arrangement was made.

12. That on the fourteenth day of February, 1874, after the completion of the arrangement and agreement as above stated, your petitioner was informed for the first time of the appointment of William S. Sneden as a Receiver, to operate the road for your petitioner and the road of the New Jersey Southern Railroad Company, by your Honor, under the provisions of an Act entitled an Act for the relief of citizens on the line of any railroad that has, or may hereafter, fail or neglect to operate, approved on the 12th day of February, 1874.

13. That your petitioner is informed by its Superintendent, and believes, that said Sneden took possession of

the offices and books of your petitioner on the 14th day of February, 1874. That under the provisions of the second section of the said Act, approved February 12, 1874, the said Receiver is authorized to apply all unencumbered personal effects, and all moneys which may be transferred to him at the time of entering upon his duties as such Receiver, towards the payment of wages at that time due the employés of said Company, and the Chancellor may, from time to time, make such order as he may deem proper to equitably carry out the provisions of this section, provided that no such payments shall be made for more than two months' wages.

14. That your petitioner is not indebted to any employés for any wages. That your petitioner is able, ready, and willing to immediately commence and continue the operation of its road under its charter, running daily trains on all parts of its road as soon as it can obtain possession of its rolling stock, which is now in the custody of the Receiver or Receivers appointed by your Honor. That your petitioner has demanded from the Receiver the possession of its rolling stock, but he has not delivered the same, or any part thereof, to your petitioner.

15. That the failure of your petitioner to run daily trains has not been the result of any neglect of its duties imposed by law, or of any want of effort upon its part to obtain its property so as to operate its road, but has been due wholly and solely to the inability of the Receiver appointed by this Court to deliver up to your petitioner the rolling stock belonging to your petitioner, which came into his custody under the order of this Court.

16. That, as your petitioner is informed and believes, the said Sneden intends to apply the money which he expects to receive from the operation of your petitioner's railroad, or some part thereof, to the payment of the debt alleged to be due from the New Jersey Southern Railroad Company to its employés, no part of which is due or pretended to be due from your petitioner, and that the

whole object of the said Sneden, in procuring his appointment as Receiver as aforesaid, is to procure control of property or money of your petitioner for the purpose of applying it to the payment of such indebtedness of the New Jersey Southern Railroad Company.

Wherefore, your petitioner prays:

That the said Receivers, appointed as aforesaid, be directed to deliver into the possession of your petitioner the rolling stock belonging to your petitioner, so that it may operate and run its road, and that such Receivers be enjoined and restrained from collecting or paying out any moneys for account of your petitioner, and that they be enjoined and restrained from in any way interfering with the property and road of your petitioner; that the appointment of the said William S. Sneden as Receiver of your petitioner's railroad be vacated, and for such other and further relief as to your Honor may seem just.

LEON ABBETT, 20

Sol'r, and of Counsel with Pet'r.

STATE OF NEW YORK, }
City and County of New York, } ss:

CHARLES J. OSBORN, being duly sworn according to law, says he is a director of the petitioner; that he has read the foregoing petition; that the same is true so far as it relates to the acts and doings of your petitioners, and as to the acts and doings of other parties he believes the same to be true. 30

C. J. OSBORN.

Subscribed and sworn to before me, this 16th day of February, 1874. }

In witness whereof I have hereunto set my hand and affixed my official seal,

[SEAL.]

CHARLES NETTLETON, 40

Com'r for New Jersey in New York.

SCHEDULE "D."

IN CHANCERY OF NEW JERSEY.

10	Between EMANUEL WILKS, JOHN AUMACK, and EUGENE FAY, <p style="text-align: right;"><i>Petitioners,</i></p> <p style="text-align: center;"><i>and</i></p> THE NEW JERSEY SOUTHERN RAILROAD COMPANY, <p style="text-align: right;"><i>Defendants.</i></p>	} <i>On Petition.</i>
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20 It appearing to the Chancellor, by the petitions of the said petitioners, verified satisfactorily to the Chancellor, among other things, that the said New Jersey Southern Railroad Company has heretofore been authorized to operate the railroads hereinafter mentioned, but has, for above ten days last past, failed and neglected to run daily trains on all parts of the railroads and branches hereinafter mentioned, and to operate the same, and that by such neglect large numbers of the citizens and inhabitants of the State suffer great inconvenience and loss;

30 And although an appointment of a Receiver of some portion of the property hereinafter mentioned has heretofore been made in a cause in this Court pending, yet the good purposes of the Act hereinafter mentioned cannot by reason of the limited authority thereby given, be accomplished under such appointment :

The Chancellor doth order the said petition and the affidavits thereto annexed to be filed, and that the petitioners have leave to amend the same by annexing thereto copies of any Acts of the Legislature referred to therein.

40 And the Chancellor, by virtue of the power and authority in him vested, and especially the power and authority con-

ferred upon and vested in the Chancellor, in and by the late Acts of the Legislature of the State of New Jersey, approved February 12, 1874, entitled "An Act for the relief of citizens on the line of any railroad that has or may hereafter fail or neglect to operate," doth further order that William S. Sneden be, and he hereby is appointed a Receiver under said Act, and he is hereby and thereby authorized and empowered and required to take possession of all the real and personal property of said Company, and to operate the following railroads: The 10
railroad running from Port Monmouth in the county of Monmouth to Atsion, in the County of Burlington; the branch railroad from Eatontown to Long Branch in Monmouth County; the branch railroad from Manchester to Toms River in Ocean County; the railroad known as the Long Branch and Sea Shore Railroad, which runs from Long Branch to Sandy Hook; the railroad which runs from Toms River to Waretown, in Ocean county; the railroad running from Whitings in Ocean County to Pemberton through New Lisbon; the 20
railroad from Atsion to Atco, called Batsto branch; the railroad from Atsion to Delaware River, and to transact the ordinary business thereof in the transportation of freight and passengers until the further order of the Chancellor; and it is further ordered that all expenses incurred by the said William S. Sneden, as such Receiver, in performing his duties, and in said Act and in this order, shall be a first lien on all the earnings of said railroad prior to any other claim, and the surplus, if any, shall be paid into Court to abide the order of the Court, 30
notwithstanding any order appointing a Receiver heretofore made by the Chancellor in any cause pending in said Court, and that said William S. Sneden report to the Court from week to week an account of the receipts and expenditures attending the operation of said roads and of the performance of his duties under this order, with liberty to apply from time to time for instructions, and that before he enters upon the duties of his office he give bonds to the State, with sureties to be approved of by the Chancellor, in a sum to be approved by the Chan- 40

cellor, conditioned that he shall duly and justly perform his duty as such Receiver.

Dated, February 13, 1874.

THEODORE RUNYON,
C.

SCHEDULE "E."

10 IN CHANCERY OF NEW JERSEY.

Between EMANUEL H. WILKS, JOHN AUMACK, EUGENE FAY, <p style="text-align: right;"><i>Petitioners,</i></p> <p style="text-align: center;"><i>and</i></p> THE NEW JERSEY SOUTHERN RAILROAD 20 COMPANY, <p style="text-align: right;"><i>Defendants.</i></p>	}	<i>On Petition.</i> <i>Petition.</i>
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To the Honorable THEODORE RUNYON, *Chancellor of the State of New Jersey :*

The petition of Emanuel H. Wilks, John Aumack and Eugene Fay respectfully shows :

30 1. That the said Emanuel H. Wilks is a citizen of the State of New Jersey, resident at Toms River, in Ocean County of New Jersey ; that the said John Aumack is a citizen of the State of New Jersey, and also a resident of Toms River aforesaid ; that the said Eugene Fay is a citizen of the State of New Jersey, resident at Manchester, in Ocean County aforesaid.

40 2. The said railroad company above named is a corporation of this State, and owning a railroad which runs from Port Monmouth, in the County of Monmouth, through Navesink, Middletown, Red Bank, Shrewsbury, Eatontown, Shark River, Farmingdale, Squankum in the County of Monmouth ; Bricksburg, Manchester, Whitings,

in Ocean County ; Woodmansey, Shamung to Atsion, in the County of Burlington, a distance of about sixty-five miles, and a branch road from Eatontown to Long Branch in Monmouth County, a distance of about five miles, and a branch road from Manchester aforesaid to Toms River in Ocean County, a distance of about seven and a half miles ; and said railroad company has for several years past been in possession of, and until about the twelfth day of January last been running and operating, the railroads aforesaid, and the railroad called the Long Branch and Sea Shore Railroad, which runs from Sandy Hook to Long Branch, both in said county of Monmouth, a distance of about eleven miles ; the railroad from Toms River to Waretown, in Ocean County, a distance of about thirteen miles ; the railroad running from Whitings, in Ocean County, to Pemberton, through New Lisbon, in Burlington County, a distance of about eighteen miles ; the railroad from Atsion to Atco, called the Batsto Branch, a distance of nine miles ; the railroad from Atsion to Delaware River, a distance of about forty-seven miles : forming connecting railways of the length of one hundred and seventy-five miles and a half.

3. The Tuckerton railroad runs from Tuckerton to Whitings, through West Creek, Manahowken, Barnegat, Waretown, Lacy and Bamber, a distance of twenty-nine miles.

4. The Camden and Burlington County Railroad runs from Pemberton to Philadelphia or Camden, a distance of twenty-four miles.

5. The Kinkora railroad runs from Kinkora to New Lisbon, situated on the Pemberton and New York road, which is the said railroad from Whitings to Pemberton.

The Kinkora road is about fourteen miles long, and is the main means of conveying coal from Belvidere Railroad, and by which a considerable number of towns in Ocean and the eastern portion of Burlington receive their coal. The towns of Whitings, Atsion, Shamung, Tuckerton, West Creek, Manahowken, Barnegat, Waretown, Forked River, Cedar Creek, Bayville, Toms River,

Manchester and Bricksburgh are all dependent on the operation of portions of said roads, in Article 2d mentioned, for coal ; but these towns cannot be supplied with coal unless the Pemberton and New York Railroad, the road from Manchester to Waretown, and the New Jersey Southern Railroad are operated.

6. The road from Squan to Monmouth Junction, which is the road by which the largest portion of the inhabitants of Monmouth and Ocean go to Trenton, crosses the
10 said New Jersey Southern Railroad proper.

7. The petitioner Wilks is now, by reason of the non-operation of said railroads, obliged to go by wagon for twenty miles from Toms River to get upon a railroad which will take him to Trenton.

The petitioner John Aumack has a grist mill at Toms River, and is unable to get supplies to his mill without the use of the New Jersey Southern Railroad Company's Road, and the other roads in the possession of that Com-
20 pany, except by wagons or sleighs, on common roads.

The petitioner Eugene Fay lives at Manchester, and is the keeper of the only hotel in the town. The business of the town is almost entirely interrupted by the stoppage of the roads mentioned in Article 2.

8. The provisions in the town of Manchester are almost exhausted, and within a short time since the stoppage of said roads the Town Committee were obliged to cart flour for a distance of twenty-three miles. There are from forty to seventy-five men who were employés of the
30 Company operating said roads, in Article 2 mentioned, who are now, and have been, at Manchester for about a month past, entirely out of employment, most or all of whom are supported by the Town Committee, or by public work given to the men by the town and county, and who could immediately earn their own livelihood if the said roads were put in operation ; and sometimes there have been in said town within the last month two or three hundred men who were out of employment coming from the town and the adjacent country, a majority of whom
40 have been thrown out of employment by the non-operation of said roads.

9. The said roads in Article 2d mentioned, were stopped and ceased to be operated on the twelfth day of January last, and the said The New Jersey Southern Railroad Company has, from the said twelfth day of January last up to this day, entirely failed and neglected to run daily (or at any other times or periods of time) a train or trains on any or all parts of said roads in said Article 2d mentioned, and still continues to fail and neglect to run or operate said roads, or any part thereof, though a part of one, it is said, for a distance of about eighteen miles, is arranged to be operated as after stated. 10

10. The petitioners are informed that some creditor of the New Jersey Southern Railroad Company, or some other person, has filed a bill in this Court, and a Receiver has been appointed for some part of the property of said Company—the part thereof will be shown by the records of this Court—and said Receiver is Robert F. Stockton, Esquire; but said Receiver has as yet been unable, or at least has failed to run or operate any part of said roads of which he is Receiver, although by some arrangement between parties unknown to your petitioners, the road from Pemberton to Whitings, it is said, is to be run from February 12th instant forth. 20

11. Your petitioners are seriously and pecuniarily injured by the great and manifest inconveniences they experience by the said Company neglecting its duty to the public and not running and operating said roads.

12. One-tenth of the population of the whole State is injuriously affected and pecuniarily injured by the great inconvenience they experience by said Company neglecting its said duty to the public. 30

About three hundred employés who formerly operated said roads are suffering greatly by the stoppage of said roads and are mainly dependent on public charity and public work for their support and receive but a scanty and precarious support thereby.

Great burdens are thrown upon the towns in the Counties of Ocean, Monmouth and Burlington for the support of these former employés and their families, who are de- 40

prived of the support which they might realize if said roads were in operation. The number of persons thus become a public burden, by reason of the non-operation of said roads, cannot be less than fifteen hundred.

13. The said Company, by its charter and under the franchises it has and exercises, is authorized and, as your petitioners submit, bound to run steamboats to and from the terminus on Raritan Bay to New York. Hereto annexed are copies of the charters and statutes under which
 10 said roads were authorized and said steamboats run and the said roads operated.

14. About two hundred inhabitants of this State have been heretofore, for years past, accustomed, during the Winter time, to go daily to and from the City of New York to and from their residences in this State upon said stopped railroads, and they are obliged to drive, by ordinary conveyances, on common roads, round-about
 20 ways to Keyport or some other place whence they can go to and from said city to attend to their business.

Then two hundred citizens of this State are daily suffering the greatest inconvenience and discomfort by the stoppage of said roads. They are obliged to rise hours before daybreak to enable them to get to their business.

