New Jersey
Court of Errors and Appeals.

JEROME L. STOUT,		
vs.	}	*In Error to Supreme Court.*
AMASA LEONARD.		

A Writ of Attachment in Covenant was issued out of the Morris Circuit Court February 14th, 1872, in favor of Stout and against Leonard.

Rule to show cause why the same should not be quashed was granted March 9th, 1872.

Argument had on that rule December, 1872. Rule discharged March, 1873.

Certiorari was brought by Leonard, from Supreme Court to Morris Circuit, removing the order discharging said rule, and argument had thereon in Sup. Ct., June T., 1873.

Order reversed in Supreme Court at Nov. T., 1873.

Writ of Attachment was founded on following affidavit:—

NEW JERSEY, } ss.
Morris County, }

Jerome L. Stout being duly sworn, deposeth and

saith, that Amasa Leonard is indebted to him in the sum of four thousand two hundred and two dollars and ninety cents, as near as this deponent can specify, together with the interest thereon, from January 15th last past, and that said Amasa Leonard is not, to the knowledge or belief of this deponent, resident at this time in this State.

And this deponent says, that said indebtedness consists of damage for covenants broken by said Amasa Leonard. That a copy of the deed containing said covenant of said Amasa Leonard is hereto annexed, which was duly executed and delivered by said Amasa Leonard on the 15th day of January, 1872 ; and said covenants have been broken in the following particulars :

Since the execution and delivery of said covenant and particularly on the tenth day of February, 1872, deponent has frequently requested said Amasa Leonard to execute and deliver to him the three promissory notes and chattel mortgage to secure the same, mentioned and provided for in said covenant, and said Amasa Leonard has always positively refused to comply with such requests, and has failed, neglected and refused to execute and deliver to deponent said promissory notes or either of them, or chattel mortgage to secure the same.

Deponent further says, that out of the list of promissory notes and accounts, by said deed of covenant assigned and guaranteed to deponent by said Amasa Leonard, deponent has collected the following items, to wit :

Max Kern,	$ 42.50
T. Leonard,	14.25
B. Manville & Co.,	578.61
J. M. Quimby & Co.,	56.00
McDermit & Looker,	117.00
W. H. Lee,	165.55
D. J. Bailey & Son,	30.24
8th Ave. R. R. Co.,	56.85
Amounting in all to - - - - -	$1,061.00

That of the remainder of said accounts and notes de-

ponent has tried repeatedly and faithfully to collect and has failed to collect the following items, to wit :

C. E. Foggs, note due Feb. 4, '72,		$340.00
J. D. Voorhees,	account	283.50
W. H. Gray,	account	64.50
L. B. Miller,	account	54.00
S. C. Judd,	account	32.25
James McClave,	account	59.00
J. W. Baker,	account	57.12
Amounting in all to - - - - - - -		$890.37

That said Fogg has failed in business, and deponent has handed said note, over due, to said Leonard.

That said Leonard has requested deponent not to collect the following accounts, to wit :

C. H. Turner & Co.,	$72.45
J. C. Thayer & Son,	64.68
Amounting in all to - - - - - - -	$137.13

And said Amasa Leonard has himself collected and secured to himself and for his own use, the following items, to wit :

E. M. Gedney,	account	$16.50
Merrick,	"	20.00
D. J. Bailey & Son,		96.60
Amounting in all to - - - - - - -		$133.10

Said Amasa Leonard has since the date of said deed of covenant secured to deponent, by sale of goods on account of said three promissory notes and chattel mortgage provided for in said deed of covenant, the sum of $986.10, leaving a balance due deponent on that account of $3,042 15.

And deponent says, that there is due him on account of said several accounts and promissory notes so assigned to him, the sum of eleven hundred and sixty-five dollars and seventeen cents, and that deponent, on the tenth day of February, 1872, requested said Amasa Leonard to pay to him the said sum of eleven hundred and sixty-five dollars and seventeen cents, and that said Leonard refused to pay the same or any part thereof.

Deponent says that the annexed is a true statement of the amount due from said Amasa Leonard to deponent on account of said breaches of said covenant, as hereinafter stated.

JEROME L. STOUT.

Sworn and subscribed before me, Feb. 14, 1872.

ALFRED MILLS,
Master in Chancery, N. J.

AMASA LEONARD,

To JEROME L. STOUT, Dr.

To amount of purchase of interest in Curled Hair business, made January 15th, 1872,			$6,250.00
Cr.			
By cash, received from Max Kern,		$42.50	
" " " T. Leonard,		14.25	
" " " J. M. Quimby & Co.,		56.00	
" " " W. H. Lee,		69.85	
" " " D. J. Bailey & Son,		30.24	
" " " 8th Ave. R. R. Co.,		56.85	
" note " B. Manville & Co.,		578.61	
" " " McDermit & Looker,		117.00	
" " " W. H. Lee,		95.70	
" bill hair, Jan. 24th,		113.00	
" " " " 25th,	$884.10		
Less 22 lbs. short, at 50c.,	11.00	873.10	2,047.10
			4,202.90
To int. on balance, one month,			24.51
			$4,227.41

Morristown,
February 15th, 1873.

(Annexed to this affidavit is a copy of the Contract, Exhibit C, p. 395.)

The following testimony was taken on the rule in the Court below.

Morris Circuit Court.

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JEROME L. STOUT,

vs

AMASA LEONARD.

In Covenant.

Examination of witnesses on behalf of the defendant in the above stated cause, taken before Edmund D. Halsey, Supreme Court Commissioner, at his office in Morristown, New Jersey, in the presence of Alfred Mills, attorney of defendant, and Henry C. Pitney, attorney of plaintiff. Notice admitted March 15, 1872.

Amasa Leonard, the above named defendant, being duly sworn on his own behalf, deposes and says:

I am fifty years of age; I have a wife and two children of my own, and two others—adopted children; my mother-in-law, Mrs. Harriet N. Moore, also lives with me; I reside in Mendham Township, Morris County, New Jersey, on the place I bought of Morgan Barker in 1864, I believe; it was deeded to me in October of that year, I think; I do business in New York City, in 59th Street, North River; that has been my place of business since I bought here in 1864; we moved on the farm, I think, in November of 1864, my family being there pretty much all Winter, that Winter; since that time we have kept house there continuously; I brought my furniture from New York, except some small articles bought here, and of Barker, and

it has been here ever since; my business is that of a curled hair manufacturer, to which I give my personal attention; at the time I came out in November, 1864, I was keeping house in New York; we have broken up keeping house twice in New York since then; the last time was in 1869, and the first time was, I think, in 1867; in April, 1869, we gave up keeping house altogether in New York, and kept house only after that in Mendham, until December or January following, when we rented a place in New York, temporarily, until the following May, then we were back in Mendham Township again; we remained there all the time, but we went back to New York again in December, 1870, since when we kept house there and here continuously until the present time; I might say we have broken up house-keeping three times instead of twice in New York; the last place I voted and my present place of voting is in Mendham Township; in 1870, in the Fall, I elected my place of voting; I cannot tell when I first made up my mind to do so, as I always looked to making my permanent residence here; my intention has been since 1868 to make my residence here; at that time I bought a lot of John Bates, corner of Maple Avenue and Boykin Streets, in Morristown, New Jersey, with the intention of building a house for myself to live in; that I have not done as yet; I bought that lot at the express desire of my wife, as a home for ourselves; it was her own selection; it is my intention to build there when I can get the money to do it with, without doing other things injustice; I have never changed my place of voting residence since I located it in Mendham Township, in the Fall of 1870; I have never voted anywhere else since then; at the election in the Fall of 1870 the plaintiff was a candidate for Sheriff in Morris County; I voted for him at his request; I attended the polls all day in Mendham Township, except long enough to go to Mr. Stout's house to get my dinner; in the Spring following, I do not recollect where I was on town meeting day; I was not at the town meeting in

