

any question which the board is to decide in a judicial capacity" who would be disqualified as a juror. Actually here the disqualified member did not sit, although technically it may be argued that she came within the prohibition of the statute. Although the practice is not to be encouraged, the Court by its refusal to set aside the board's findings decided that no prejudice in fact existed. *Cf. Hazen v. Corporation, supra.* This finding being sustainable, the plaintiffs take nothing by their exception. See *Caldwell v. Yeatman*, 91 N. H. 150, 156. So too in the matter of the plaintiffs being compelled to open the hearing before the board, the Court found no error was committed. They were given the right to open and close and under all the circumstances it does not conclusively appear that they were done an injustice. *Blaisdell v. Young*, 90 N. H. 185.

It was proper for the Court to admit the testimony of members of the board which he might find would be of assistance to him. *Plourde v. Nashua*, 93 N. H. 376. Obviously, great liberality in the admission of evidence is the policy of the Legislature in these cases. Laws 1949, c. 278, s. 65-g.


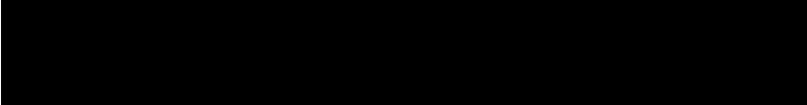
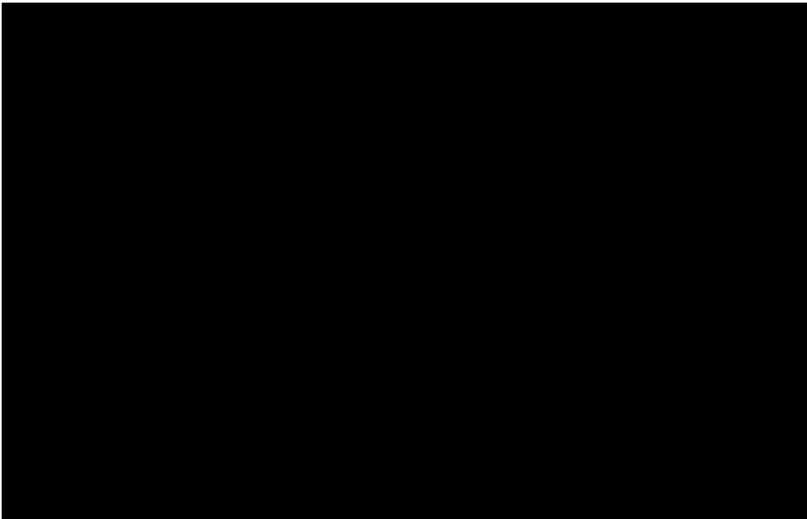
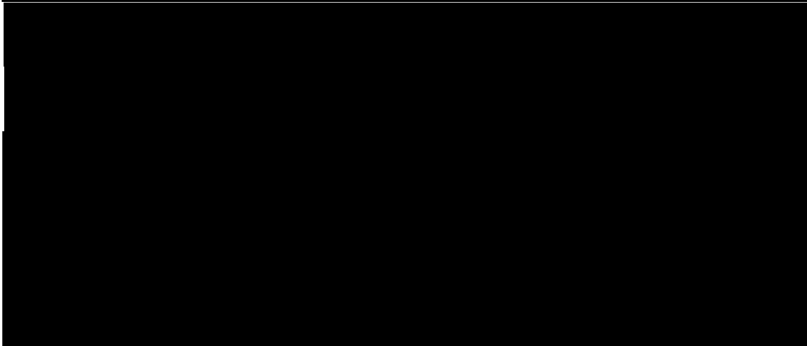
Finally, it is admitted that the Maine-New Hampshire Bridge Authority has granted the defendant Leith rights of ingress and egress to this property. What appears to be the remote possibility of technical objections to this grant in the future should neither affect the result here nor call for further discussion at this time. The order is

*Exceptions overruled.*

All concurred.

Hillsborough, }  
Jan. 2, 1952. } No. 4079.

MADLINE KOTARBA v. ANDREW KOTARBA.

*Devine & Millimet* and *Earl J. Dearborn* (Mr. Dearborn orally),  
for the libelant.

*Chretien & Craig* and *James A. Manning* (Mr. Craig orally),  
for the libelee.

LAMPRON, J. In support of his position the libelee relies mainly  
on the cases of *K v. K*, 43 N. H. 164; *Smith v. Smith*, 43 N. H. 234,

and *Geers v. Geers*, 95 N. H. 316. An examination of those decisions will disclose that the libel in each of them consisted of a general charge made against the libelee without setting forth the main facts upon which the charge was to be maintained. The libel in the case before us does specify the acts complained of but fails to set them out with such particularity of time, place, and in some instances, circumstances as is required by *K v. K*, *supra*; *Smith v. Smith*, *supra*; and Superior Court rule 125 (93 N. H. appendix).

This defect however should be attacked by the libelee by motion, made preferably before joining issue (71 C. J. S. 1119), asking that libelant be made to particularize his allegations in those respects or that the libel be dismissed on failure to do so. *Buck v. Buck*, 97 N. H. 178.

The libel here was adequate to inform counsel of the nature of the dispute, he was able to file an answer, and was sufficient to enable the Court to decide the controversy on its merits. *Morency v. Plourde*, 96 N. H. 344; 17 Am. Jur. 302. Libelee's motion to dismiss made before hearing was therefore properly denied.

It seems to us however that much of the valuable time of court and of counsel would be saved and the ends of justice better and easier served if attorneys for libelants would strive to draw their libels in accordance with the requirements of Superior Court rule 125.

There was sufficient evidence to support a decree of divorce on the grounds of treatment such as to seriously injure health. *Szulc v. Szulc*, 96 N. H. 190. Accordingly the order must be

*Exceptions overruled.*

All concurred.

Strafford, }  
Jan. 2, 1952. } No. 4080.

SAMUEL BURTMAN v. J. S. BUTMAN & a. Ex'rs.