15. The rolling stock of said Company, which has been used and now can be used on said roads, is in many particulars better and, substantially taken, altogether in as
 30 good a condition as it was at this time last year. The said roads can be operated now by and out of the earnings that can be made by the operation of said roads.

There is no danger whatever of any debt being incurred beyond the receipts by the prudent operation of said roads by a Receiver.

16. Damages by accidents, which are ordinarily a risk, can, by the faithful and careful operation of said roads, be practically avoided. Nor, as your petitioners are advised,
 40 would such damage be a charge against the public officers or the public under whose authority and for whose benefit said roads are to be operated under the Act re-

cently passed for the relief of the citizens of this State, and only the surplus earnings would be liable therefor.

17. Your petitioners are also advised by counsel that any excess of expenses of operating said roads under said Act, over and above the earnings, would be a proper charge against the said Company and any mortgages of any of the property or franchises of said Company; that the said Company is under a contract with the State to operate said roads; and all those who claim any interest in said franchises and have such interest are, to the extent of such interest, contractors with the State for the operation of said roads, and said Act for the relief of the citizens is a remedy the State has provided for the enforcement of said contracts, and the property of those so bound can be justly, equitably and legally applied in the manner provided by said Act to the specific enforcement of said contracts, and that the devotion to the payment of part wages of employés of the unencumbered property of the Company by second section of said Act demonstrates the clear intention of the Legislature to devote the property of the Company and all the interest of incumbrancers therein to the operation of said roads by and under the public authority. The said roads have been operated heretofore for many months together, prior to June 1873, by or under the direction of William S. Sneden, and he is willing to undertake the operation of said roads under the direction of this Court, and the inhabitants of the counties through which the said roads run will be glad to become his surety for the performance of his duties.

19. The said roads, since October, A.D. 1872, have been under the practical control of Jay Gould, and he has devoted the earnings of said roads to his own private purposes, and to schemes of wild speculation, and left unpaid the debts of said Company to an immense amount in the aggregate.

A poor market woman is creditor for about three thousand dollars for vegetables furnished to the Company to be used on the steamboats of the Company, which are

used to transport passengers to and from New York and Sandy Hook.

A butcher, one Harris, is creditor for about nine thousand dollars, for meat furnished to the Company aforesaid for the like purpose. A milkman is creditor for about four thousand dollars for milk and cream furnished for the same purpose. A cigar seller is creditor for about nine hundred dollars for cigars furnished to the Company and furnished to passengers on said steam-
10 boats.

One Styles, a stage driver, is creditor for about forty-three hundred dollars for moneys received for him by the Company for services performed by him in carrying passengers to and from said roads.

In short, the persons who have furnished timber, ties, coal and other things necessary, and performed labor as engineers, firemen, brakemen, flagmen, waiters and other poor people, are creditors of said Company, and are such creditors, not because the Company were unable to
20 pay, not because there was not money in the treasury to pay, but, because said Jay Gould desired to, and was determined to, and did, appropriate the same in manner aforesaid, and said Jay Gould is now controlling said roads and prevents the operation thereof, with the mere view of depreciating their value, to enable him to purchase the same for the smallest amount possible.

Your petitioners therefore pray that your Honor will appoint a Receiver under said Act, and order,
30 empower and require him to take possession of all the real and personal property of said Company, and to operate said roads, and transact the ordinary business thereof, in the transportation of freight and passengers, for such time as your Honor shall think proper to direct, and for such other and further relief as to your Honor shall seem meet.

Dated, February 13, A.D. 1874.

ROBERT GILCHRIST,

*Solr. for and of Counsel
with petitioners.*

State of New Jersey, ss :

EMANUEL H. WILKS, being duly sworn according to law, on his oath, saith that he is a resident of Toms River in the county of Ocean; that said Toms River is the county seat of Ocean County and is upon the Toms River and Waretown Railroad, now under control of the New Jersey Southern Railroad Company; that Toms River is about nineteen miles from Farmingdale, which is upon the Freehold and Jamesburg Agricultural Railroad; that the only means of reaching Farmingdale by rail is over the New Jersey Southern Railroad and its branches; that Farmingdale is the nearest place to Toms River at which railroad may be taken, except by means of the New Jersey Southern Railroad and Toms River and Waretown Railroad, which is under control of said New Jersey Southern Railroad. 10

And deponent further says that the said New Jersey Southern R. R. and Toms River and Waretown R. R. ceased operating on the twelfth day of January last; that in consequence of the non-operation of said railroads much injury to the business of the people of Ocean County is experienced, and much suffering is anticipated unless the said roads are put again speedily in operation. Deponent further says that he is one of the petitioners to the Court of Chancery of New Jersey, in the matter of the appointment of a Receiver to take charge of and operate the said New Jersey Southern Railroad and its branches, and that he has examined the said petition as it is partially drawn, and has talked over the remaining facts to be therein stated; that he would swear to said petition if he could remain in Trenton long enough for it to be completely drawn, if he did not have a very important sale to attend at Toms River on Saturday next, which will require his presence; that in order to be able to reach Toms River in time to be present at said sale, deponent must start immediately and before said petition is completed, that he may have time to ride the nineteen miles from Farmingdale to Toms River. 20 30

E. H. WILKS.

Sworn to and subscribed before }
me at Trenton, this 12th day of }
February, A. D, 1874. }

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G. A. ANDERSON, *M. C. C.*

State of New Jersey, ss :

JOHN AUMACK, being duly sworn, according to law, on his oath saith, that he is a resident of Toms River, which is the county seat of Ocean County; that he is President of the Ocean County National Bank, and interested in the flour mill of C. Falkenburgh & Co.; and deponent further says that Toms River is nineteen miles from Farmingdale, the then nearest point of railroad communication except the New Jersey Southern Railroad, and its branches now not in operation. And deponent further says that because of the non-operation of the said New Jersey Southern Railroad, the inhabitants of Toms River are obliged to carry supplies in wagons from Farmingdale. That because of the stopping of the running of trains on said railroad and its branches, much inconvenience is experienced by the inhabitants of said Toms River. That the flour mill above mentioned, with which deponent is connected, has been obliged to curtail its working because of the impossibility of getting grain, the bay by which, at some seasons, grain may be received, being frozen over, and consequently vessels rendered useless for purposes of transportation. And deponent further says that the people of Toms River and its neighborhood are loudly complaining because of the non-operation of said railroad, and the injury to them resulting therefrom.

JOHN AUMACK.

Sworn to and subscribed before }
me at Trenton, this 12th day of }
February, A. D., 1874. }

G. A. ANDERSON,
M. C. C.

NEW JERSEY, }
30 Mercer Co., } ss :

EUGENE FAY, being duly sworn according to law, on his oath deposeth and saith, that the facts, matters and things in the foregoing petition set forth are true of his own knowledge, except those alleged in Articles 10th, 19th, 13th, 14th; and the facts in the said last mentioned articles he believes to be true.

EUGENE FAY.

Sworn and subscribed before me, }
at Trenton, this 13th day of }
February, A. D. 1874. }

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WILLIAM Y. JOHNSON,
M. C. C.

NEW JERSEY, }
 Mercer Co., to wit. : }

GEORGE W. SIMPSON, being duly sworn according to law, on his oath deposeseth and saith, that he was a conductor on the New Jersey Southern Railroad Company for about two years prior to the twelfth day of January last, and his route was from Sandy Hook to Pemberton; that he is fully acquainted with the business done on said roads in Article 2d of the above petition mentioned.

The number of trains run on the roads has been at least two passenger trains and two freight trains each way, one a through and one a way-freight train, daily, during the Winter time, and in Summer there were a much greater number of trains. 10

The earnings of the roads and steamboats during March, April and May, and the Summer months, and up to the 1st of November, has always been equal to the expenses, and can at all times, by prudent management, be made to exceed the expenses. There is no part of any of the roads in Article 2d mentioned which cannot be made to pay expenses by earnings if carefully and prudently managed, and trains run at such times as to practice the utmost economy. 20

Deponent knows that during the year 1872 the earnings of said roads, as managed by William S. Sneden and others, exceeded the expenses, from his observation, and by the annexed reports of said Company, showing that the earnings exceeded the expenses of running said roads and steamboats; and deponent further saith that the foregoing petition has been read to him, and he believes the whole of the same to be true, and that he knows all of the allegations therein to be true, except Articles 7th, 8th, 10th, 13th, 19th. 30

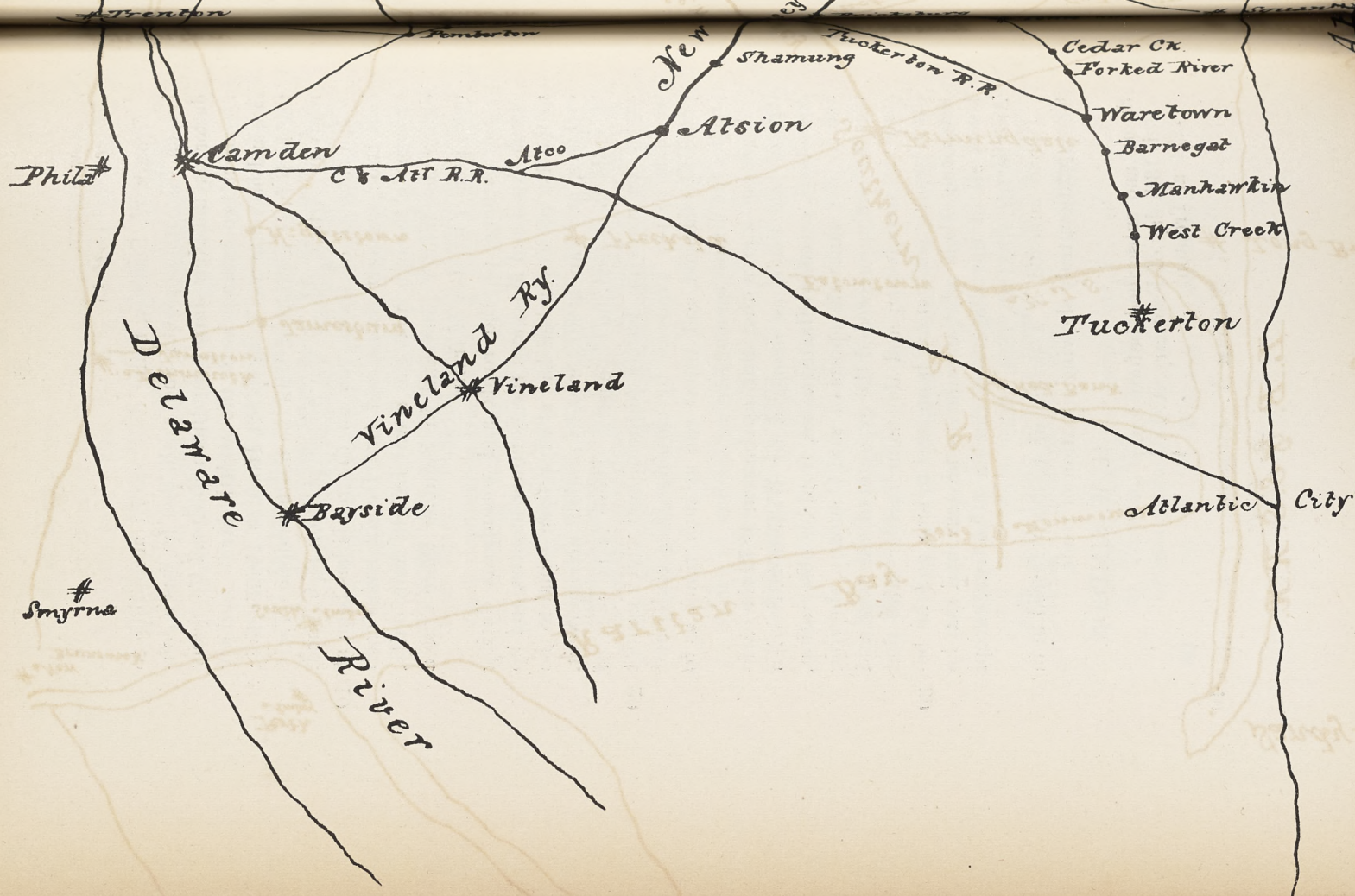
Hereto annexed is a sketch of routes referred to in above petition, truly showing situation of roads.

G. W. SIMPSON.

Sworn and subscribed before me, }
 this 13th day of February, A. D. }
 1874, at Trenton. }

WILLIAM Y. JOHNSON,

M. C. C.





State of New Jersey, ss:

EDWARD M. LONAN, being duly sworn according to law, on his oath saith, that he is a member of the House of Assembly of the New Jersey Legislature from Ocean County, and is at present attending its annual session; that his place of residence is at Forked River in said county, about ten miles south of Toms River; that, in order to reach Trenton from time to time to attend said session of the Legislature, deponent is obliged to travel
 10 over the New Jersey Southern Railroad and the Toms River and Waretown Railroad as far as Farmingdale, a distance of about twenty-eight miles. And deponent further says that it is the custom of the said Legislature to hold weekly sessions, commencing on Monday night of each week at 8 o'clock, and continuing until some time on the following Thursday; that between the ending of one week's session and the commencement of the next
 20 week's session, it is deponent's habit to return to his place of residence to attend to matters concerning his private business, which are frequently of great importance to deponent; and deponent further says that since the twelfth day of January last deponent has not been able to ride over said roads because of the discontinuance of the running of trains thereon, and since said date, whenever deponent has returned to his home, he has been obliged to hire or otherwise to employ conveyances to drive to and from Farmingdale, which is the nearest place at which he can take a railroad train between Forked River and Trenton; that deponent's private
 30 business is such as to necessitate his frequent return home from Trenton; that the length of time required to drive over said twenty-eight miles from Farmingdale to deponent's residence is a cause of much loss and inconvenience to deponent and thereby deponent is put to considerable expense, and by exposure to the severe winter weather is greatly discomfited. And deponent further saith that the general public of Toms River, Forked River, and the adjacent country experience great inconvenience, and are much distressed because of the discontinuance of the running of the trains over said roads;
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that difficulty is experienced in the bringing of provisions to the inhabitants of said places; that business is brought to a stand to the great pecuniary embarrassment of many merchants; that the supply of coal will soon be exhausted, and many other evils result.