Mendham ; at the Fall election of 1871 I was in New York on the day of election ; I did not vote there because my residence was in New Jersey ; it was a very interesting election, and I was solicited a number of times to vote, but declined on that ground ; there was a great deal of excitement about that election. In the Summer of 1871 we were a great deal of the time in Mendham, on the farm, part of the time in New York ; at one time we shut up the house in New York, and all moved out on the farm ; but there was not room enough out here to accommodate my whole family in consequence of my having sold one house out here, which compelled me to take the man who had been living in that house into the house with me, to board ; I give that man twenty-five dollars per month for the services of himself and wife, and what his children can do ; I board them and give them rooms in my own house ; he has five children, ranging in age from fourteen to four years ; my furniture is all there, and I supply the table; this man's name is David M. Kaggen ; besides Kaggen and his family and my own family, my mother-in-law has been on the farm all the Winter, also my adopted child, Charles A. Burnside, a boy of about sixteen, and a boy that we are raising, named Walter Merrifield, who has been with us eighteen months or two years ; he has been there two Winters ; both boys are clothed and fed by me ; Charles Burnside has been going to school, and Walter has been working on the place ; I think it was in 1862 or 1863 when we adopted Charles Burnside, and since then he and his sister have been inmates of our family ; since the 1st of October last I have been generally on the farm once in each week, coming out generally one day and going back the next afternoon ; sometimes I stay longer, according to my business ; my wife, oftener than otherwise, comes with me ; I don't think any of the others have been up much this Winter, except those who remained up, of course ; since October 1st last I came up to the farm as often as I have stated, except in February last, when I

did not come up from the 1st to the 24th. In January Mr. Stout and I dissolved, and that left a large amount of business there in New York, to which I had to give my personal attention, and that is the reason I did not come out; I had business engagements there nearly every day, so that I could not get away ; when I am away for a week from the farm, letters and papers which come to me here are sent to me by Mr. Tuttle or Mr. Thompson; the farm is about seventy-five acres, is stocked, and the stock is owned by me ; I have other men at work on the farm occasionally, besides Kaggen, and I pay them ; there were two other men at work on the farm this Winter, who were no otherwise employed, except by the day, and these were paid by me. Morristown is my railroad station coming up from New York, and that is about five miles from the farm ; I get from one to the other by private conveyance ; Kaggen or one of the boys brings my carriage down for me ; my post-office in this County is Morristown ; I have a box here which I have rented now two or three years—it may be five ; I have a pew in the Methodist Church in Morristown, which I rent by the year ; this is the second year since the Church was built, and I have rented it since then—that is, since the Church was opened for public worship ; I have a burial lot in the Cemetery here, the Evergreen Cemetery ; it was purchased by me April 14th, 1869, Lot 32, Section L ; this is the deed I hold for it, given to me about the time it bears date ; (said deed is offered in evidence and marked by me "Exhibit A," on part of defendant ;) the members of the family on the farm most generally attend church in Morristown ; sometimes they go to Mendham ; when I am out over Sunday I generally go to church at Morristown ; in consequence of the family being so large in my house on the farm, I have been obliged to hire another man with less family ; I hired him (David Smith) on the 26th of January last, at eighteen dollars per month for himself and wife, and what his two children could do ; I hired him on the recommendation of

Jerome L. Stout, who knew that I wanted a man; Kaggen was to have left with his family this week, and Smith was to come next week; my wife is there at the farm, and we are cleaning house; she went up on Monday evening last; Smith and his wife live with us as help; I furnish the house; the arrangement is for one year from April 1st.

Cross-Examined by MR. PITNEY:

I live in New York, at 241 West 53rd Street; I own the house, and have owned it eight or ten years.

Q. Of whom does your family in New York consist?

A. I have given my entire immediate family—myself, my wife, my two children, my two adopted children, and my servant girl. Then we had my wife's sister boarding with us, and a young lady.

Q. I am asking as to the occupants of your house in New York?

A. Myself, my wife, my daughter, my adopted daughter, my wife's sister and Miss Dressner, and the servant girl.

Q. How long have these persons been residents of your family in the New York house?

A. My wife has been an occupant there since I have owned the house; my daughter the same length of time; my adopted daughter for four or five years; my wife's sister for some six or eight months; and Miss Dressner for a year in May, I think, and the servant girl since December, 1870.

Q. Have you had any other boarders at your New York house within two years?

A. When I took the house in December, 1870, Mr. Stephens and family were living in the house and we took them to board until they could accommodate themselves elsewhere. They had previously rented the house of me; they rented it from the May previous, 1869, I think, for a year, and then re-rented it for another year. In the Winter, his wife being delicate, he requested us to

take the house off their hands, and board them until they could be accommodated elsewhere. When Mr. Stout and myself went into business together, he found it difficult to find a place up-town where he could be accommodated with his meals, and he requested us to make a charge for his meals, so that he would feel free in coming, as he had to be in town every day; and knowing how it was myself, I charged him twenty-five cents a meal, and threw in the lodging, which he never objected to paying. I believe that is the extent of my keeping boarders.

Q. How long a time after December, 1870, did Mr. Stephens and his wife board with you?

A. I think they staid there till October, 1871, but were very much crowded, and at that time they found accommodation elsewhere.

Q. How many times have you voted in New Jersey?

A. I have voted once.

Q. Have you ever paid any poll tax in New Jersey?

A. There has never been any poll tax charged on my bill. The last year, the last tax we paid, I was liable to a poll tax, and Mr. Thompson was not. There was no poll tax charged on my bill, and there was one on his. I paid both tax bills, both Mr. Thompson's and my own, by my check, and it was arranged between Mr. Thompson and myself, that the poll tax I should pay him; no change was made in the Collector's books, and in fact, I sent my check over, and did not go myself to see the Collector. I have always paid the tax bills as presented.

Q. Are you worth any personal property?

A. I am.

Q. How much?

A. I could not tell you—it is changing all the time.

Q. About how much?

A. Well, I suppose my personal property, at the present time, must be worth about $15,000, may be

more, I cannot say. Last year I think I returned $1,600 levy.

