

To use Mr. Cooper's own words, "I recognised afterwards that Inspector Emerson was the garrulous person I referred to by his voice, only by inference, and in the same way I recognised he was the person who was playing cards. I did not get out of my berth to look. I did not see Emerson drinking at all." At the time, therefore, of the alleged misbehaviour Emerson was unknown to Mr. Cooper either by sight or by voice, so that he (Mr. Cooper) is unable to swear positively that Emerson was the garrulous, noisy man who drank and played at cards till 2 a.m. on Sunday morning. On the other hand, Captain Adams, of the "Dingadee," states that it is not likely that there could have been card-playing on the occasion in question till Sunday morning. "It would not be allowed," he says. "Cards would not be allowed to be played after midnight on Saturday." Emerson swears that at 11 p.m. on the Saturday the chief steward came in and stopped the game at cards which was then going on, and his evidence is corroborated by the chief steward (Jacob), who further states that he is very strict about the 11 p.m. limit for card-playing, because some steward in the company's employ had got into trouble for exceeding it. The chief steward also deposes that Emerson was not at all the worse for drink on the evening of the 1st of May.

3. *Charges Nos. 2 and 3.*—These charges can be taken together. They are: "That on Sunday evening, the 2nd May, 1897, he (Inspector Emerson) did at Gisborne, where he had landed to inspect the station and men, return to the steamship 'Dingadee' in a state of intoxication, and was guilty of disgusting conduct in spitting about the floor of the cabin, and using the wash-hand basin as an urinal, being so much under the influence of liquor as to be unable to remove his boots or get into his bunk without assistance, and lay on the floor until those occupying the same cabin came to his aid. That at the same time and place he used abusive and threatening language to one of his fellow-passengers when remonstrated with for his disgusting conduct in the cabin."

This part of the case presents great difficulties—these charges resting entirely upon the evidence of Mr. William Cooper, corroborated to a certain extent by Mr. Andrew Warnock. Mr. Adam Henderson, who was called for the prosecution, was unable to speak to the events of the night of the 2nd of May, because, although he occupied the same cabin with Emerson and Cooper, he was tired out, and slept soundly. On the other hand, the evidence of several persons, whose testimony will presently be noticed in detail, is absolutely inconsistent with the allegation made by Mr. Cooper. Moreover, there are serious discrepancies between the story as told by Mr. Cooper and by Mr. Warnock. In addition to this, there is the evidence of three persons—Main, Bockett, and Urquhart—as to the general character of Emerson for sobriety, to which, however, for various reasons, I do not attach much weight. Finally, Inspector Emerson, upon oath, absolutely denies these charges.

Mr. Cooper's evidence was given in a lucid and unexaggerated manner. I have not the smallest doubt that he fully believed all that he was saying. Mr. Cooper is a barrister of the Supreme Court of New Zealand. He was for five or six years Municipal Magistrate at Samoa, and when he resigned that office he received an address, signed by all classes of the European community, recognising the admirable manner in which he had performed the duties of his office. The statements, and especially the sworn statements, of such a man must be taken seriously.

But it is my duty to draw attention to the circumstance that Mr. Cooper suffers from an affliction which renders him an unreliable observer of occurrences, even when they are taking place in his immediate vicinity. Mr. Cooper is unfortunately so short-sighted as to be almost purblind. Mr. Cooper was also suffering from sea-sickness. Nor can I dismiss from my memory the circumstance that charge No. 1 preferred by Mr. Cooper has completely broken down. Mr. Warnock, who was called for the prosecution, was certainly an unwilling witness. This was so obvious that, after a time and the exercise of some patience, I treated him as a hostile witness to the persons calling him, and allowed him to be examined by questions more or less leading. Mr. Warnock, however, could not be induced to furnish a full, clear, and unequivocal narrative of what he saw and heard in that cabin on the evening of the 2nd of May. Mr. Warnock stated that Emerson twice, he believed, used the wash-hand basin as a urinal during the night, but he could not or would not state any adequate reasons for his belief. Then he says, "The Inspector did not act as a sober man ought to do, when he came into the cabin"; but here, again, he is unable to say what it was that the Inspector did or did not do which showed that he was then intoxicated. Mr. Warnock states that Emerson fell on the floor of the cabin whilst endeavouring to clamber into his bunk. But it was proved that there was no ladder in the cabin, and that there was a slight roll on, and a sober person might easily meet with such an accident, and, if a heavy man, be so shaken as to be unable to move for a minute or two; and Warnock, who assisted Emerson to get into his bunk, deposes that he had no smell of liquor upon him: it follows, therefore, that Mr. Warnock had no just reason for supposing that the Inspector was drunk, other than the circumstance that he believes (also on grounds which he fails satisfactorily to explain) that the Inspector twice made a urinal of the wash-hand basin—an act which, of course, no man in his sober senses would commit. Mr. Warnock, as I have mentioned, contradicts Mr. Cooper on several vital points: *e.g.*, Mr. Cooper positively swears that a steward conducted Inspector Emerson into the cabin occupied by Mr. Cooper, Mr. Warnock, and Mr. Henderson; that the Inspector was then in a helpless state of intoxication, and that the steward was assisting him in the way in which a drunken person would be assisted, the steward walking with Emerson arm-in-arm and conducting him into the cabin. Yet Mr. Warnock, who, in answer to a question from me, said he (Warnock) was wide awake at the time, declares that Emerson came into the cabin alone, and that there was no steward with him. Again, Mr. Cooper swears that there was "a light" in the cabin on each occasion when Emerson committed the nuisance in the wash-hand basin; but Warnock swears that there were no lights in the cabin on either occasion—that on the first occasion there was some light from the saloon, whilst on the second occasion there was no light in the cabin from any source. The chief steward, Jacob, swears that he was the steward who took Emerson to his cabin on the evening of the 2nd May—a room different from the room Emerson occupied the night