EDWARD M. LONAN.

Sworn to and subscribed before }
 me at Trenton, this 12th day }
 of February, A. D. 1874. } 10

S. D. OLIPHANT,
M. C. C.

State of New Jersey, ss:

JOHN G. W. HAVENS, being duly sworn according to law, on his oath saith, that he is State Senator from Ocean County, and resides at Bricksburgh, in said county; that in order to reach Trenton to attend Legislative duties deponent is obliged to travel over the New Jersey Southern Railroad as far as Farmingdale, a distance of eight miles; that since the twelfth day of January last the said New Jersey Southern Railroad has not been operated, and no trains have been run thereon; that deponent has returned to his home in Bricksburgh every week since the commencement of the present session of the Legislature, and in coming to Trenton and returning home deponent has been obliged to drive to and from Farmingdale, either in hired or borrowed conveyances, or with friends. And deponent further says the inhabitants of Bricksburgh are dependent upon the said New Jersey Southern Railroad for fuel (coal) and provisions, except so far as they can be brought to them in wagons from Farmingdale, over roads at this season of the year in very bad condition. And deponent further says that about two thousand inhabitants of Brick township depend, in a great measure, upon the supplies received over said New Jersey Southern Railroad; that in the village of Bricksburgh there are several manufactories, viz., R. A. Brick & Co., manufacturers of iron pipes—they employ about

seventy-five men, and depend entirely upon said railroad for a supply of iron and coal—are now stopped, and, as deponent believes, because of the non-operation of said road; Smith & Garvin, manufacturers of fine machinery, employ about seventy-five men, and depend upon said railroad for supplies; they are still in operation, doing their carting by teams to Farmingdale at a great cost; also Calkins & Brooks, nurserymen, doing a large business and depending upon said railroad to ship their trees, especially early in the Spring.

10 Also many merchants doing a large business and depending mainly, and many of them entirely, upon the said railroad for supplies and shipments of products.

Deponent further says that he verily believes that if the said railroad is not speedily put in operation again, much distress and suffering will be experienced by the inhabitants of Ocean County, as much has already been suffered; that much damage will be done to the business and manufacturing interests of said county; and
 20 deponent further saith that he has considered the extent of injury that is done the inhabitants of the said State by the non-operation of said road heretofore operated by the New Jersey Southern Railroad Company; that estimating that nearly all of the inhabitants of Ocean County, a large portion of the County of Monmouth, and a portion of Burlington, Cumberland, Atlantic and Gloucester injuriously affected, and at least one-tenth of the inhabitants of this State are pecuniarily injured and sorely inconvenienced by the non-operation of said roads,
 30 but deponent thinks this estimate much below the truth.

And further deponent saith not.

JNO. G. W. HAVENS.

Sworn to and subscribed before me {
 this 13th day of February, 1874. }

G. A. ANDERSON,

M. C. C.

STATE OF NEW YORK, }
City and County of New York. } ss :

JAY GOULD, of the city of New York, in said State, being of full age, maketh oath and saith :

That he, this deponent, is, and for some time last past has been, the President of the Long Branch and Sea Shore Railroad Company, the petitioner named in the foregoing petition, and that as such President he has personal knowledge of the general affairs of said Company, and that the facts, matters and things set forth in 10
 said petition, so far as they relate to the acts and deeds of the said petitioner, are true as therein set forth, and that as to the acts and deeds of any other person or persons, he, this deponent, believes them to be true ; and especially is it true that the said Company, on or about the first day of December, 1869, executed a mortgage upon its railroad and franchises, with their appurtenances, to George B. Upton, Henry L. Gaw and Abraham Browning, to secure the payments of the bonds mentioned in 20
 said petition, and that the interest upon such bonds has been paid up to and including the first day of December last, and that said Company has no other means of paying the current interest, which will become due on the first day of June next, other than from the profits of the operations of said railroad. And especially also is it true that the said Company having the property belonging to it now in the hands of William S. Sneden as Receiver of the New Jersey Southern Railroad Company, surrendered up to said petitioner, that it can and 30
 will at once be enabled to commence the operation of its railroad, and to continue that operation to an indefinite period of time.

And especially, also, is it true that this deponent, at a Master's sale of the Vineland railroad and its equipments, purchased the said railroad and equipments ; that the equipments so purchased are the same set forth in Schedule B annexed to the foregoing petition, and that they are, in the opinion of this deponent, sufficient for the effectual operation of said railroad, and that this deponent has sold and transferred, and that said equip- 40
 ments now belong to the said petitioner.

And especially, also, is it true that the equipments mentioned in Schedule A belong to the said petitioner, and that the said equipments mentioned in Schedules A and B are, as this deponent is informed and believes, of the value of about eighty thousand dollars.

10 And especially, also, is it true that the deponent, and so far as this deponent knows and believes, none other of the officers or directors of said petitioner, had any knowledge or notice of the filing of the petition of Emanuel Wilks, John Aumack and Eugene Fay, or of the proceedings under it, until after the appointment of William S. Sneden, and after he had taken possession of the railroad of the petitioner and of the said equipments.

20 And especially also, is it true that this deponent, before being notified or informed of the filing of said petition and proceedings, had made preparation for commencing the operation of said railroad, by entering into a contract for the charter of a steamer to ply between the city of New York and Sandy Hook, in connection with said railroad, and that said steamer, by said contract, was to have commenced trips on the sixteenth day of February instant, and that she would have so commenced had it not been for the action of said Receiver, and, in connection with that boat, the said railroad would have commenced to be operated.

30 And especially, also, is it true that said petitioner, in the opinion of this deponent, is fully competent to operate and continue in operation, for an indefinite period of time, the said railroad.

JAY GOULD.

Sworn and subscribed at New York, }
 in the State of New York, this }
 27th day of February, A. D. 1874, }
 before me, Commissioner of New }
 Jersey, in the city of New York. }
 Witness my hand and official seal. }

40 CHARLES EDGAR MILLS,
Commissioner for New Jersey,
 in N. Y. City.

STATE OF NEW YORK, }
City and County of New York. } ss:

MOSES W. SERAT, of Long Branch, in the County of Monmouth, in the State of New Jersey, being of full age, maketh oath and saith, that he is now, and has been since the last annual election of the officers of the Long Branch and Sea Shore Railroad Company, the petitioner named in the foregoing petition, which took place about six weeks since, Superintendent of the railroad of said Company, and that for about seven months prior to said 10 election this deponent had been Superintendent of the New Jersey Southern Railroad Company, whose railroad during that period was run in connection with the railroad of said petitioner; and as such Superintendent this deponent acquired and now has personal knowledge of the rolling stock necessary to efficiently operate the railroad of said petitioner; that this deponent has personal knowledge of the rolling stock which Jay Gould, Esq., of said City of New York, about one month 20 since, purchased at the sale of the Vineland Railroad, and its equipments, at a Master's sale thereof, and which he, said Gould, has since sold and transferred to the said petitioner, and has personal knowledge also of the rolling stock which said petitioner leased with its railroad to the New Jersey Southern Railroad Company; that the Schedules A and B annexed to the foregoing petition are in the proper handwriting of this deponent, and are (Schedule A) a correct list of the rolling stock thus leased, and (Schedule B) a correct list of the rolling 30 stock purchased at said sale; that this deponent has a personal knowledge of the present condition of said rolling stock, and that in his opinion the rolling stock mentioned in Schedule A is of the value of sixteen thousand dollars, and that contained in Schedule B is of the value of sixty-four thousand dollars, making an aggregate value of about eighty thousand dollars.

And this deponent further saith that this deponent has knowledge of the amount and character of equipments required to efficiently operate the said petitioner's 40 railroad from Sandy Hook to Long Branch, and of his

personal knowledge knows that the equipments of the said petitioner mentioned in said Schedules are amply sufficient for that purpose.

And this deponent further saith, that the rolling stock mentioned in said Schedules A and B was taken possession of by William S. Sneden, the Receiver mentioned in said petition, on or about the fourteenth day of this present month of February, and that he now has
10 said rolling stock in his possession.

M. W. SERAT.

Sworn and subscribed at New York, }
in the State of New York, this }
27th day of February, A.D. 1874, }
before me, a Commissioner of New }
Jersey in the City of New York. }
Witness my hand and official seal, }

CHARLES EDGAR MILLS,

Commissioner for New Jersey,

in N. Y. City.

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

GIOVANNI P. MOROSINI, being duly sworn, says, that he is the Secretary and Treasurer of the Long Branch and Sea Shore Railroad Company; that by the records of that Company, now in deponent's possession, it appears that on the first day of December, 1869, the Company
30 executed a mortgage to George B. Upton, Henry L. Gaw, and Abraham Browning, to secure the payment of two hundred bonds of \$1,000 each, issued and negotiated by the Company, at or about the same time, bearing interest at the rate of seven per cent. per annum, payable semi-annually at the city of New York, on the first day of June and December in each year, and that it is provided by such mortgage that in case of default in the non-payment of any semi-annual instalment of interest, and the
40 continuance of such default for six months after demand, the principal of such bonds should become immediately due and payable.

That the interest upon such mortgage appears to have been regularly paid up to the present time, and the last instalment was paid on or about the first of December, 1873, and another instalment falls due on the first day of June next. That the said Company has no means for the payment of the interest thus falling due other than such as it expects to acquire from the operation of its railroad, and the transaction of its ordinary business which is entirely stopped by the order heretofore made by his Honor the Chancellor, directing William S. Sneden, Receiver, to take possession of and operate the railroad belonging to the said Company. 10

That the credit of the said Company has been hitherto perfectly good, and it is entirely free from floating debt and from any liabilities other than the said mortgage, except for the price of the rolling stock purchased as hereinafter mentioned, and for some small expenses incurred in preparing for the re-opening of its road, for which the President of the Company made the needful arrangements before learning of the appointment of William S. Sneden as Receiver aforesaid, and that before either the President or deponent had heard of such appointment, the President had given instructions, in deponent's presence, for the employment of a suitable steamer to run from New York to Sandy Hook in connection with the Company's line, and an agent of the company had completed a verbal contract for the charter of such a steamer which was then ready, and which would have commenced its trips on Monday, the 16th day of February, 1874, if it had not been for the appointment of the Receiver meantime. 20 30

That a bill of sale has been executed by Jay Gould, Esq., to this Company, for all the property mentioned in Schedule B, annexed to the petition of this Company herein, and such bill of sale is now in deponent's possession as Secretary and Treasurer aforesaid.

That the said Company is perfectly able to raise and furnish all the money which may be necessary for the 40

purpose of putting and keeping its railroad and rolling stock in effective operation, and carrying on all the traffic usually carried upon such railroad daily, without intermission, the directors of the said Company being abundantly able and willing to supply all the funds which may be required for such purposes.

GIOVANNI P. MOROSINI.

10 Sworn and subscribed before }
me at Newark, New Jersey, {
this 28th day of Feb., A. }
D. 1874. }

THEODORE RUNYON,
C.

20 [AFFIDAVITS ON BEHALF OF DEFENDANTS.]

NEW JERSEY, }
County of *Monmouth*. }

30 ANTHONY RECKLESS, of said County, being duly sworn, on his oath says, he resides at Red Bank, in said County, and has resided there for twenty-four years; that the Raritan and Delaware Bay Railroad Company constructed a railroad, and operated said railroad from Atsion to Port Monmouth, in the County of Monmouth aforesaid; that Port Monmouth was the only northern terminus of the aforesaid railroad; that the aforesaid Company transacted business and transported freight and passengers to and from New York City by steamboats from their aforesaid terminus at Port Monmouth, for about six or seven years, until the aforesaid Company was succeeded by the New Jersey Southern Railroad Company; that the New Jersey Southern Railroad Company continued to transact business on the aforesaid railroad, by way of Port Monmouth, to and from New York City, after the New Jersey
40 Southern Railroad Company controlled and owned the

road and property for about one year; that this deponent has frequently, during the aforesaid period of time, traveled as a passenger on the aforesaid road by way of the aforesaid route by Port Monmouth, to and from New York City; that about two years ago the New Jersey Southern Railroad Company abandoned the operation of the route to New York by way of Port Monmouth, and made the terminus of the railroad at Sandy Hook dock or pier, so called, the northern terminus of their route to New York, and transferred freight and passengers to and from New York by means of steamboats plying between New York City and the Sandy Hook pier, without their boat or boats touching at the Port Monmouth dock or pier aforesaid; that during said two years the Port Monmouth dock or pier has been suffered and permitted, under the control and management of the New Jersey Southern Railroad Company, to become dilapidated and at present of no use for railroad purposes on the route, as this deponent is informed and verily believes; that the New Jersey Southern Railroad Company have, for about two years prior to or about the twelfth day of January, A. D. 1874, run cars from Port Monmouth to Eatontown Junction, connecting with the trains run by the New Jersey Southern Railroad Company from Manchester to New York, by way of Long Branch and Sandy Hook. And deponent further says, that the facilities of intercourse by said railroad extending to Port Monmouth, related to Red Bank, Middletown, Eatontown, Shrewsbury Town, Tuiton Falls, Leedsville, and other neighborhoods; and deponent further says, he has frequently traveled as a passenger on the railroad, from Red Bank to New York by way of Eatontown, Long Branch and Sandy Hook, and has occasionally traveled as a passenger on said railroad from Farmingdale to New York, by way of Eatontown, Long Branch and Sandy Hook. And deponent further says, that the route on said railroad from Manchester to New York, by way of Long Branch and Sandy Hook, is through Farmingdale; that passengers traveling from Manchester to New York City, by way of Long Branch and Sandy Hook, since the said Port Monmouth dock has been so abandoned, have been conveyed

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by the same train of cars from Manchester to the boat at Sandy Hook pier, without change of cars, on the route; and deponent further says, that such mode of the transportation, or conveying of passengers by the New Jersey Southern Railroad Company, has been the usual and ordinary mode and management of said Company therein in its business, during the last two years, up to about the 12th day of January, 1874, the time when the trains of said Company ceased running or doing business; and deponent further says, that the railroad terminus at Sandy Hook aforesaid is at present the only outlet or means of communication of the New Jersey Southern Railroad Company to New York City, as within stated.