Q. What were you worth last year in personal property, over and above your debts ?

A. I suppose eight thousand dollars.

Q. In the year before (1870) what were you worth ?

A. I could not say—I could not pretend to carry it in my mind, if I have to deduct debts, &c. ; I don't think I took any furniture to New York in the Fall of 1870 ; Mr. Kaggen has some little furniture in the house, his own bedding, and some chairs, how much I cannot say ; he used his own furniture in the part of the house he occupied partly ; I had furniture there ; he moved his furniture from one house to the other, when I moved to New York. Previous to 1870, I had two houses, and my farmer lived in one ; since that time he has been living with me in my house, and I furnished him with provisions, and would have furnished him furniture, but he had his own, and had no other place to put it ; my mother-in-law lives with me sometimes, and sometimes with her other sons-in-law ; at present she is living with me, and has done so for several years—I mean living with her different sons-in-law for several years, sometimes with one and sometimes with another ; I could not say how often I have been to church at Morristown in the past two years ; quite a good many times though ; I have been there at church within the last six months on Sunday, I cannot tell how often ; I have attended church in New York on Sunday in the last two years, I could not tell how often ; I have no pew in a church in New York ; I sometimes attend one church and sometimes another ; I do not contribute to the support of the Gospel in more than one church in New York, except when I am there, and a collection is taken up ; nor to one church, unless in the collection taken up while I am there. I usually attend the St. John's M. E. Church in New York, more frequently than any other ; it is within one hundred

and fifty feet of my house ; the pews in that Church are neither rented nor free—they have a peculiar method of their own ; the seats are free, but parties attending there are expected to contribute freely to the support of the Church ; I pay my share in the plate collection, and whenever I go there I givethem something, if I have anything ; I do not consider myself a regular attendant at that Church ; they have a regular membership, and I am not of that membership ; I do not know as I call it our church ; I might do it, because I have known them a great while, but ordinarily I do not, I believe ; I can't remember when the last charter election was in New York, at which I voted ; I got the boy, Walter Merryfield, in New York ; I do not know where his mother lived ; his aunt lived in 51st Street ; he is not bound to me ; I did not get him from the Alms House or House of Refuge ; he is a poor boy that I have taken to bring up.

The testimony having been read over to the witness at this point, he desires to explain his answer to the following question : "How long have these persons been residents of your family in the New York house?" as follows—I meant to say whenever I have occupied the house, for there has been twice during the time that I owned it, that we have all left the house.

Re-direct Examination :

Q. When you say that all your family were out here last Summer, and at other times as stated by you on your direct examination, what members of the family do you include ?

A. I mean all my immediate family ; we ordinarily all live here in the Summer time, and in New York in the Winter ; sometimes renting the house in New York and sometimes closing it up entirely for the season ; most generally, we come here in March or April, and return to New York in November, or early in December ; my

wife has charge of the house at the farm, when she is there, and when she goes away she gives her orders as to what is to be done ; my wife has always given her personal attention to the house cleaning, every year.

(This testimony objected to by Mr. Pitney as not rebutting.)

My wife always puts up her preserves at the farm, both for use at the farm and in New York ; my mother-in law never pays me any board ; Mr. Thompson has a country residence on the farm adjoining mine ; in the estimate of personal property I have given, I included all my personal property in New York, and in my business ; I did not see the assessor of Mendham last year, when the assessment of taxes was made, or give or send any note or memorandum to him ; the last year's bill I think was left at my house, at least I got it there ; I always paid my tax bills as they were presented ; I bought the lot in the Evergreen Cemetery as a burial lot for my own family ; I have had no death in my family since it was purchased ; the aunt of the boy Merryfield requested me to take him, and find him a place ; I found him two places, but he would not stay at either, but came back to me, and we are his guardians through necessity, and he has no other home that he can go to.

Q. Do you know of any time during the last Winter when a summons could not have been served upon you by leaving it, or a copy of it, at your house in Mendham Township ?

(Objected to by Mr. Pitney as a question of law.)

A. There has been no time since 1864, that I know of, when a summons, or a copy of it, might not have been left there, and I got it ; summonses have been left there.

(Objected to as not rebutting.)

Q. Are you or not in the habit of receiving letters at Morristown, and if so, how long has that been your habit ?

(Objected to as leading, and not rebutting.)

A. I have been for several years.

AMASA LEONARD.

Sworn and subscribed before me, this 15th day of March, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Silas Y. Tuttle, a witness, called and sworn on part of defendant, deposes and says :

I am thirty-seven years of age, and my business is that of a druggist, at No. 869 Eighth Avenue, New York City ; I reside in New York ; I am acquainted with Amasa Leonard ; have known him for the last five or six years ; I reside in the same election precinct with him ; I saw him on the last general election day in New York, in November last ; it was the State election, and we voted for city officers at the same time ; I saw Mr. Leonard that day at my place of business ; I had some conversation with him that day in my store.

Q. Were any other persons present ; if so, how many, and state what was said to Mr. Leonard, and by him, with reference to voting ?

(Objected to as hearsay.)

A. There were three or four others present ; I asked Mr. Leonard if he had voted, and he said "no." I then offered him some tickets and asked him to vote ; he replied "that he was a resident of New Jersey," and refused to take the ticket ; this was said in the hearing of all ; we all stood near

the door; the ticket which I handed him was for the election there in New York.

S. Y. Tuttle.

Sworn and subscribed before me, this 15th day of March, 1872.

Edmund D. Halsey,
Supreme Court Commissioner.

Mr. Mills here stated he had no other witnesses for to-day.

Counsel for plaintiff here asks Mr. Mills if he rests his case, to which Mr. Mills replies that he does not; Mr. Pitney says he has witnesses present, but refuses to go on until the defendant shall have closed his case, and desires counsel for defendant to proceed with his evidence until he does close his case. Mr. Mills states, on behalf of defendant, that the plaintiff may proceed and examine his witnesses at once, and that defendant and his counsel will remain and attend the examination; Mr. Pitney declines to conduct the examination in that manner, but distinctly insists on defendant proceeding with his witnesses, and closing his case as soon as possible, and asks counsel when he will be ready to proceed. Mr. Mills states that he will give sufficient notice.

Edmund D. Halsey,
S. C. C.

MORRIS CIRCUIT COURT.

Jerome L. Stout,
vs
Amasa Leonard.
In Covenant.

Examination of witnesses before me, Stephen H.

Little, a Notary Public, in and for the State of New Jersey, at the office of Alfred Mills, Esq., in Morristown, this twenty-seventh day of March, eighteen hundred and seventy-two, by consent of counsel of the respective parties in said cause.

James C. Youngblood, Esq., appearing for said plaintiff, and Alfred Mills, Esq., appearing for said defendant.

William H. Stiles, a witness produced on behalf of said plaintiff, being duly sworn, on his oath saith :

I am crowding sixty. I live betwixt Walnut Grove and Brookside. I know Mr. Leonard, the defendant in this case. I live about three-quarters of a mile from his farm in that neighborhood. I was overseer of the road district running by Mr. Leonard's place, in the years seventy and seventy-one. Last Spring, in May, Mr. Thompson proposed to raise one hundred dollars for the improvement of the district, over and above taxes. This sum was to be raised by contribution. Mr. Thompson and I called on Mr. Leonard, I think, in May, between Town meeting day and Fourth of July of last year, for a contribution to this object. We saw Mr. Leonard in front of his house under a cherry tree. Had conversation with him. Talked about an hour. Mr. Thompson proposed to contribute $50, and wanted Mr. Leonard to contribute ; he proposed to give $15.

(All this testimony objected to by Mr. Mills.)

I agreed to give $10, then something was said that Mr. Leonard ought to give more. He said, "no, that he wasn't a resident there." That was the excuse he made for not giving more than $15 out of the $100.

Q. Did he state where his residence was ?

A. I don't recollect anything about it ?

Q. Did he state anything about it ?

A. I do not recollect. Either at that time or some other time, he stated that he lived in New York.

Q. What, if anything, was said by Mr. Leonard about his residence at that time, except as you have stated ?

(Objected to by Mr. Mills)

A. I says to Mr. Leonard, "I suppose that when you are in New York, your residence then is in New Jersey, and when you are in Jersey, your residence is in York." That was in reference to tax matters, and I think he said then that his residence was in New York ; that he didn't claim it in Jersey.

Q. Did he refuse to give you more than fifteen dollars, on the ground that he lived in New York, and not here?

(Objected to by Mr. Mills as leading and irrelevant.)

A. That is what I have first stated ; that is the excuse he made.

Q. You state, Mr. Stiles, that his conversation about his residence related to tax matters—do you mean tax matters generally, or solely relating to this contribution to the repairs of the road ?

(Objected to by Mr. Mills as leading.)

A. Well, I suppose it was a general thing.

Cross-Examined :

A. It was Mr. J. C. Thompson who was present at that conversation.

Q. At the time of this conversation, you supposed Mr. Leonard to be a resident of Mendham Township, did you not ?

A. Not if his words were true ; I had heard that he owned property in New York, and I suppose he paid tax on it there.

Re-direct :

Q. In your answer to Mr. Mills' question, you state that you didn't suppose his residence was in Mendham Township, if his words were true—what do you mean by that ?

A. Why, he never has acknowledged to me that he belonged in Mendham, and has told me that his residence was in New York. I think we had two or three conversations on the subject ; none since last May, the time we spoke of. It was previous to that time, a year or two before. Don't recollect the time he spoke before that he wasn't a resident ; that was before this last May. I pass Mr. Leonard's farm quite a number of times through the year. I haven't seen Mr. Leonard at his farm many times since the Fall of '70.

Q. If he had been there much, would you probably or not have known it ?

A. I might have seen him, and might not.

WM. H. STILES.

Elmer Stout, a witness produced and sworn on the part of the plaintiff, testified as follows :

I am twenty-two years old ; will be twenty-three in October next. I live in Mendham. I know Mr. Leonard, have known him two or three years ; I worked for him in (I think) '69, and the Fall of '71. Couldn't say when I commenced to work for him in '69, think it was along in the Fall. Worked for him some two or three months, possibly more, at his farm in Mendham Township. Next worked for him in '71, last year. I am mistaken about working for him in '71, it was in the Fall of '70 ; not very long. I went shortly after election, stayed until March sometime.

Q. Did you, at any time, while working for him in 1870, have any conversation about his residence, and if so, state what it was ?

A. Yes, sir, I did. Mr. Leonard wanted me to go to Mendham, and pay his tax for him ; and he wanted me to go to Mr. Rheinthaler, and get his

money to pay his tax to Mr. Stout, (I mean Mr. J. L. Stout) ; he also wanted me to take his (Mr. Leonard's) money and give it to Mr. Stout ; he gave me his tax bill and his money, and I looked at it, and I says, "how comes it that you don't pay tax—that is, poll tax, here?" —says he, "I am not a voter in Mendham, my residence is in New York ; I pay poll tax there." That was about all the conversation there was at that time. Mr. Stout was 'Squire at that time, and I believe the taxes were put into his hands. I went to Mr. Rheinthaler and got his money and paid his tax. I think that Mr. Leonard lent money to Mr. Rheinthaler to pay his (R's) tax with. Mr. Rheinthaler lives about one-quarter of a mile from Mr. Leonard's farm.

Q. Did you, in pursuance of Mr. Leonard's directions, pay Mr. Rheinthaler's tax, and Mr. Leonard's tax, except poll tax, to J. L. Stout ?

(Objected to by Mr. Mills as leading.)

A. I did ; I don't recollect whether Mr. Leonard gave me the money or a check to pay his (Mr. L's) tax with.

Q. After Mr. Leonard told you to pay his tax and Mr. Rheinthaler's, what did you do, if anything ?

A. I went up to Mr. Rheinthaler to get the money ; Mr. Rheinthaler told me he hadn't any, but to come down to Mr. Leonard's and ask him if he wouldn't lend it to him ; I did so, and Mr. Leonard said that he would let him have it, but he didn't know whether he would ever pay it back again or not. Then Mr. Leonard gave me his (Mr. L's) tax bill and told me to take them to my uncle, Mr. J. L. Stout ; I did so, took the tax bills and money down and gave them to Mr. J. L. Stout. On election day, 1870, I was in Mendham ; saw Mr. Leonard that day around there till dinner time. I took dinner that day at Mr. J. L. Stout's. Mr. Leonard dined with Mr. Stout. I followed Mr. Leonard and Mr. Stout from the polls to the house, they were just

ahead of me ; Mr. Stout and his lady, and his three children, and a niece of his, Miss Gussie Emmons, and Mr. Leonard, Mr. Stout and I were the only ones at Mr. Stout's to dinner that day ; at the table I heard conversation between Mr. Stout and Mr. Leonard, with reference to Mr. Leonard's voting that day. They were talking going up to the house from the polls, but I didn't hear what was then said. At the table they were laughing about how nice Mr. Leonard got in his vote, when it wasn't legal. Mr. Stout's lady asked him if he thought that was right, to vote when he hadn't a right to ; Mr. Leonard allowed it was wrong done to correct another man's, or to get even with another man.

Q. Anything else ?

A. No, sir, nothing else.

Q. Did he or not say that he had voted that day ?

A. I think he said he had voted that day. I didn't see him vote ; there was another man that voted that they didn't think it was right to vote, and so Mr. Stout and Mr. Leonard made up between them that Mr. Leonard would vote, to make up even with this other man's vote.

Q. Did Mr. Leonard or not say, in this conversation, whether or not that he had a right to vote ?

A. He didn't say that I heard.

Q. You say they were laughing at the table about the nice way in which Mr. Leonard got in an illegal vote ; what do you mean by that ?

A. They were laughing and talking how nice he done it ; I supposed that he had no right to vote there ; I knew that he wasn't a voter there.

Q. How did you know that he wasn't a voter there ?

A. Because he wasn't a resident in the Township ; he never paid any poll tax there.

Q. Did you, at any other times than you have stated, hear Mr. Leonard say anything about his residence ?

A. I have often heard him say that he lived in New York, but I don't remember the time.

Q. When you worked at Mr. Leonard's farm, who had charge of the place in '69 and '70 ?

A. I think Mr. Clark had it in '69, am not positive, and Mr. Kaggen in '70. In '69 I think there were three dwelling-houses on the place, and in '70 I think there weren't but two. When I first went there in '70, he was on his (Mr. Leonard's) place a good deal—he kept house there ; this was after election in '70, he (Mr. Leonard) continued there, I don't know how long at that time. He was in the house when I went there ; he was there probably a month or two ; then he (Mr. Leonard) went to New York, and Mr. Kaggen moved into the house, and I boarded with him. All Mr. Leonard's family went to New York, except a boy, who was living with him, who stayed on this place, and went to school. Mr. Kaggen moved into the house, out of which Mr. Leonard moved. This is the principal house of the farm ; Mr. Kaggen lived in this house during the remainder of the time I was there. I don't think either Mr. Leonard or his family moved into that house again while I lived there. I left the place a day after Mr. Thompson's sale ; it might have been in March, 1871. Sometimes, Mr. Leonard, after moving away, would be out every week, sometimes once or twice a month ; when he came out he would stay a day or two—two or three days, something like that. After Mr. Leonard and his family moved away, Josephine Burnside came out, and was there when I left—she came a few days before I left.