ANTHONY RECKLESS.

Sworn and subscribed to, this third }
day of March, A. D. 1874, before }

HENRY G. CLAYTON,
Master in Chancery of New Jersey.

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IN CHANCERY OF NEW JERSEY.

THE LONG BRANCH AND SEA SHORE
RAILROAD COMPANY,

Petitioners,

and

WM. S. SNEDEN, *and al.,*

Defendants.

*On Petition,
&c.*

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NEW JERSEY, }
County of Monmouth. }

GEORGE O. WATERMAN, of said County, being duly sworn, on his oath says, he resides at Red Bank, in said County; has resided there about six years, off and on, has been chief clerk, paymaster, book-keeper and cashier of the New Jersey Southern Railroad Company for about four years, up to about the thirty-first day of January, A.D. 20
eighteen hundred and seventy-four. That this deponent acted in the aforesaid capacities at different times during the aforesaid period of time. Deponent further says, that he had charge of the books of the aforesaid Company from about February, A.D. 1870, until about the thirty-first day of January, A.D. eighteen hundred and seventy-four; that this deponent, on or about the second day of January, A.D. eighteen hundred and seventy-four, was informed by M. W. Serat that he, this deponent, was elected a Director of the Long Branch and Sea Shore 30
Railroad Company; that this deponent was informed, a short time before then, by said Serat, that he, this deponent, was a stockholder in the last aforesaid Company; that on the last aforesaid occasion said Serat presented this deponent with a blank power of attorney, to be executed by this deponent, for the transfer of the stock which this deponent was informed he held. This deponent did not pay anything for the stock referred to, and has never seen the scrip or any voucher for the same, and he does not know, and did not know, where the same was kept, 40
and deponent does not know who now holds said stock

which this deponent was so informed was held by him. Deponent does not know that entry was made in any books of the Company, showing that he, this deponent, held any of the stock of the Long Branch and Sea Shore Railroad Company, so held by this deponent. Deponent did not receive any information from any person, before he was so elected such Director, that he would be elected a Director of said Company, and was not asked by any person if he, this deponent, would serve or act as such
10 Director. The only information this deponent had of such election was what he was informed of on the occasion referred to by said Serat. There was not delivered to this deponent, at any time, any scrips or evidence for any of the stock which this deponent was informed was held by this deponent. This deponent, some days after the occasion referred to, saw in the possession of said Serat, at the office of the New Jersey Southern Railroad Company, at Long Branch, New Jersey, a memorandum of the election of the Directors of the Long Branch and Sea
20 Shore Railroad Company, which memorandum or certificate of election the said Serat signed, as judge or inspector of election. Of some of the names of the Directors on the certificate referred to this deponent remembers the name of this deponent, the names of Warren Leland, E. J. Trowbridge, J. George, G. P. Morosini, M. W. Serat, Jay Gould, J. H. Bacon, Jr., C. J. Osborn, Ashbel Green; and he believes also R. F. Stockton, Abram Gould and R. S. Green were also named as Directors of the Company on that certificate referred to. Deponent does not know that
30 there were any meetings of said Directors for any of the business of the Company at any time. Deponent has not attended any meeting of such Directors, and does not know that there ever was any meeting of any of said Directors held anywhere. Deponent further says that the election above referred to was held, as this deponent was informed, by said Serat. Deponent further says, that from about February, A. D. 1870, up to about the fifteenth day of October, A. D. eighteen hundred and seventy-three, this deponent was employed in the office
40 of the New Jersey Southern Railroad Company, in the City of New York, and that from about the fifteenth day

of October, A. D. eighteen hundred and seventy-three, until about the thirty-first day of January, A. D. eighteen hundred and seventy-four, this deponent was employed in the office of the New Jersey Southern Railroad Company at Long Branch, in said County of Monmouth; and deponent further says, that the said office of the last aforesaid Company is a building near the depot of the New Jersey Southern Railroad Company; that there was not any apartment in said building for any office of the Long Branch and Sea Shore Railroad Company, and that the whole building, with all its apartments, was reputed and known as the office of the New Jersey Southern Railroad Company, after the time of the abandonment of the office in New York City. And deponent further says, that the business of the route or line of railway, by way of Manchester, Farmingdale, Eatontown, Long Branch and Sandy Hook, to New York, was and has been conducted by the New Jersey Southern Railroad Company for about three years, up to the twelfth day of January, A. D. eighteen hundred and seventy-four; that there was during the period of time aforesaid, and is now, only one railroad route from Long Branch to Sandy Hook pier, so-called; that the said railroad was, during all the time last aforesaid, used by the New Jersey Southern Railroad Company in transaction of its business, and in the running of its trains and in the transportation of all its freight and passengers to and from New York City. And deponent further says, that he was and is familiar with all the books of the New Jersey Southern Railroad Company, except the stock books and minute books; that he has had, for a long time had, the inspection and handling of the aforesaid books, with which he is familiar; that he has not seen any entry therein showing that the railroad, sometimes called the Long Branch and Sea Shore Railroad, was during the times aforesaid recognized by the New Jersey Southern Railroad Company as an independent or separate organization or company, in anywise independent of the New Jersey Southern Railroad Company; and deponent is satisfied and verily believes that there was not, during any part of the aforesaid period of time, any such entry in any of

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said books of the said Company. And deponent further says, that for part of the year eighteen hundred and seventy there was entry made in the said books of the New Jersey Southern Railroad Company, showing proceedings of the sales of the hundred thousand dollars of bonds of the Long Branch and Sea Shore Railroad Company; which said proceeds were placed and used in the general funds of the New Jersey Southern Railroad Company; and deponent further says, that he has frequently traveled over the railroad route, aforesaid, of the New Jersey Southern Railroad Company, from New York City to Bayside, by way of Sandy Hook, Long Branch, Eatontown, Farmingdale, Manchester, Atsion, Vineland and Bridgeton, and that the New Jersey Southern Railroad Company was and has been in continuous possession and use of the whole route or line of railway from Sandy Hook terminus since about July, A. D. eighteen hundred and seventy-two, up to about the beginning of the year A. D. eighteen hundred and seventy-four, and the trains of the New Jersey Southern Railroad Company continued to do business as usual in the transportation of freight and passengers on the said route, to and from New York City, as usual in the ordinary course of business of the New Jersey Southern Railroad Company, until the twelfth day of January, A. D. eighteen hundred and seventy-four. And deponent further says, that during the time, on and after the twelfth day of January, A. D. eighteen hundred and seventy-four, the cars and trains ceased to run, carry freight or passengers on the route aforesaid. This deponent was mostly at the general office of the New Jersey Southern Railroad Company at Long Branch aforesaid, and other officers of said Company were also then there, and this deponent did not see nor hear of any proposition being made for the running of any trains or cars on the Long Branch and Sea Shore Railroad route, and deponent further says, that the interest coupons which became due on the mortgage bonds of the mortgage of two hundred thousand dollars on the Long Branch and Sea Shore Railroad Company's railroad so called, were paid out of the treasury and funds of the New Jersey Southern Railroad Company during the

years eighteen hundred and seventy, eighteen hundred and seventy-one, eighteen hundred and seventy two, and of June, eighteen hundred and seventy-three; and deponent further says, that in said books of the New Jersey Southern Railroad Company there are various entries, showing debits against the purchase of the stock of the Long Branch and Sea Shore Railroad Company, amounting in the aggregate to about two hundred thousand dollars. The whole number of shares purchased of said stock, as shown by said entries, was sixteen hundred and nine- 10
 teen, of one hundred dollars each. The entries so made extend from the latter part of the year eighteen hundred and sixty-nine to the year eighteen hundred and seventy-two.

GEORGE O. WATERMAN.

Sworn and subscribed to, this third day }
 of March, A. D. eighteen hundred }
 and seventy-four, before me, }

WILLIAM CHILD,

A Justice of the Peace of said County. 20

IN CHANCERY OF N. J.

Between
 THE LONG BRANCH AND SEA SHORE RAIL-
 ROAD COMPANY,

Petitioners,

and

WILLIAM S. SNEDEN, Receiver, *et al.*,
Def'ts.

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STATE OF NEW JERSEY, }
 Monmouth County. } ss:

JOHN A. MORFORD, of full age, being duly sworn, on his oath says, that he is now and has been for more than thirty years last past a resident of Long Branch, in 40
 Monmouth County, New Jersey.

That the Raritan and Delaware Bay Railroad Company formerly operated a continuous line of railroad from Port Monmouth, in the County of Monmouth, through Monmouth and Ocean Counties, to Atsion, in the County of Burlington, and the branch Railroad from Eatontown, in Monmouth County, to Long Branch; that the Raritan and Delaware Bay Railroad, after being operated a few years, went into the possession of the New Jersey Southern Railroad Company, and was operated by them, both
 10 which said companies ran boats, in connection with said railroad, from Port Monmouth to New York, until about two years ago, as near as this deponent can recollect, when the route by the way of Port Monmouth was abandoned, and all freight and passengers, to or from New York City, were transferred over the railroad, formerly known as the Long Branch and Sea Shore Railroad, to Sandy Hook, thence by boat to New York City; that the Port Monmouth dock or pier was abandoned some time ago, and that now the only outlet to New York City, for the
 20 New Jersey Southern Railroad, is Sandy Hook, thence by boat to New York as aforesaid; that the Long Branch and Sea Shore Railroad is absolutely necessary to the usefulness of the New Jersey Southern Railroad; in fact, neither of said roads can now be operated to any advantage to said companies or the public, unless under one management and operated as one road, as they have heretofore been operated by the New Jersey Southern Railroad Company to about January 12th or 13th last.

JOHN A. MORFORD.

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Sworn and subscribed to, this 4th day }
 of March, A. D. 1874, before me, }

C. EWING PATTERSON,

Master in Chancery of New Jersey.

STATE OF NEW JERSEY, }
 Monmouth County. } ss:

40 JAMES E. LIPPINCOTT and CORNELIUS VANDERVEER, of
 full age, being duly sworn, say, that the foregoing affidavit

made by John A. Morford was read in their presence, and that the matters therein set forth, about the railroads therein named, are true.

JAS. E. LIPPINCOTT.
CORNEL US VANDERVEER.

Sworn and subscribed to, this 4th day }
of March, A. D. 1874, before me, }

C. EWING PATTERSON,
Master in Chancery of New Jersey. 10

IN CHANCERY OF NEW JERSEY.

Between THE LONG BRANCH AND SEA SHORE RAIL COMPANY, <p style="text-align: center;"><i>Petitioners,</i></p> <p style="text-align: center;"><i>and</i></p> WILLIAM S. SNEDEN, Receiver, and <i>al.</i> , <p style="text-align: center;"><i>Def'ts.</i></p>	}	20
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STATE OF NEW JERSEY, }
Monmouth County. } ss:

FRANCIS CORLIES, alleging himself conscientiously 30
scrupulous of taking an oath, upon his solemn affirma-
tion saith, that he resides at Long Branch, in the County
of Monmouth, and has resided there for more than ten
years last past and upwards; that he is a stockholder in
the Long Branch and Sea Shore Railroad Company (the
above petitioners), and was Secretary of said Company
for about three years; that his relation as such Secretary
ceased about three years after the organization of said
Company; that he has been a *bona fide* stockholder of
some of the stock of the Long Branch and Sea Shore 40
Railroad Company ever since said Company has been

organized, and is yet such stockholder ; that this affiant has received only one dividend of the stock, which dividend so paid to this deponent was on the earnings of the first year's operations of said railroad of the aforesaid Company, as he was informed and understood ; that said dividend was on the earnings of the year A. D. 1864 ; and this affiant further says, that he does not know what disposition has been made of the earnings of said road since that time. And deponent further says that he has, 10 for several years past, resided near the Long Branch terminus of the aforesaid railroad ; that the office of said Company was kept at Hoboken whilst this deponent was such Secretary ; that when he ceased to be Secretary, William A. Macy, then acting as Treasurer of the aforesaid Company, took possession of all the books of the concern from this affiant at Hoboken. And this affiant further says that, at or about the time of his ceasing to be such Secretary, some new organization of the aforesaid Company was formed at Hoboken, and some parties, 20 reputed to be in Boston, had control of said road and Company. And this affiant further says, that the depot building of the aforesaid Company was erected near the land of formerly Enoch Hendrickson ; there was also a turn-table and engine house near the same place, belonging to said Company ; that the depot building consisted also of a ticket-office. And deponent further says, that the aforesaid turn-table and buildings were, about three years ago, removed from their original location, and the turn-table aforesaid was, as this deponent was 30 informed and believes, took to some place off of the land of property of the Long Branch and Sea Shore Railroad Company, and placed somewhere at Sandy Hook. And this affiant further says that the aforesaid buildings, now used as depot buildings, were moved to lands owned in part by S. Laird, and in part by heirs of Samuel Cooper, deceased, which said land on which said buildings now stand is not a part of the aforesaid Company's land ; and this affiant saith that the aforesaid railroad was originally constructed to a place called 40 Spermacetti Cove, on Sandy Hook, in the County of Monmouth, where a dock or pier for steamboats was also

constructed by the aforesaid Company, for the use of the aforesaid Company, for the transportation of freight and passengers by water to and from New York City. That several years afterwards a railroad of about three miles in length was constructed from the northern terminus of the Long Branch and Sea Shore Railroad northward, on Sandy Hook aforesaid, to the north part of the Horse Shoe, so called, where the docks of the New Jersey Southern Railroad Company were erected and constructed, and at present exist. And this affiant further says, 10 that the first aforesaid dock and pier was torn down and abandoned; that the docks and piers which were subsequently built, as aforesaid, are expensive, costing several thousand dollars. And this affiant further says, that for some years past, up to the first of January, eighteen hundred and seventy-four, it was generally reputed and believed, and this affiant so understood and believed, that the Long Branch and Sea Shore Railroad Company, and all its rolling stock, were exclusively operated, and controlled and used by the New Jersey Southern Railroad 20 Company, and all its earnings and receipts used and controlled absolutely by the said New Jersey Southern Railroad Company. And affiant further says, that the aforesaid route of about three miles of railroad was constructed from Spermacetti Cove aforesaid to the present docks or piers, whilst the New Jersey Southern Railroad Company so operated the first aforesaid railroad, and the last aforesaid docks and piers were constructed whilst the New Jersey Southern Railroad Company operated said 30 roads. And this affiant further says, that he saw a notice published in the Long Branch *News*, of which the following is a copy :

“Notice is hereby given, that an election for Directors of the Long Branch and Sea Shore Railroad Company will be held at the office of the Company, at Long Branch, on the 2d day of January, 1874, at twelve o'clock noon.