Cross Examined :

I worked only twice for Mr. Leonard ; he employed me and paid me, except some that I got of Mr. Stout ; whether for Mr. Leonard I don't know ; don't know whether Mr. Leonard told Mr. Stout to pay me ; Mr. Stout told me, "I will pay you for Mr. Leonard, and I will get it of him when I go to New York. The last time I was there I think I got about $9.00 per month and board, am not positive. I was there first in '69.

Q. Are you as sure of that as you are of any other part of your testimony ?

A. I don't think I am. No, sir ; it might have been in '68. It was in '68 or '69, am not positive ; it was a good while ago, and I paid no attention to it.

Q. Was it in '67 ?

A. I don't think it was, am not sure.

Q. Was it in '66 ?

A. No, sir, I don't think it was—know it wasn't. I was discharged both times by Mr. Leonard ; don't know I was discharged because I didn't attend to my duties ; I thought I did according to the pay I got ; I thought the pay was pretty small ; I don't know whether my work was regulated according to my pay or not. I left just after Mr. Philemon Thompson's sale ; the next morning. I am a nephew of the plaintiff; I do not live with him.

I cannot give the kind of money I took of Mr. Leonard to pay the tax bills ; couldn't say whether it was a check or money.

I think I took bills for Rheinthaler's tax ; I think Mr. Leonard gave me $3.00 in bills and some shinplasters to pay Rheinthaler's tax with ; I don't know whether the bills were ones or twos ; I think they amounted to a little over three dollars ; I think that is what the tax was ; I looked over Mr. Leonard's tax bill, saw no poll tax on it, and so first asked him about it.

Q. You said a little while ago that you knew at the time of the election that year, that Leonard was not a resident of Mendham Township ; why did you think a poll tax should be paid by him ?

A. I didn't think there should be a poll tax paid by him, I only asked him.

Q. If you didn't think there should be, why did you ask him ?

A. I suppose I asked him just because it happened to come into my head.

Q. If you had thought at that time that he was

not a resident of Mendham Township, would you have asked him the question ?

A. Why, I might have asked him ; yes, might have done it, just for talk's sake.

Q. Can you give no other reason why you asked him that question ?

A. I don't know as I can.

Q. State the words of the conversation that occurred at that time between you and Leonard ?

A. Well, the way it came, I asked him if I couldn't go to Mendham and do some trading at the store, and he said I could, for he wanted me to do an errand for him ; and I told him that I would do it, and asked him what it was, and he told me that he wanted to send his tax down to my uncle ; then he sent me up to Rheinthaler to get his tax and tax bill, and I got his, then I went to Mendham and paid it to Mr. Stout ; I think that was about all the conversation there was.

Q. So far as you can now recollect, was there anything else said in that conversation between you and Mr. Leonard, besides what you have stated in your answer to my last question ?

A. Nothing that I know of now, unless it was that he told me that my uncle said that he wouldn't put any extra charge on it ; I don't think I can give you the date of this conversation.

Q. You have now stated, so far as you can recollect, in answer to my questions, everything that occurred in that conversation, have you ?

A. I think I have ; yes, sir ; this conversation took place up in Mr. Leonard's house ; I think in the dining room ; I think his lady, Mrs. Leonard, was there ; don't remember of any one else ; I think this conversation was after Mr. Leonard removed to New York.

Q. Where were you on election day, in the Fall of 1870, in the morning ?

A. I don't remember now whether I was out with a rig or at Mr. Stout's house ; I was not near the polls dealing out liquor to voters.

Q. Where were you that day dealing out liquor to voters ?

(Objected to by Mr. Youngblood, as irrelevant.)

A. I don't know that I was anywhere dealing out liquor to voters ; I might have gone up to the house if I felt dry ; they had some good liquor there ; I treated one or two of my friends ; I don't know whether they were Mr. Stout's or not.

(Objected to by Mr. Youngblood.)

I don't remember how many of my friends I treated, I didn't count them, and didn't care anything about it ; probably I treated a dozen, don't think I treated twenty-five ; didn't generally drink with them, unless I was very dry ; we had Apple Jack.

(All this objected to by Mr. Youngblood.)

Couldn't say what time in the morning I began to treat folks, I had no watch ; didn't time myself ; don't know how soon after the opening of the polls I began ; treated one or two as soon as I got it ; got the liquor two or three hours, perhaps not an hour after the polls opened ; I might have had a couple of quart bottles nearly full, I guess ; I got it of a friend of mine who gave it to me ; Mr. Stout didn't know I had it ; my friend's name is Vorhis McDougal ; this liquor was drank whenever they asked me for it, and was dry ; I carried a bottle about with me ; not one that McDougal gave me, a smaller bottle ; when this got empty I filled it sometimes ; the choice liquor that I spoke of at the house, was in Mr. Stout's store-room.

[All testimony relating to liquor is objected to by Mr. Youngblood as irrelevant.]

Q. At the dinner on the day of the election, in the Fall of '70, who were at the dinner table at your uncle's house, and where did they sit ?

A. I can tell all who were there ; can't tell you where they sat ; all sat around the table ; Mr. Stout and his wife was there, and Mr. Leonard ; can't say whether Mrs. Leonard was there ; Mr. Stout's three children, Lillie, Mamie and Miss Gussie Emmons and myself ; think that was all ; more outside ; don't think there was any more at the table ; can't tell where they sat at the table ; I think Mr. Leonard sat beside Mr. Stout, on the same side of the, table at his left side next to him ; I think I sat beside, at the end of the table, at the end furthest from Mr. Leonard ; the table was pretty good sized, 8 or 9 feet long, perhaps larger ; I never measured it.

Q. Now, just give all the conversation that took place between Mr. Leonard and Mr. Stout during that meal.

A. As near as I can ; well, we all three went up to dinner together ; Mr. Leonard and Mr. Stout were laughing how nice he got in his vote.

Q. Tell what they said.

A. Mrs. Stout asked him, [I don't know whether she asked Mr. Leonard or Mr. Stout,] if that was doing right, and Mr. Leonard spoke and said he thought it was doing right ; and he said he just did it to get even with another man who voted ; Mr. Stout, I believe, said he didn't think it was right for the other man to vote ; I believe that is all I remember ; I am not sure whether anything else was said or not.

Q. I want you to tell everything that was said in that conversation, so far as you can remember it.

A. I just told you that I did tell all that I can remember at present.

Q. Did Mr. Leonard vote secretly that day ?

A. That I couldn't say, because I wasn't in there ; he voted secretly from me.

Q. Was there anything said there in that conversation why he should not have voted ?

A. I don't remember as there was ; I didn't hear it.

Q. When did you first talk with Mr. Stout about this conversation at the dinner table ?

A. I don't remember that I have ever talked to him particularly about it.

Q. Did you ever speak with Mr. Stout about it ?

A. I don't know but he spoke to me ; he spoke to me first ; I—

Q. When ?

A. About a week or two weeks ago, perhaps not as long as that.

Q. Did you speak to anybody about that conversation at the dinner table, at any time after it happened ; before Mr. Stout spoke to you two or three weeks ago ?

A. I don't know as I did ; no, sir ; the boy who remained, [there were two boys who remained,] when Mr. Leonard went to New York, in the Fall of '70, were named Charles Burnside ; the other they called Walter ; I don't know his last name ; I don't know the name of the man who was mentioned at the dinner table as having illegally voted ; he worked for Deacon Fairchild at Hill Top, in Mendham ; I didn't see him vote ; he was either working for Rev. Mr. Fairchild or his [Fairchild's] father.

Re-direct :

I went to Mr. Thompson's Vendue, and did not return until next morning, and so was discharged by Mr. Leonard.

Q. You say, in answer to Mr. Mills' question: "Ques. —So far as you can now recollect, was there anything else said in that conversation between you and Mr. Leonard, besides what you have stated in your answer to my last question ?

A. Nothing that I know of now, unless it was that he told me that my uncle said that he wouldn't put any extra charge on it." Do you mean by that answer that nothing else was said except what

is contained in that one answer, or that you don't recollect of anything else, except what you have stated in answer to all the questions relating to that conversation ?

[Objected to by Mr. Mills as leading.]

A. My meaning is that Mr. Stout is entitled to a fee for collecting it ; I don't remember of anything else.

[This answer is made by the witness after hearing the question put by Mr. Mills on the *Cross-Examination*, and his answer to it, read by the Notary.]

Q. In which conversation with Mr. Leonard, did the conversation relating to the omission of the poll tax from the bill occur ?

[Objected to by Mr. Mills.]

A. When he gave the money to pay his tax, then was when I asked him how it came that he didn't pay poll tax.

Q. Then you do recollect that something else was said ?

A. I recollect that he said he wasn't entitled to pay poll tax.

Q. Did you ever hear him say that his residence was in New York ?

[Objected to by Mr. Mills as leading, and not rebuttal.]

Q. And if so, when was that ?

A. He told me that day he gave me the tax, he didn't live here, and didn't pay the poll tax here ; he said he lived in New York.

Q. In answer to a question by Mr. Mills, in which he asks you to tell what they said, and you replied

"Mrs. Stout asked him if that was doing right?" What had been said previous to that, if anything, to lead Mrs. Stout to ask Mr. Leonard that question?

A. I don't know what had been said, unless she knew he wasn't entitled to vote there.

Q. Had anything been said prior to that, about his voting there, and if so, what?

[Objected to by Mr. Mills as leading.]

A. I don't exactly remember; they were talking all the while I was eating dinner; Mr. Stout called me one side, and told me not to say anything about it.

Q. When did you first mention it afterwards, or talk about?

A. I told Mr. Stout about it first; it was a week or so ago; he asked me if I remembered the time at election when Mr. Leonard dined with him.

Second Cross-Examination:

Q. You say Mr. Stout, at the day of the dinner, told you to say nothing about it—about what?

A. I suppose he meant about Mr. Leonard's voting.

Q. You thought it was a secret that Mr. Leonard had voted, didn't you?

A. When I asked Mr. Stout, why—well, I thought it was the way he talked.

Q. Did you think no one knew it but he and Mr. Stout?

[Objected to by Mr. Youngblood as irrelevant.]

A. Why, of course, I knew others knew it, as well as they did; I knew Mr. Leonard couldn't have voted without others besides Stout and Leonard knowing it.

Q. In answer to my question about the conversation that took place between you and Mr. Leonard

on the day you went to pay his tax, you stated the words that passed between you, as near as you could recollect, did you not ?

A. I did, sir.

Q. As since that time you have, in your re-direct examination, added other statements about that conversation, I wish now that you would again tell me all that took place in that conversation ?

[Objected to by Youngblood as not rebutting.]

A. I think I have told you it all. I wanted to go to Mendham one night and do some trading, and I asked Mr. Leonard if I might go ; he said yes, for he had an errand that he wanted me to do ; I asked him what it was ; he said he wanted me to pay his tax, and wanted me to go up and see Mr. Rheinthaler and ask him to pay his, or if he was ready ; Mr. Rheinthaler gave me his bill, I think, and told me he had no money, and wanted me to ask Mr. Leonard to let him have the money to pay his tax ; and I came down and asked Mr. Leonard, and he stopped and thought awhile, and let me have it ; and he also gave me his tax bill ; and I read it, and asked him if he didn't pay poll tax ; he said no, that he paid poll tax in New York ; I believe that is all the conversation, as near as I can remember.

Adjourned by consent till half-past two P.M., Friday, March 29th, 1872.

Examination having stood adjourned over until this 8th day of April, 1872, is resumed 2 o'clock, P. M.

I don't remember the name of the man who lives at Fairchild's, that I have spoken of ; the name

sounds something like Bowen ; I am not positive that's it.

ELMER STOUT.

Subscribed before me, this 8th day of April, 1872.

STEPHEN H. LITTLE,
Notary.

Friday, March 29th, 1872, at half-past two P. M., examination was resumed.

William H. Anderson, a witness produced on part of the plaintiff, being duly sworn, on his oath saith :

I live in Mendham Township ; know Leonard, the defendant ; I was assessor of Mendham, 1870 ; that was the first and only year that I was assessor ; I called on Mr. Leonard to assess him ; saw him personally at his place in the Summer of 1870 ; cannot recollect the details of my conversation with him ; I assessed him as a non-resident ; I see by the book, by the letters N. R. in the duplicate, as I denoted other non-residents ; I have just examined the book ; I think the letters N. R. are mine ; I have no doubt that those letters N. R. opposite Mr. Leonard's name are in my handwriting ; I suppose those letters were made when I made out my duplicate, which is made up from a pencil memorandum in a little book ; Samuel Anderson was collector that year. I think there is no poll tax carried out there against Mr. Leonard ; there is a mark showing that there is no poll tax ; this mark is in the line of poll tax.

Cross-Examined :

I don't know whether I have the original book with the pencil memoranda ; havn't it here ; in that conversation we talked about many things ; couldn't say certainly that we spoke about Mr.

Leonard's residence ; I suppose we did, from the entry in my book, although I might have made that entry from the entry in the book of the previous year ; I had that book with me.

Q. You have no recollection whether the letters N.R. were entered in your pencil book or not, have you ?

A. I should think they were, but I have no recollection.

Q. Had you any recollection that the letters N. R. were entered in this duplicate until you referred to it ?

A. No ; I couldn't have told.

Q. Can you say how long it was after you made your entries in the original book, that you made your entries in this duplicate book that is now here ?

A. I couldn't say exactly, but I should say not long ; I generally kept it written up.

Q. Can you say positively that it was made within a month after ?

A. I should think it was ; couldn't say positively ; I was not assessor in '69.

Re-direct :

I live a mile from Brookside, I should think three miles from Leonard's place ; same end of the Township. I suppose I had the old duplicate at Mr. Leonard's house when I made the assessment ; I generally took it with me.

Q. Was or was not the old book used by you and Mr. Leonard, and shown to him in making up the new assessment ?

[Objected to, because it does not appear the old book was there, by Mr. Mills.]

This question was waived.

Q. What makes you think you had the old book with you ?

A. I always carried it with me when I went out.

Q. What use, if any, was made by you and Mr. Leonard, of the old book in making up the new assessment ?

(Objected to as leading.)