Dated December 16th, 1873.

ASHBEL GREEN,

President.”

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And affiant further says that, pursuant to said notice, this affiant attended at the time and place therein specified for the election of Directors; that this affiant was present at said place a short time before twelve o'clock, the time referred to, and continued there for over two hours continuously, for the purpose of attending said election referred to in said notice; that one M. W. Serat was then acting as agent or superintendent of said railroads; that Henry Howland, of Long Branch, accompanied this affiant, and was present there during the time this affiant was there; that this affiant inquired of said Serat respecting said notice and election; that said Serat informed this affiant that he, Serat, had proxies sufficient to control the election of the Directors of the Company or road referred to in said notice. And affiant further says, that he had no opportunity of voting for any Directors of the road or Company referred to on that occasion, and that there was not any election had or held therefor during all the time this affiant and said Howland so attended there on that occasion.

FRANCIS CORLIES.

Affirmed and subscribed before }
me, March 4th, 1874. }

A. G. LANE,

Justice of the Peace.

STATE OF NEW JERSEY, }
Monmouth County. } ss:

HENRY HOWLAND, of full age, being duly sworn, says, that he has heard read the foregoing affidavits, made by John A. Morford and Francis Corlies, and that the matters and things therein set forth are true; that he was President of said road during the time said Corlies was Secretary, and has for several years resided at Long Branch.

HENRY HOWLAND, JR.

Sworn and subscribed before }
me, March 4, 1874. }

A. G. LANE,

Justice of the Peace.

NEW JERSEY, }
 County of *Monmouth*. }

JAMES BROADMEADOW, of said County, being duly sworn according to law, on his oath says, that he is aged fifty-seven years; that he has resided in Shrewsbury, where he now resides, for about eleven years; that he has transacted business and traveled for the period of time aforesaid on the railroad route of the Raritan and Delaware Bay Railroad Company, and of the New Jersey Southern Railroad Company; that the Raritan and Delaware Bay Railroad extended on its route from Manchester to its northern terminus at Port Monmouth, which last aforesaid place was its only outlet for inter-
 course to and from New York City; that the Raritan and Delaware Bay Railroad Company used the last aforesaid route for about eight years, up to the time when the New Jersey Southern Railroad Company became the reputed owner and controller and actual possessor of the route and road and property of the Raritan and Delaware Bay Railroad Company. That the New Jersey Southern Railroad Company used the same route to and from New York City, by way of the Port Monmouth terminus, for about one year, and then abandoned the last aforesaid terminus, and adopted the terminus of the railroad at Sandy Hook. And deponent further says, that the docks and piers of the said Company, at Port Monmouth aforesaid, have been abandoned for nearly three years last past; and deponent further says, that he is acquainted with the route of the railroad that was operated by the New Jersey Southern Railroad Company from Manchester, northward, to Sandy Hook; that for about three years, up to the twelfth day of January, eighteen hundred and seventy-four, last aforesaid route was so operated, and that he has traveled on that route to and from New York City, and to and from Shrewsbury. That the trains of the road were run on said route to Sandy Hook; that the passengers were, in the general and usual business of said Railroad Company, carried by the Company, without change, through and along the whole route to and from New York, by way of Manchester, Farmingdale and Eaton-

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town, Long Branch and Sandy Hook, except by change from the cars to the boat; that during about three years, up to the twelfth day of January, A. D. eighteen hundred and seventy-four, passengers were carried to and from Port Monmouth, to and from New York City, in the trains of the New Jersey Southern Railroad Company, in ordinary course of its business, by way of Middletown, Red Bank and Shrewsbury, and to Eatontown junction, at which latter place a connection or
 10 change was made with the aforesaid trains of the road, running by way of Manchester as aforesaid, to Sandy Hook terminus aforesaid; that the terminus aforesaid at Sandy Hook was during that time, and is now, the only outlet or mode of intercourse and transportation to and from New York City for the New Jersey Southern Railroad Company; and deponent further says, that he was and is familiar with the railroad known as the Long Branch and Sea Shore Railroad, and that the last aforesaid railroad was, during the time aforesaid, used by the
 20 New Jersey Southern Railroad Company as a part of the continuous route aforesaid of the New Jersey Southern Railroad Company in the aforesaid business of the last aforesaid Company; and deponent further says, that he has at this day been at the location of the pier and docks heretofore used by the railroad at Port Monmouth aforesaid, and that the said pier and docks are in a dilapidated condition, and have been in a great measure destroyed.

JAMES BROADMEADOW.

30 Sworn and subscribed to, this third day }
 of March, A. D. eighteen hundred }
 and seventy-four, before me.

WILLIAM CHILD,

Justice of the Peace of said County.

New Jersey, ss:

OLIVER B. KINNIE, being duly sworn, on his oath says, that he resides at Farmingdale neighborhood, in Monmouth County, New Jersey; that since the Fall of the
 40 year eighteen hundred and seventy-two, and up to the first of June, A. D. eighteen hundred and seventy-three,

he had been engaged on the Rariton and Delaware Bay Railroad, and its successor, the New Jersey Southern Railroad, in various capacities, as conductor, general freight agent, assistant manager and general passenger agent, and acted in such capacities almost continuously during all of said period.

And deponent further says, that from his knowledge and experience of the business and management of said railroad and its business, an economical and prudent management in the operation of said railroad existed for most of the time, up to the Spring of the year eighteen hundred and seventy, at which last named period of time the New Jersey Southern Railroad Company entered into a contract with the Narragansett Steamship Company, by which the water part of said railroad route was given up to the last aforesaid Company, by virtue of such contract, receiving, in the judgment of this deponent, and as he verily believes, an unreasonable proportion of the earnings of the line. 10

Subsequently, about the year 1872, the said contract was annulled by a portion of the steamers being purchased by the said Railroad Company and run by said Railroad Company; and deponent further says, that in his judgment he was and is of opinion, and verily believes, that some of said boats so purchased and run by said Railroad Company were not suited for said route on account of their great size, and consequently heavy expense in operating them and keeping them in repair. 20

And deponent further says that, in his judgment, he was and is of opinion, and verily believes, that steamers, which were in the Spring of the year eighteen hundred and seventy in contemplation of being built for said rail route, or steamers which could have been bought or chartered, and which boats last referred to, either built or hired, would have been entirely suited to the wants of the public travel, and would have made quicker time, could have been run and operated at a far less cost and expense to said Railroad Company than some of the other steamers formerly of Narragansett Steamship Company, used as aforesaid. 30

And deponent further says, that on or about July, A. D. eighteen hundred and sixty-five, the railroad on 40

Sandy Hook was completed to a place called Spermacetti Cove, then northern terminus of the last aforesaid railroad, and the last aforesaid road was run and operated to that terminus for about five years; that in the winter of the years eighteen hundred and sixty-nine and eighteen hundred and seventy the New Jersey Southern Railroad Company took control of the railroad on Sandy Hook, and constructed a railroad from the Spermacetti Cove terminus, for about three miles on Sandy Hook, to the present
 10 terminus of the railroad at Sandy Hook pier, whereby a continuous line of railway, as now exists, was formed and operated from Long Branch to the present Sandy Hook pier, which last aforesaid line of railway forms now one continuous line of railway from Bayside, on the Delaware River, to Sandy Hook pier, comprising in its entire route a distance of one hundred and seventeen miles, besides its lateral branches connecting the aforesaid continuous line of railway.

And deponent further says, that the former dock or
 20 pier existing at Spermacetti Cove aforesaid was taken up by the New Jersey Southern Railroad Company, and the railroad terminus at the last aforesaid cove abandoned, and has not since then been used for railroad purposes. And deponent further says, that he is thoroughly familiar with the present management of the line, under W. S. Sneden, Receiver, and, from his knowledge of the business of the line aforesaid, he is satisfied and verily believes that the same is being prudently and economically operated, and he verily believes that the expenses
 30 are kept within the earnings, and that all the accommodation as to the number of the trains run is given to the public that the business will at present justify.

And deponent further says, that from his knowledge and experience of the business and operation of said Railroad Company, this deponent is of opinion and verily believes that, if the Long Branch and Sea Shore Railroad Company was running the trains aforesaid, a body corporate, independent of and not consolidated practically with the New Jersey Southern Railroad Company, then
 40 the Long Branch and Sea Shore Railroad line was and

is bound to pay and satisfy a proportionate part of the wages of the employés and of the operating expenses of the railroad route and steamboats.

O. B. KINNE.

Sworn and subscribed before }
me, this 5th day of March, }
A. D. 1874.

ANDREW DUTCHER,

Master in Chancery of N. Y.

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IN CHANCERY OF NEW JERSEY.

Between

THE LONG BRANCH AND SEA SHORE
RAILROAD COMPANY

and

WILLIAM S. SNEDEN, Receiver, &c.

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New Jersey, ss :

GEORGE W. BENTLEY, of the City of New York, but temporarily residing at Hackensack, in the State of New Jersey, being sworn, saith, that from about the 17th day of May, 1870, down to and including the 31st day of May, 1873, he was in the employ of the New Jersey Southern Railroad Company, in the position of General Manager, and for the last eighteen months as Vice-President also, and that during said period he was familiar with the transactions and business of said Company, and also with its mode of operating and running the roads belonging to or connected with the said Company; and deponent saith, that during all the said period the railroad, known as the Long Branch and Sea Shore Railroad, and which connects with the said New Jersey Southern Railroad at Long Branch, was operated and run in connection with and as a part of the said New Jersey Southern Rail-

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road Company, which said last named Company had become and was the owner by purchase of over fifteen hundred shares of the capital stock of the said Long Branch and Sea Shore Railroad Company; the whole of said capital stock issued and outstanding not exceeding in all, as deponent is informed and believes, seventeen hundred and fifty shares; that although the said two Railroad Companies had not been formally consolidated together by Legislative authority, yet, to all intents and purposes, they constituted only one continuous and connected line of road, running in connection with boats from New York to Sandy Hook, which in March, 1872, became the property of the said New Jersey Southern Railroad Company, and their receipts and earnings were, during the whole period aforesaid, taken and appropriated by the New Jersey Southern Railroad Company as part of the earnings thereof, which said New Jersey Southern Railroad Company, also, during the said period, expended large sums of money upon the said Long Branch and Sea Shore Railroad, in changing and extending the tracks, improving and repairing piers and wharves, building station, engine and boarding houses, and other erections at Sandy Hook aforesaid, and in and about other matters connected with the improvement and development of said last-mentioned railroad. And deponent saith that, although for a very short time, the form of a lease of said Long Branch and Sea Shore Railroad to the said New Jersey Southern Railroad Company was kept up, yet it was, as deponent always understood and believes, only a form, and the said New Jersey Southern Railroad Company, during the whole of deponent's connection with the same, claimed to be and was the actual owner of the said Long Branch and Sea Shore Railroad Company, and always acted as such owner, by virtue of the ownership of the stock thereof as aforesaid.

And deponent further saith that, at some time in the month of December, 1871, the said New Jersey Southern Railroad Company borrowed, from some bank or savings institution in the City of Newark, the sum of one hundred and fifty thousand dollars, and, as collateral security

for the payment thereof, pledged the said fifteen hundred shares of the Long Branch and Sea Shore Railroad stock to said bank or savings institution, by transferring the certificates thereof.

And deponent saith that, in or about the month of October, 1872, Jay Gould, of the City of New York, became President of the New Jersey Southern Railroad Company, and assumed the direction and control of said railroad, including also the direction and control of the Long Branch and Sea Shore Railroad Company afore- 10
said, and that the said last-named road still continued, under his said direction and control, to be operated as a part of, and as belonging to, the said New Jersey Southern Railroad, down to the 1st day of June, 1873, when deponent ceased to be connected with said Railroad Company, or with the management thereof, and has no further personal knowledge in respect thereto.