A. If I remember right, I don't think we used it at all ; I think Mr. Leonard gave me in his assessment.

Q. Have you any doubt that the duplicate here shown to-day is made up from the pencil memorandum, as taken from Mr. Leonard's lips ?

(Objected to as leading.)

A. I think is is taken from the memorandum book ; that is the way I did it, always.

2d *Cross-Examination :*

Q. And you speak now from your general habit, and not from any recollection you have of the circumstances in this particular case ; do you not ?

A. That was the way I generally did ; I took it off from one book to the other.

W. H. Anderson.

Sworn and subscribed before me, March 29, 1872.

Stephen H. Little,
Notary Public.

I have marked the duplicate referred to by this witness as "Exhibit A," on part of the plaintiff.

S. H. Little,
Notary.

John L. Carroll, a witness for the plaintiff, being duly sworn, testified as follows :

I live in Brookside, Mendham Township ; have lived there little over six years ; I live about a mile

and a half from Mr. Leonard's farm ; I was assessor of said Township in '71 ; I have my duplicate here in the same book with Sheriff Anderson's duplicate. (This book marked "Exhibit A" by Mr. S. H. L) I assessed Mr. Leonard's property ; I did not see him ; I went to his farm to assess him ; went there twice for that purpose ; he was not there either time. I left word the first time, (I suppose with Mr. Kaggen's wife,) that I wished to see Mr. Leonard, and wanted to know when he would be home. I didn't find him on my second visit ; saw Mr. Kaggen and got from him the statement of his property.

(Conversation between Kaggen and Carroll objected to by Mr. Mills.)

I assessed Mr. Leonard as a non-resident ; so marked in my duplicate ; the mark in the duplicate is in pencil; it is the original assessment, it is the book I traveled with ; the letters N. R. were put down the day I saw Mr. Kaggen.

Q. When were the "115" under the column of acres, written in ink, erased, and the "68" in pencil written over it ?

A. The day I was with Mr. Kaggen and made the assessment ; I scratched out the "115" because Mr. Leonard had sold part of his farm ; I made the deduction there, before I went out to assess ; I copied off the names and the number of acres from Sheriff Anderson's duplicate, and then corrected them as I went along over the ground.

Q. Why did you not write N. R. after Mr. Leonard's name as well as the name and "115 ?"

A. I always left that unless I knew personally, myself, that they were not a resident—

Q. Lett it until when ?

A. Until I made the assessment.

Cross-Examined :

Mr. Leonard is not in the habit of passing my

house in going to his farm—I think; is at his farm once in awhile to my knowledge.

Q. The assessment that you made here on this book was taken from Sheriff Anderson's duplicate, was it not, except as to the number of acres of land and the valuation of land?

A. It was a guide for us, and we had to make changes of course.

Q. I referred in my question to the assessment made against Mr. Leonard.

A. In making my assessment against Mr. Leonard I was guided by Anderson's assessment against him; I referred to Mr. Anderson's duplicate when I assessed Leonard; I didn't know whether Mr. Leonard was a resident or not; didn't ask him about it; never said a word to him about taxes nor the assessment; should if he had been there, but I couldn't get hold of him; I have seen him frequently, but never to converse with him; I don't recollect of his calling at my house in my absence.

Q. When you don't know whether a man is a resident or not, you sometimes have to guess at it, do you not, and try to get as near right as you can?

A. I don't guess much about it; if I don't know, I generally inquire or take it from the old duplicate; J. C. Thompson is put down by me as a resident; I saw him personally; he gave in his taxes; nothing was said about his residence; I don't know whether he is a resident or not; I was away from home all day when taking the assessment; didn't go home to dinner.

Re-direct:

I should probably have heard of it if Mr. Leonard had called at my house in my absence, though I might not; I think I commenced taking the assessment the 10th day of July; was about two weeks at it.

Q. What part of the duplicate shows the information that you got as you went about assessing?

(Objected to by Mr. Mills.)

A. That written in pencil; J. C. Thompson, I believe, lives near Brookside all the year round, though I have never been to his place, nor spoken to him since I made the assessment; he has built a house there, I believe.

Second Cross-Examination:

A. J. C. Thompson's tax for 1871, was $74.06; his road tax was $11.57, which is included in $74.06, which also includes $1.00 poll tax; it is customary in our neighborhood for the overseer to hire the work done on the road; don't know how it is in Mr. Thompson's district.

JOHN L. CARROLL.

Sworn and subscribed before me, March 29, 1872.

STEPHEN H. LITTLE,
Notary.

Philip Riley, a witness produced by the plaintiff, being duly sworn, testified as follows:

Have lived in Mendham thirty-five or forty years, don't know how much longer; am slightly acquainted with Leonard, defendant; first became acquainted with him a year ago last election day, on Phœnix's stoop, Mendham; I asked him who he was; he replied, his name was Leonard; I asked him if he was a voter here; he said no; I afterwards heard he voted; that Mr. Stout sent a man in to get Dr. Stiger away, while Leonard got his vote in; became further acquainted with Leonard afterwards, saw him at Mr. Stout's one evening; Leonard invited me to see him.

[Mr. Mills was called out during the above part of this testimony, and before it was taken, now returning, objects to it.]

Q. Any conversation between you and Mr.

Leonard as to where his residence was ; if so, state it ?

A. There was ; he asked me to call and see him in New York ; I asked whereabouts he lived, on the mountain ; he said he lived in New York ; said his residence was 241, West 53rd Street.

Q. Did you ascertain whether he lived at that number ?

A. I went there, found his wife and family there ; had a good dinner, a little fun, and came home. The conversation as to his residence took place a year ago last December.

Cross-Examination :

The conversation took place, I think, before Christmas—couldn't say positively ; it was not far from that day ; it took place at Mr. Stout's house, in Mendham Village ; Mr. Leonard gave me the number of the house on a card, (produced here, marked by me as Exhibit No. "B," on part of defendant.) After I met Leonard on election day—can't say whether I met him again previous to meeting him at Stout's. I try to make myself agreeable to everybody. I might have asked Leonard to call and see me at a blacksmith shop. Couldn't say what part of election day I talked with Leonard, whether in forenoon or afternoon. I don't think any one was on Phœnix's stoop when I walked up. I was hunting for voters. Don't know as I was hunting for voters for Stout or against him. I was working for my own side —the Republican ticket. Mr. Stout was on the Democratic ticket, running for Sheriff. I didn't carry tickets in my hand ; had them in my pocket when I spoke to Leonard. Kept the tickets in my pocket where people couldn't see them, unless they were wanted.

Q. You were electioneering for Republicans that day, were you not ?

(Objected to as repetition.)

40

A. I generally work on that side ; I was electioneering for Republicans that day.

Q. Was this before dinner or after ?

(Objected to as already asked and answered.)

A. I couldn't say, I don't think anything about it, for I don't know ; it was after the polls were opened—couldn't say how long.

Q. Just give the words of the talk that you had on the stoop with Mr. Leonard ; what you said to him, and what he said to you ?

A. I don't know ; I asked him who he was ; he told me who he was, he told me his name was Leonard ; I asked him if he was a voter ; he said he was not. (Notary here asking witness to wait, he replied, "what do you want it for, you have got it all above." Here Mr. Pitney said, "he wants you to say it over again—he wants to catch you.") Last question read over to the witness. I asked him who he was, to tell me his name; asked him if he was a voter, he said he was not ; after that we had no more to say about the election ; we talked about some other matters that don't concern this or anybody else ; we went by ourselves ; I took him up in the lodge room ; I don't remember anything further.