And deponent saith, still upon information and belief, that the said Jay Gould, at some time or times after he became President of the said New Jersey Southern Rail- 20
road Company, repaid to the said bank or savings institution, in the City of Newark, some portion of the loan which had been made by it to the said Company, but deponent does not know, and cannot say, whether such payments were made by said Gould with his own money, or with the moneys of the said New Jersey Southern Company; and deponent saith, that large sums of money belonging to the said New Jersey Southern Railroad Company had been previously expended by said Gould, or under his direction, in and upon other roads and en- 30
terprises, in which the said New Jersey Southern Railroad Company had no legal interest, but which said other roads and enterprises belonged, in whole or in part, to the said Jay Gould, and that for such sums said Gould was responsible to the said New Jersey Southern Rail-
road; and deponent saith, that said sums should enter into any accounting that may or should be had between said Gould and said New Jersey Southern Railroad Company. But deponent is informed and believes that 40
said Jay Gould, upon some representations, the purport of which deponent does not know, obtained from

said bank or savings institution, in the City of Newark, a transfer of the said fifteen hundred shares of the stock of the Long Branch and Sea Shore Railroad Company above referred to, and pretended to hold the same as collateral security for his said pretended advances for the payment of said loan, and that he afterwards caused the same to be sold at auction for much less than the cost or value thereof, to wit, for the sum of \$31 per share of the actual value of \$100, and

10 without due notice to the said New Jersey Southern Railroad Company, or its officers, and that he caused the same to be purchased by some agent or person acting in his behalf, and that he now has or claims to have some interest in and control over the same, and that he claims to hold the same, in violation of his duty to the said New Jersey Southern Railroad Company, for whom he actually held the same as pledgee or trustee, and not otherwise. And deponent further saith, that since the said

20 New Jersey Southern Railroad Company became the owners, as aforesaid, of the said Long Branch and Sea Shore Railroad, the former Company have allowed and permitted their wharves and piers at Port Monmouth, which was formerly its eastern terminus, to fall into decay, and the main traffic over the said New Jersey Southern Railroad, to and from New York, has been by way of Sandy Hook, over the Long Branch and Sea Shore Railroad, and that the possession and control of that railroad is essential to the proper and effectual running of the

30 New Jersey Southern Railroad. And deponent further saith, upon information and belief, that it was not until on or after the 28th day of October, 1873, only three days before the New Jersey Southern Railroad Company made default in payment of the interest on its first mortgage bonds, that said Long Branch and Sea Shore Railroad Company pretended to resume its independent position, separate and apart from the former Company.

And deponent further saith, that previous to May 1, 1872, the said Jay Gould became the owner of a majority of the bonds of the Vineland Railway Company, and

40 subsequently by sale became the owner of the road; that on the 1st of May, 1872, a lease was made of the Vineland

Railroad to the New Jersey Southern Railroad Company for a period of six months, the conditions of which such lease, to the best of this deponent's recollection, were as follows :

That the said New Jersey Southern Railroad Company should operate it for its receipts ; but as it became necessary to make extensive repairs and improvements, before the successful operation could be commenced, it was agreed, on the part of said Gould, that whatever moneys were expended for that purpose, by the said New Jersey Southern Railroad Company, should become a charge 10
against the Vineland Railroad, and to the best of this deponent's knowledge and belief, the Vineland Railroad Company and the said Jay Gould, as the owner thereof, is indebted to the New Jersey Southern Railroad Company in a considerable sum.

Deponent also saith, that in October of that year Gould became President of the New Jersey Southern Railroad Company, and in conversation with this deponent, as to the further lease of the Vineland Railway, it was agreed 20
that the terms of the old lease should continue in force until either party should give six months' notice of a desire to terminate.

This deponent is informed and believes that no such notice has been given, and that the New Jersey Southern Railroad Company has a right to control, not only the Vineland Railway, but all its equipments and the appurtenances thereto belonging.

And deponent further says, that the former lease of the Sea Shore Road, above referred to and mentioned in the 30
petitioners' proceedings, was for the term of one year ; that if the said Sea Shore Railroad Company is an independent corporate body, independent of the other body corporate, the said Sea Shore Railroad Company was and is liable for and owes a proper proportion of the large amount of the expense of operating said route, of the expense of running the steamboats, of the expenses of the docks and piers, and of the employés' wages, and of the boarding-houses.

And deponent further says, that some of the moneys or 40
earnings of the New Jersey Southern Railroad were, by

the direction of said Gould, used and applied toward the building or construction of the Smyrna and Delaware Bay Railroad, so called, in the State of Delaware. And deponent further says, that during the past year a portion of the rolling stock of the New Jersey Southern Railroad Company was, by the directions of said Gould, placed on the Kent County Railroad and other roads in Delaware and Maryland, and remains there yet, to the best of this deponent's knowledge.

10

G. W. BENTLEY.

Sworn and subscribed before me, this }
5th day of March, A. D. 1874. }

ANDREW DUTCHER,

Master in Chancery.

STATE OF NEW JERSEY, }
Monmouth County. } ss :

WILLIAM L. WOLT, being duly sworn, deposes and says,
20 that he is 46 years of age, and resides in Red Bank, in said County; that he has been in the service of the New Jersey Southern Railroad Company, and previously in that of the Raritan and Delaware Bay Railroad Company, almost continuously since the year 1859; that during the greater part of the time, since that year, until near the close of 1873, he was engaged as foreman of bridge gang in building, repairing and reconstructing the bridges on said road, including the pier at Port Monmouth. Deponent
30 further says, the Port Monmouth pier was kept in good repair, and was used for the passage of trains until July, 1871, about which time the steamers ceased running from that terminus. At that time it was advertised by means of handbills posted up conspicuously, by the General Manager of the New Jersey Southern Railroad, that trains would be discontinued running on said pier until it could be thoroughly repaired; and deponent further says, that he never afterwards received any orders to repair said pier, but, on the contrary, was directed to remove the iron and ties therefrom, and to take down the
40 sheds and buildings thereon; that at this present time there remains about 200 feet of track on the shore end of

the pier; that on the balance of the pier, thence out to the end, in all a distance of nearly 4,000 feet, nothing remains but the piles, and they are mainly in a dilapidated and decayed condition. Some few of the pile bents have cap timbers remaining on them, but they are decayed and not fit for use. Deponent further says, that he has, in the course of his duties, done considerable work on Sandy Hook pier and along the line between Long Branch and said pier, and that said work was always done for and on account of the New Jersey Southern Railway Company. Deponent also says, that he removed the stringers from the Port Monmouth pier by direction of the superintendent of the road, and used them for various repairs and new work on different parts of the New Jersey Southern Railroad, and also on the railroad between Long Branch and Sandy Hook, and on the Vineland Railway, all of which roads were operated and kept in repair by the New Jersey Southern Railroad Company.

10

W. L. WOLT. 20

Sworn and subscribed before me, this }
 third day of March, eighteen hun- }
 dred and seventy-four.

WILLIAM CHILD,

A Justice of the Peace,

In and for said County.

NEW JERSEY, }
 County of *Monmouth*.

30

WILLIAM V. WILSON, minister of the Gospel, of said county, being duly sworn according to law, on his oath says, he is aged sixty years; resides at Port Monmouth, in said County of Monmouth; knows the Port Monmouth neighborhood in said county, having resided in it over thirty yearst last past; has seen the dock and pier which was built at Port Monmouth aforesaid, by and for the Raritan and Delaware Bay Railroad Company; the dock and pier was used by the said Railroad Company, with its steamboats and cars, for about eight years, and afterwards was used by the New Jersey Southern Railroad.

40

Company, which succeeded or took the place of the former company. The said dock and pier has not been used for nearly three years last past, and soon after its abandonment by the said New Jersey Southern Railroad Company, said dock and pier, with its sheds, offices and telegraphic communication, over three-quarters of a mile long, were entirely dismantled of every building upon it—the track taken up, the string pieces carried away, and now, at this date, many piles which had supported the track are washed away, leaving it in an utterly untenable state—and all this done in violation of a public notice, which said that the boats were only withdrawn until the pier should be thoroughly repaired, which notices were in shape of large handbills, posted in many conspicuous places. Prior to such abandonment, Port Monmouth was the only means of communication for the first aforesaid Company, by steamboat to New York City. Subsequently, the docks at Sandy Hook were constructed at the railroad terminus at Sandy Hook, and now the Sandy Hook terminus is the only means of communication for the New Jersey Southern Railroad Company, by means of steamboat to and from New York City. That there are, at least, an average of two hundred passengers daily which pass to and from New York City.

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20

W. V. WILSON.

Sworn and subscribed before me, }
 this third day of March, 1874. }

WM. C. IRWIN,
Justice of the Peace.

30

NEW JERSEY, }
 Monmouth County. } ss:

W. M. HAVENS, of said County, being duly sworn according to law, on his oath says, he is aged thirty-nine years; resides at Port Monmouth, in said County of Monmouth; knows the Port Monmouth neighborhood in said county, having resided at Port Monmouth for the past eleven years; has seen the dock and pier which was built at Port Monmouth aforesaid, by and for the Raritan and Delaware Bay Railroad Company. The dock and pier was used by the said railroad, with its steamboats

40

and cars, for about eight years, and afterwards was used by the New Jersey Southern Railroad Company, which succeeded or took the place of the former company. The said dock and pier has not been used during the past three years, and soon after its abandonment by the said New Jersey Southern Railroad Company, said dock and pier, with its sheds, offices and telegraphic communication, were entirely dismantled of every building upon it, the track taken up, the string pieces carried away, and now, at this date, many piles which had supported the track are washed away, and being in an utterly untenable state. Prior to such abandonment Port Monmouth was the only means of communication for the first aforesaid Company, by steamboats to New York City. Subsequently the docks at Sandy Hook were constructed at the railroad terminus at Sandy Hook, and now the Sandy Hook terminus is the only means of communication for the New Jersey Southern Railroad Company, by means of steamboats to and from New York City. That there are at least an average of two hundred passengers daily, which pass to and from New York City.

W. M. HAVENS.

Sworn and subscribed, this 3d day
of March, 1874, before me, }

WM. C. IRWIN,

Justice of the Peace.

NEW JERSEY, }
County of Monmouth. }

JOHN S. LUFBURROW, of said County, being duly sworn according to law, on his oath says, he is aged forty-one years; resides at Eatontown, in said County of Monmouth; knows the Port Monmouth neighborhood, in said county; has seen the dock and pier, which was built at Port Monmouth aforesaid, by and for the Raritan and Delaware Bay Railroad. The dock and pier was used by the said railroad, with its steamboats and cars, for about eight years, and afterwards was used by the New Jersey Southern Railroad Company, which succeeded or took the place of the former company. The said dock and pier has not been used for the past three years.

Prior to such abandonment Port Monmouth was the only means of communication for the first aforesaid Company, by steamboats to New York City. Subsequently the docks at Sandy Hook were constructed at the railroad terminus at Sandy Hook, and now the Sandy Hook terminus is the only means of communication for the New Jersey Southern Railroad Company, by means of steamboats to and from New York City. That there are at least an average of two hundred passengers daily, which
 10 pass to and from New York City.

JOHN S. LUFBURROW.

Sworn and subscribed to before me }
 this 3d day of March, 1874. }

THEODORE SICKLES,
Justice of the Peace.

STATE OF NEW JERSEY, }
 20 *Hudson County.* } ss:

R. CORNELL WHITE, being duly sworn, deposes and says, that he resides in Brooklyn, New York; that his office is at 154 South St., New York City. That he is the owner of several passenger and freight steamboats, and, as such owner and agent for other steamers, has on various occasions chartered steamboats to the New Jersey Southern Railroad Company, and formerly to the Raritan and Delaware Bay Railroad Company.

30 That before the New Jersey Southern Railroad Company purchased the Long Branch and Sea Shore Railroad, he had chartered a steamer in the year 1865 to the latter Company. That, since the purchase of that road above referred to, he has, under charter, run his boats between the city of New York and the New Jersey Southern Dock at Sandy Hook. That such charters were made by and on behalf of the New Jersey Southern Railroad Company. And deponent further says, that on the 9th day of October, 1873, he received a proposition in writing
 40 from A. P. Bacon, superintendent of steamboats of the New Jersey Southern Railroad line, for chartering the steamer "Americus;" that the following is a correct ex-

tract from said letter, viz: "To R. Cornell White, Esq., owner steamer 'Americus:' Sir, we will charter the St'r Americus to run between either Pier 8 or Pier 28, North River, this City, and the N. J. S. R. R. Co.'s Pier at Sandy Hook."

Deponent further says, that he is familiar with the route of the New Jersey Southern Railroad and its connections, and that the said terminus at Sandy Hook is its only outlet on tidewater pointing toward New York; that it is of vital importance to the business of said road and the large extent of country which it drains; that the whole road from South Jersey to Sandy Hook should be operated as a unit, and that it has been so operated for nearly four years, up to the present year. 10

Deponent further says, as a practical steamboat man, that the large steamers which have been run during portions of the year for the past three years, on the route between Sandy Hook and New York, have been run extravagantly and at large cost for operating. He also says, that boats of a suitable class for the business, by making more frequent trips, if run prudently and carefully, would have satisfied the demands of the trade, and have saved to the Company large sums of money. Deponent further says, that he is well acquainted with the present Receiver, William S. Sneden, who is now operating the New Jersey Southern Railroad and branches, and has known him for seven or eight years last past. That the deponent was familiar with the operations of the road during the period from 1867 to 1870, when it was under said Sneden's management as lessee; that the road and boats connected therewith were handled skillfully and economically, realizing handsome profits over and above the expenses, as deponent verily believes. Deponent also says that the line, as now handled by him as Receiver, is worked by him in a judicious and prudent manner, and satisfactory to the public. 20 30

R. CORNELL WHITE.

Affirmed and subscribed before me, }
this 4th day of March, 1874. }

AUGUSTUS ZABRISKIE,
Master in Chancery of N. J.

NEW JERSEY, }
 County of Monmouth. }

NELSON E. BUCHANON, of said County, being duly sworn according to law, on his oath says, he is aged thirty-two years; resides at Eatontown, in said County of Monmouth; knows the Port Monmouth neighborhood in said County; has seen the dock and pier which was built at Port Monmouth aforesaid by and for the Raritan and Delaware Bay Railroad. The dock and pier
 10 was used by the said Railroad, with its steamboats and cars, for about eight years, and afterwards was used by the New Jersey Southern Railroad Company, which succeeded or took the place of the former Company. The said dock and pier has not been used for the past three years. Prior to such abandonment Port Monmouth was the only means of communication for the first aforesaid Company by steamboat to New York City. Subsequently the docks at Sandy Hook were constructed, at the Railroad terminus at Sandy Hook, and now the
 20 Sandy Hook terminus is the only means of communication for the New Jersey Southern Railroad Company, by means of steamboats, to and from New York City; that there are at least an average of two hundred passengers daily which pass to and from New York City.

NELSON E. BUCHANON.

Sworn and subscribed before me }
 this third day of March, 1874. }

THEODORE SICKLES,
 30 *Justice of the Peace.*

NEW JERSEY, }
 County of Monmouth. }

JOHN TRAFFORD, of said County, being duly sworn according to law, on his oath says, he is aged fifty years; resides at Shrewsbury, in said County of Monmouth; knows the Port Monmouth neighborhood in said County; has seen the dock and pier which was built at Port Monmouth aforesaid by and for the Raritan and Delaware
 40 Bay Railroad; the dock and pier was used by the said railroad, with its steamboats and cars, for about eight

years, and afterwards was used by the New Jersey Southern Railroad Company, which succeeded or took the place of the former Company. The dock and pier has not been used for the past three years.

Prior to such abandonment, Port Monmouth was the only means of communication for the first aforesaid Company by steamboats to New York City. Subsequently the docks at Sandy Hook were constructed at the railroad terminus at Sandy Hook, and now the Sandy Hook terminus is the only means of communication for the New Jersey Southern Railroad Company, by means of steamboats, to and from New York City. That there are at least an average of two hundred passengers daily, which pass to and from New York City.

JOHN TRAFFORD.

Sworn and subscribed to before me)
this third day of March, 1874. }

THEODORE SICKLES,
Justice of the Peace.

20

New Jersey, ss :

WILLIAM J. PARMENTIER, being duly sworn according to law, on his oath says, that he is aged forty-three years ; that he resides at Red Bank, Monmouth County, New Jersey ; that he was in the employ of the New Jersey Southern Railroad Company when the aforesaid Company was first organized ; that this deponent continued in such employ until the cars ceased running and carrying freight and passengers ; that this deponent was general agent of the aforesaid Company ; that as such general agent he had charge of the cars, and pier, and docks at Sandy Hook ; that this deponent was also in the employ of the Raritan and Delaware Bay Railroad Company, which last aforesaid Company was succeeded by the New Jersey Southern Railroad Company ; that this deponent also had charge of the Port Monmouth dock and pier of said Company ; that this last aforesaid dock and pier is now, in its present condition, useless and valueless for any railroad purposes, and is wholly insufficient wherewith to operate the railroad route by steamboat from Port Monmouth to and from New York City.

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40

And deponent further says, that on or about July 24, 1871, a printed notice, signed by George W. Bentley, was posted up conspicuously on the Sandy Hook pier to the effect that the boats connecting with the trains for New York would from thence be discontinued until that structure could be thoroughly repaired.

And deponent further says, that there were several notices of that nature at that time posted up at different conspicuous places along the route of the road of the New Jersey Southern Railroad Company, and were continued
10 kept up for some time.

And deponent says, that said notice was signed by said George W. Bentley as general manager of the New Jersey Southern Railroad Company. And deponent says that said Bentley, at and before that time, was and acted as general agent of the last aforesaid Company, and continued to act as such agent for about two years thereafter.

And deponent further says, that not any of the dock or pier at Port Monmouth aforesaid was, after this posting up of said notice, repaired or put in order, and that
20 since then said dock and pier has been in the possession and control of the New Jersey Southern Railroad up to the time when the cars ceased running on the railroad of said Company and that the sheds and buildings on said Port Monmouth dock were taken down about two years ago, and that part of said pier or dock has been taken down and removed by said Company last aforesaid, and some of said materials were used about one year ago
30 on the railroad on Sandy Hook.

And deponent further says, that said Bentley was also Vice-President of the New Jersey Southern Railroad Company for about one year and a half of the said time he was such general manager.

W. G. PARMENTIER.

Sworn and subscribed to, this fourth }
day of March, A. D. eighteen }
hundred and seventy-four, before }
me, at Jersey City.

40

CHAS. H. VOORHIS,

Master in Chancery.

NEW JERSEY, }
 County of Monmouth. }

AARON FLOWER, of said County, being duly sworn according to law, on his oath says, he is aged sixty years; resides at Eatontown, in said County of Monmouth. Knows the Port Monmouth neighborhood in said County. Has seen the dock and pier which was built at Port Monmouth, aforesaid, by and for the Raritan and Delaware Bay Railroad. The dock and pier was used by the said railroad with its steamboats and cars for about eight 10 years, and afterwards was used by the New Jersey Southern Railroad Company, which succeeded or took the place of the former Company. The said dock and pier has not been used for the past three years. Prior to such abandonment Port Monmouth was the only means of communication for the first aforesaid Company by steamboats to New York City. Subsequently the docks at Sandy Hook were constructed at the railroad terminus at Sandy Hook, and now the Sandy Hook terminus is the only means of communication for the New Jersey 20 Southern Railroad Company, by means of steamboats, to and from New York City. That there are at least an average of two hundred passengers daily which pass to and from New York City.

A. FLOWER.

Sworn and subscribed to before me }
 this third day of March, 1874. }

THEODORE SICKLES,

Justice of the Peace. 30

NEW JERSEY, }
 Mercer Co., } ss :

EDWARD J. ANDERSON, being duly sworn according to law, on his oath says, that on the twenty-third day of February, A. D. 1874, before the Committee on Railroads and Canals of the New Jersey Legislature, of which deponent was secretary, sitting to investigate the management of the New Jersey Southern Railroad Company, the Long Branch and Sea Shore Railroad Company, the 40 Pemberton and New York Railroad Company, and the

Vineland Railway Company, appeared Jay Gould, who being duly sworn, testified as follows, substantially: I reside in the city of New York; am interested in the New Jersey Southern Railroad as stockholder, bondholder and creditor; do not hold any official position in the Company; I am President of the Long Branch and Sea Shore Railroad Company, and am individually the owner of the Vineland Railroad. The New Jersey Southern Railroad Company controls (or if they had their rights would control) the Smyrna and Delaware Bay Railroad, by virtue of ownership.

10 I was President of the New Jersey Southern Railroad Company for one year, to October, 1873; succeeded G. W. Bartholomew, and was succeeded by Moses W. Serat; was a stockholder of the Company during the year preceding my presidency. I sold the Company the steamboats used between New York and Sandy Hook, viz., the "Plymouth Rock," the "Jesse Hoyt," and the "Fall River," and took the stock of the Company in payment therefor.

20 The price paid for the steamboats was one million of dollars in stock. I received ten thousand shares of the stock, of which the par value was one hundred dollars per share. I valued the stock at twenty-five dollars per share.

I estimate the cash value of the boats at the time of sale to have been about as follows:

30 The "Jesse Hoyt" fifty to sixty thousand dollars, the "Fall River" twenty-five thousand dollars, and the "Plymouth Rock" two hundred and fifty thousand dollars; the latter cost more than this amount; I purchased enough more stock, at twenty-five dollars a share, to give me a majority of the stock of the company; I do not remember the quantity, but know it is more than I wish I had; think it is fifteen thousand shares; do not remember when I bought the additional stock; sold the steamboats to the company, I think, in the Spring, and think I bought the additional stock very soon afterward; made a bill of sale of the boats to the company at the time; the

40 boats were free from lien then, and were not subsequently incumbered in respect to indebtedness existing at the

time of sale; they were in good repair at the time, needing only the usual repairs consequent upon having been in use the previous season; do not remember who paid for those repairs.

The amount of the stock of the company at that time was five millions of dollars.

Do not remember of whom I purchased the additional stock; think I purchased ten thousand shares through John B. Norris, who was then a director of the company; at his solicitation I gave him an order to buy the stock, and I noticed he got it very quick. 10

This was stock held by the Board of Directors; the purchase was not made with the understanding that I should become controlling stockholder; I did not apply to the directors for the stock; the application came from them; the price was twenty-five dollars a share, which was paid in cash; I do not know whether this stock had been previously issued or not; did not materially decrease or increase my stock after these purchases; may have increased it somewhat by purchases made to keep the price up. 20

I was induced to become interested in the company by representations that the road was earning money beyond the amount necessary to pay the interest on its bonds; at the time I was elected President, I held over twenty-five thousand shares of the stock; some of this cost me twenty-five dollars a share, and some more than that; the average cost was over thirty, estimating only the costs of the stock, and not including losses sustained through transactions in it; the market value of the stock, when I sold the steamboats to the company, was nominally in the vicinity of twenty-five dollars a share, though it could not have been then sold in large quantities without depreciating the price. 30

In October, 1873, when I ceased to be President of the Company, I held twenty-five thousand shares of the stock.

I am a creditor of the New Jersey Southern Railroad Company, by reason of cash advances made at different times; have advanced altogether upwards of six hundred thousand dollars—somewhere between six hundred thou- 40

sand and six hundred and fifty thousand. For a portion of these advances I hold collateral securities, and for a portion I hold the notes of the Company; hold bonds to the amount of two or three hundred thousand dollars; the first advance was made when the first interest became due after I was elected President, during 1872; I think I advanced one hundred thousand dollars; this advance was made in cash, and was to pay interest on the bonds of the Company; had I not made this advance the road would have gone to protest within sixty days; I have continued to make cash advances whenever the Company was pressed for money; have also advanced money to pay operating expenses; have not made advances for any other purposes than those mentioned; I consider the six hundred and fifty thousand debt a loss; the interest referred to was upon all the bonds of the Company; I became a bond-holder soon after becoming President of the Company; I took up a loan of the Company, and took first mortgage bonds at seventy; the loan was fifty or a hundred thousand; think there were other loans, but do not remember them; think there were, altogether, about three hundred thousand dollars; I think I obtained enough of the first mortgage bonds at seventy to pay the first mentioned loan; the bonds had been pledged to the bank at fifty, and I redeemed them; I do not know the amount of the first mortgage bonds I now hold; it is less than three hundred thousand dollars; the market value of the bonds, when I took up the loan, was about seventy; this was in the latter part of 1872 or early in 1873; I afterwards purchased second mortgage bonds at sixty; took one hundred at one time, and bought some more afterward; these were all bought directly from the Company, for cash; may have taken them as security for a previous loan, but do not remember that I did; I control a large amount of the first mortgage bonds, which I do not own; cannot tell the amount, even approximately; do not own and control a majority of them; I own some of the second mortgage bonds; cannot tell the amount, but it is quite large; do not know how many of the third mortgage bonds have been issued; I hold some of them as collateral, but cannot tell the amount; think it is at least a million.

Very few of the third mortgage bonds have been sold; those which I hold I have held ever since they were ready for delivery; took them as collateral, without fixing any rate; I do not know who is the present Treasurer of the company; C. J. Osborne was Treasurer while I was President.

I hold the title to the East End Hotel property at Long Branch in my individual capacity; it is my absolute property; I paid the purchase money myself; do not know whether it was paid out of the money advanced by me to the Company or not; I gave my individual check for it. 10

The property was bought for the New Jersey Southern Railroad Company, but they asked me to make the purchase; I am ready to turn the property over to them if they will reimburse me; have urged them to release me, and would be glad to have them do so.

The hotel was on the property when I bought it in 1872; do not remember from whom it was purchased; do not remember what price was paid for it; think I made a payment of five or ten thousand dollars, and gave bonds for the remainder; do not know to whom these bonds were given; think they were secured by mortgage on the property; do not know whether the money paid was my money or the Company's; cannot tell how much has since been expended in improving the property. 20

At the last election of the Company I did not vote my stock; do not know who voted it; it was voted on a ticket made by me; before Mr. Serat's election as President of the Company I had no communication with him with reference to his election; I decided upon him for the position and he was elected as my choice; do not know whether he was then a stockholder or not; do not know when he became a stockholder. 30

I am a stockholder in the Long Branch and Sea Shore Railroad Company; do not know how much of the stock I hold; think it is about one hundred shares; became a stockholder within the past twelve months; do not know of whom I purchased the stock; am also a creditor of the Company, having advanced seven thousand dollars, to pay interest about sixty days ago, for which I took the Company's note, without collateral. 40

I became President of the Long Branch and Sea Shore Railroad Company about two months ago; was elected at a meeting at which I was not present, though my probable election was previously intimated to me by some of the Directors.

I have been owner of more of the stock of the Company than I now hold; held nearly all of it at one time, but have parted with the greater portion; have disposed of it within a year; have disposed of it since January 1,
 10 1874. I prefer to not state when I disposed of it, as that is my private business, and the transaction may involve legal proceedings, which I do not wish to prejudice by statements made here.

I desire to give the committee all the information I can to aid their investigations, but for the reasons mentioned would prefer not to answer this question.

The Long Branch and Sea Shore Railroad was operated by the New Jersey Southern Company, under a lease made upwards of three years ago, and which expired some time since. It was operated a portion of the
 20 time by "courtesy." The New Jersey Southern Company voted to surrender possession of their road to the trustees for holders of the first mortgage bonds, and soon after this the operation of the Long Branch and Sea Shore road was stopped by the strike. The lease to the New Jersey Southern was made at a rental of five per cent. on the amount of stock that was issued.

I had no intimation before Gen. Stockton was appointed Receiver that an application was to be made to the
 30 Chancellor for the appointment of a Receiver for the New Jersey Southern Road; at the time the Receiver was appointed, the road was in the possession of Williamson and Upton, as trustees.

I do not know Frederick Gerker; never heard of him. I had no knowledge of the intention of the Chancellor to appoint a Receiver; first heard of it from Ashbel Green, who was counsel for the New Jersey Southern Railroad Company, and who gave me the impression that
 40 the Company was thrown into Chancery through the action of the trustees.

I became the owner of the Vineland Railroad by purchasing bonds until I controlled it, and then had the mortgage foreclosed, and bought in the property at the sale for ten thousand dollars.

I procured the stock of the Vineland road from Mr. Marquand and from Mr. Landis. This road cost me from seven hundred thousand to seven hundred and twenty thousand dollars; not including interest on the money I have invested in it. I have never received a dollar from any of these companies for my services in any form. 10

E. J. ANDERSON.

Sworn to and subscribed before me }
 this fifth day of March, A. D. }
 eighteen hundred and seventy-four. }

A. C. HARTSHORNE,

Master in Chancery of New Jersey.

20

IN CHANCERY OF NEW JERSEY.

In the Matter of the Supplemental Pe- }
 tition of the LONG BRANCH AND SEA }
 SHORE RAILROAD COMPANY. }

This matter coming on to be heard before the Chan- 30
 cellor, and having been argued by Messrs. Abram Brown-
 ing and Thomas G. Shearman, of counsel with the peti-
 tioner, and by Mr. Gilchrist, of counsel with the oppo-
 nents of the motion; and the Chancellor having con-
 sidered the arguments of the counsel, and the petition
 and affidavits thereto annexed, and the affidavits on the
 part of the opponents, and it appearing to the Chancel-
 lor, thereupon, as well as from the sworn statements of
 the President of the petitioner for the years 1870, 1871,
 1872 and 1873, filed in the office of the Secretary of 40
 State, according to the requirements of the Act entitled

“An Act respecting Annual Reports to the Legislature of Railroad and Canal Companies,” approved February 24, 1852, whereof the Court has taken judicial notice, that there is grave doubt whether the petitioner is entitled to the possession of the railroad and property, the possession whereof the petitioner seeks on and by said petition.

It is thereupon ordered by the Chancellor, on this 24th day of March, in the year eighteen hundred and seventy-four, that the prayer of the said petitioner be denied, without prejudice to any future application that shall be made in due form, and according to the practice of the Court in like cases.

THEODORE RUNYON,
C.

COURT OF ERRORS AND APPEALS IN THE
LAST RESORT, &c., OF THE STATE OF
NEW JERSEY.

Between

THE LONG BRANCH AND SEA SHORE
RAILROAD COMPANY,

Appellants,

and

WILLIAM S. SNEDEN, Receiver, &c., and
EMANUEL WILKS and others,

Appellees.

*On Supplemental
Petition, &c.*

*Petition of Ap-
peal.*

*To the Honorable the Court of Errors and Appeals in
the last resort in all causes of law :*

The humble petition of the Long Branch and Sea Shore Railroad Company, the appellant in the above stated cause, respectfully shows that your petitioner finds itself aggrieved by a certain order made in the Court of Chancery, by His Honor Theodore Runyon, Chancellor of New Jersey, bearing date the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and seventy-four, wherein the said The Long Branch

and Sea Shore Railroad Company was petitioner, and the said William S. Sneden, Receiver, Emanuel Wilks, John Aumack and Eugene Fay were the defendants or parties complained against, in this respect, to wit: that the said order denied to your petitioner the relief prayed in the supplemental petition of your petitioner by refusing to direct and require the said William S. Sneden, Receiver, &c., to surrender and deliver up to your petitioner the railroad of your petitioner, and also the rolling stock and other property of your petitioner, mentioned and referred to in said supplemental petition, which had been taken possession of by said Receiver, or any part thereof. 10

And your petitioner humbly appeals from the said order of the Chancellor, and every part thereof, on the ground that the said order of the Chancellor is erroneous, for that the said railroad, rolling stock and other property, and the possession thereof, belonged of right to your petitioner, and in equity and good conscience ought to have been surrendered and given up to your petitioner, according to the prayer of said supplemental petition. 20

Your petitioner therefore prays that the said order of the Chancellor may 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.

Dated March 24, 1874.

LEON ABBETT,
Solicitor of Appellants.
 A. BROWNING, 30
Of Counsel of Appellants.

State of New Jersey :

I, HENRY C. KELSEY, Secretary of State of the State of New Jersey, and Ex-Officio Clerk of the Court of Errors and Appeals in the Last Resort in all Causes, &c., do hereby certify the foregoing to be a true copy of a petition of appeal made in the above stated cause, as the same is taken from and compared with the original filed in my office the 24th day of March, A.D. 1874, and remaining on file therein. 40

In testimony whereof, I have hereunto set my hand and affixed my official seal, this twenty-fifth day of March, A.D. eighteen hundred and seventy-four.

[SEAL.]

HENRY C. KELSEY.

IN CHANCERY.

10	Between THE LONG BRANCH AND SEA SHORE RAIL- ROAD COMPANY, <div style="text-align: right;"><i>Petitioner,</i></div> <div style="text-align: center;"><i>and</i></div> WILLIAM S. SNEDEN, EMANUEL WILKS, and others, <div style="text-align: right;"><i>Respondents or Def't's.</i></div>	}	<i>On Supplemental Petition, &c.</i>
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20 The petitioner, The Long Branch and Sea Shore Railroad Company, hereby appeals from the order of this Court, in the above stated cause, denying to the petitioner the relief prayed for in the supplemental petition of said petitioner, to wit., that the railroad of the petitioner should be surrendered and delivered up to the petitioner, by said William S. Sneden, Receiver; and also all that other property of said petitioner which had been taken by him, said Receiver, on the line of said railroad; and from every part and parcel of said order.

30 Dated March 24th, 1874.

LEON ABBETT,
Sol'r for Petitioner.

A. BROWNING,
Of Counsel.

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

40 A. BROWNING,
Counsel of Petitioner.

February Term, 1874.

THE LONG BRANCH AND SEA SHORE RAIL-
ROAD COMPANY,

Petitioners,

vs.

WILLIAM S. SNEDED, Receiver,
Respondent.

Opinion.

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On motion on supplemental petition and affidavits for an order directing the respondent to deliver up to the petitioners their road, &c.

Mr. A. BROWNING and Mr. T. G. SHEARMAN, of N. Y., for the motion.

Hon. R. GILCHRIST, *Att'y. Gen.*, and Messrs. J. E. LANING and R. ALLEN, JR., *contra.*

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The Chancellor : This is a renewal of the application by the Long Branch and Sea Shore Railroad Company for an order directing the Receiver, appointed under the Act "for the relief of citizens on the line of any railroad that has or may hereafter fail or neglect to operate," to deliver to them their road and rolling stock and other property in his hands.

The petition states that the Company are not only able to operate their road, but desirous of doing so ; that they have no floating debt to embarrass them, and no arrears of wages owing to employés ; that they have an ample supply of rolling stock for the proper and efficient operation of their road, and that, while they are perfectly solvent, and without any embarrassment from floating debt, yet there is a mortgage, which will become due in 1899, on the road and its appurtenances and the corporate franchises, to secure bonds amounting in the aggregate to \$200,000, the interest whereon is payable half yearly, and the possession of the road and property is necessary to enable them to pay the interest which will become due on the first of June next.

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The Company tender themselves ready to give such full and satisfactory assurances as may be considered by the Chancellor equitable and just; that they can and will, immediately after the restoration of their property, commence and continue to operate their road in all its parts, up to the full requirements of all the contract and obligations of the Company, express or implied.

10 The motion is opposed by the citizens on whose application the Receiver was appointed. They insist that the road and rolling stock are covered by mortgages given by the New Jersey Southern Railroad Company, an insolvent corporation, now in the hands of a Receiver as such; that after the lease referred to in the petition, and therein said to have been made to that Company by the petitioners, expired, the lessees continued to operate the road, on their own account, as tenants from year to year, and that large sums of money were expended by them upon the road and property, and notably in the extension from Spermacetti Cove to Sandy Hook, a distance of
20 about three miles, and building a wharf and pier and certain houses, &c., there; in short, that by reason of this alleged complication of their affairs, the petitioners ought not to be permitted to take charge of their road or rolling stock.

30 On the argument, objection was made to the reading of affidavits, which were produced on the part of the opponents of the motion. No copy of them had been served. It was insisted by the counsel of the petitioners that according to the 20th Rule of this Court, those affidavits could not be used unless a copy of them had been served on the petitioners or their solicitor at least four days before the argument. That rule could not, under the circumstances, be applied to this motion. It appeared that the entire time between the service of the order to show cause and the time fixed for the hearing had been occupied in preparing the affidavits. It was, therefore, impossible to serve them according to the rule. It was equally impracticable to take depositions instead of them on notice, for there were but four days between
40 the granting of the order and the days fixed for the argument. On their application for the order the peti-

tioners sought to fix a time for the hearing still earlier by two days, but the engagements of the Court would not permit. The affidavits were admitted subject to objection as to competency and to the right of the petitioners to produce counter affidavits in reply. They, however, asked no opportunity to take answering affidavits. The practice adopted in this case on this head is unquestionably correct. To have excluded the affidavits under the circumstances would have been to deny the opponents of the motion the opportunity of showing cause, of doing the very thing the order called on them to do. 10

The Statute under which the Receiver was appointed was passed to provide for an extraordinary exigency. The public along the line of the Long Branch and Sea Shore and New Jersey Southern Railroads had been and were greatly incommoded by the failure of the owners of those roads to operate them. Not only had daily trains ceased, but for weeks the roads had not been operated at all. The main object of the Act, as evidenced by its title and the provisions of the first section, was to relieve the public from the embarrassment and inconvenience occasioned by this want of accustomed and necessary traveling facilities. The Act contemplates the exercise of extraordinary powers, in the granting of which the Legislature may be presumed to have acted on the assumption that the grant of franchises to a railroad company is primarily to provide a highway for the public, and that there is an implied contract on the part of the company to build, equip and operate their road for the use of the public, and that, if, having built and equipped it, they neglect or refuse to perform this contract, its performance may be specifically enforced in the manner provided by the Act. 20 30

The Act vests in the Chancellor a discretion as to the length of time the operation of the road by the Receiver shall continue. That discretion is to be exercised in the interest of the public and is to be controlled by the circumstances of the case. As was said on the former application, whenever I shall be satisfied that the company owning the road is able and willing to operate it, it will be delivered over to them. But this discretion is 40

not to be limited to a judicial decision upon the case which may be presented on the petition, and such evidence in opposition as may be presented by the citizens on whose application the proceedings may have been instituted. Those proceedings are not an action between those citizens as complainants and the company as defendants. Nor is this present application a suit between the company as petitioners and the Receiver as respondent. The latter is an officer of this Court, in no wise charged

10 with the defence of its proceedings here. There is no defendant or respondent in this application. It is an application to the discretion of the Chancellor. Whether it will be successful or not will not necessarily depend on the evidence adduced on the argument. There is other legitimate evidence to which the Chancellor may have recourse to direct him in the exercise of that discretion, and if from this it should appear doubtful whether the petition ought to be granted he should deny it. The petitioners claim to be the owners of the road. They state

20 that it was leased by them to the New Jersey Southern Railroad Company by a lease which has expired. Notice was given them to produce that lease, but they did not see fit to do so. That the road was operated by the New Jersey Southern Railroad Company up to the time when the property of that Company passed out of its hands into those of the trustees of its first mortgage bond-holders, there is no doubt. It is not clear what the relationship between the two companies then was, but it would seem from the evidence furnished by the re-

30 ports of the Long Branch and Sea Shore Railroad Company to the Legislature, in pursuance of the requirements of law, that that company was not the owner of the road for the possession of which it applies. By the statement for 1870 the President of the Company reports, on oath, the amount of its capital stock (\$171,800), the amount of its mortgage debt (\$200,000), and the cost of the road and equipment (\$398,863.38), and adds: "The road is operated by the New Jersey Southern Railroad Company, and its receipts and expenditures are in-

40 cluded in the report of that Company." The same gentleman, as President of the New Jersey Southern

Railroad Company, reported on oath, at the same time, in the statement of that Company for that year, that that Company owned capital stock of the Long Branch and Sea Shore Railroad Company to the amount of \$147,600. The entire amount of that capital stock was, as above stated, \$171,800. The statement of the Long Branch and Sea Shore Railroad Company for 1871 reports the amount of the capital stock and mortgage debt as above, but omits the statement of the cost of the road and equipment, and adds : "The road is leased under the authority of the Legislature to and operated by the New Jersey Southern Railroad Company, and its receipts and expenditures are included in the report of that Company. Separate accounts not being kept no further report can be made." 10

The statement for 1872, in like manner, reports the capital stock and mortgage debt as above, and omits the cost of road and equipments as before. It adds : "the road is owned and operated by the New Jersey Southern Railroad Company, and this company can make no report as to accidents, receipts or expenditures." In the statement for 1873, the President, after reporting the amount of the capital stock and mortgage debt, says : "As the road has, during the year ending December 31, 1873, been operated by the New Jersey Southern Railroad Company, I would respectfully refer you to the reports made by that company for the details of receipts, expenditures, accidents, etc." It will be seen, then, that by these statements for the years 1870, 1871, 1872 and 1873 it appears that the New Jersey Southern Railroad Company are the owners of capital stock of the Long Branch and Sea Shore Railroad Company to the amount of \$147,600, the whole amount of the stock being \$171,800; that the former company has, during all that time, operated the road, and that in 1872 it owned the road. The fact that, according to the statements referred to, the Long Branch and Sea Shore Railroad Company has not, during that period, received any compensation for the use of the road, is consistent with the allegation that the New Jersey Southern Railroad Company were and 20 30 40

are the owners of the road, as is also the fact that after the latter company ceased to operate the road, no attempt was made to operate it for weeks, nor at all until after the appointment of the Receiver. The responsibility of delivering over the road to the persons entitled to possession is devolved upon this Court. The petitioners were not in possession when the Receiver was appointed. There appears to be grave doubts as to their right to possession. Before granting this petition, I must be satisfied
10 that they are the owners, and are not only able and willing to operate the road, but have the right to do so.

The motion is denied.

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