Q. Tell all that passed between you in that conversation, whether it concerns this matter in your judgment or not ?

(Notary here remarked, lodge secrets excepted, in a jocular way.) Wasn't any conversation on the stoop except lodge matters ; we talked about traveling, &c., which concerns nothing but the lodge.

Q. Have you given all the conversation that took place between you and Mr. Leonard at that time, so far as you can remember ?

A. I have, except lodge matters.

Q. Do you remember what was said, with reference to them ?

A. I might remember something that was said—

there was a great deal said; I asked him to visit our lodge—something as to that.

Q. Were not the words you used to Mr. Leonard when you first spoke to him on election day, "who are you? I have seen you around here all day, and don't know you?"

A. I don't think I did, I don't remember it; I might and might not. I said a good many things.

Q. You are a good deal of a joker, are you not?

A. I joke a little, sometimes.

Q. How near was this place where you had this talk with Mr. Leonard to the polls?

A. I think it was about one hundred and thirty-two feet; couldn't see the polls, they were in the back room, back of the bar, in plain sight of the building where the polls were. The polls are held in the back room of the tavern, back of the bar; go through the bar-room to get to them; people generally standing around the streets and bar-room election days; I repeat that I talked to a good many persons that day.

Re-direct:

Q. How soon after this conversation on Phœnix's stoop, did you hear that Mr. Leonard had voted?

A. I don't know; I couldn't tell; sometime afterward, I think; I don't charge my mind with everything I say.

PHILIP RILEY.

Sworn and subscribed before me, March 29, 1872.

STEPHEN H. LITTLE,
Notary.

Lewis Mills Loree, a witness produced and sworn on part of the plaintiff, testified as follows:

I reside at Brookside, Mendham Township; am constable; live about two miles from Mr. Leonard's farm; have had a summons in my hands to serve on

him; had three of them; I found Mr. Leonard home when I went to serve the two first; served them personally; I found him the two first times, going; the last summons was in favor of James Blanchard, as plaintiff, in October or November last—can't say which; couldn't find any one there to serve it on; saw Mr. Kaggen; I asked him if Mr. Leonard was home; he said he wasn't.

(Mr. Mills objects to conversation between Loree and Kaggen, unless Leonard was by.)

I asked if any of his family was there over fourteen years old; he said no; then I told him I would serve it on him; he said I wouldn't do it; then I asked him if he wasn't Mr. Leonard's agent, and he said he wasn't; then he said Mr. Leonard would be out through the week sometime; I came to town three times to the train to see him; I didn't find him; then I returned the summons either to Caleb Leek or 'Squire Easton (I forget which,) not served; I told him I couldn't find any one to serve it on; I don't think I had it in my hands over ten or twelve days.

Cross Examined:

After I returned the summons, I saw Mr. Leonard once; it must have been the last of November.

Q. And you ascertained from him where he was at the time you had that summons in your hands?

(Objected to as hearsay.)

A. Don't recollect whether he said that he had been in Virginia when I had the summons in my hand; he told me he had been in Virginia; I saw Kaggen, at the time previously mentioned, near the barn; about a month after I had returned the summons, he [Leonard] sent word by a man named Elias Owens, that if I had a summons for him, he was ready to receive it; I don't know that it was afterwards served; I heard it was, but not

by me ; I did not go in the house, and didn't ask Kaggen to go ; he told me there were none of the family there. I didn't serve it on Kaggen, because he told me he wasn't Leonard's agent. Kaggen was about fifty yards from the house when we were conversing ; I had no idea that Mr. Leonard was endeavoring to avoid the service of the summons.

LEWIS MILLS LOREE.

Sworn and subscribed before me, March 29, 1872.

STEPHEN H. LITTLE,
Notary.

Saturday, March 30, 1872.—The parties having appeared by their respective counsel, pursuant to adjournment, *Augustus W. Cutler*, a witness produced and sworn on the part of the plaintiff, testified as follows :

I had a claim in my hands in favor of James Blanchard against Leonard, this defendant, for collection ; issued summons by Justice Easton ; I did not at first succeed in having it served. Mr. Leonard came to my office one afternoon, and asked me if I had a summons issued against him ; I said I had ; he replied that there was no use in that, it couldn't be served upon him here, and that he would consent to have a trial without its being served. We fixed upon a time for trial ; I informed my client, who came on the day appointed for trial with his witnesses, but Mr. Leonard didn't appear ; afterwards, I understood the summons was personally served upon him, though I never examined it to ascertain.

Q. Did he give any reason why it would be difficult to effect a service on him here ?

A. My recollection is that he said he didn't live here. I think Jesse Cutler tried the suit for me.

Cross-Examined :

I had some correspondence with Leonard about

this claim before this conversation ; I think I addressed the first letters to him at Morristown ; the third one at New York ; I think Mr. Leonard came to my office within a short time, perhaps ten days, probably less, after I wrote the first letter to him. I had two interviews with Mr. Leonard. My impression is that Mr. Leonard wanted to convey to me the idea that a summons couldn't be served upon him here, except personally ; that was the impression I gathered. I don't think he said anything about his family ; I don't recollect any such conversation. I don't think any such expression as place of domicil was used. I never saw him but twice ; don't think I ever met him until he called at my office. The conversation referred to by me in my principal examination, occurred at the second interview. He came to see me both times about the business ; the first time in response to the letter.

Q. Did he state to you that he didn't wish a summons issued against him, because he didn't wish to be annoyed by the constable's meeting him, and handing process to him at the depot when he came up here, or anything to that effect ?

A. After stating that a summons couldn't be served on him, he said he would rather a suit should be entered by consent, than to be followed up by a constable whenever he came to Morristown.

Q. Did Mr. Leonard make an agreement to try the cause by consent, if you would give him a copy of the demand showing what the cause was for ?

A. No. Mr. Leonard knew from my previous letter, and this conversation, that the suit was brought to recover an an appraised damage for trespass. The amount claimed varied at different times ; the first letter was upon a claim of damage, and the second contained notice of an appraisement of damages in the same matter. I don't think Mr. Leonard complained in his interview of the different amounts claimed, but he had complained in his letter to me of the different amounts claimed, and I replied, explaining the difference. I believe I un-

derstood when Mr. Leonard called on me both times, that he had come up from New York, and was on his way to his farm. The appraised damage was greater than the claim first made.

Re-direct :

Q. Do you recollect whether he was just going to New York, or had just come from New York, when he called upon you ?

A. The first interview I think Mr. Leonard said that he had just come from New York, and had found my letter in the Post-office. The second interview, I believe, was in the middle of the afternoon. Still, I have the impression that he was coming from New York at each time ; that's my impression. The second interview was after I had been unable to get a service of the summons. Some time elapsed between the interviews. The first letter was written before the damages were appraised.

Q. The first letter you wrote fixed a sum you would take in payment of damages, did it ?

(Objected to by Mr. Mills.)

A. Yes.

Q. And the second letter notified him of the amount of the appraisement ?

A. Yes.

Second Cross-Examination :

I should say I have the letters that Mr. Leonard wrote to me ; that's my impression ; I havn't them here.

AUG. W. CUTLER.

Sworn and subscribed before me, March 30, 1872.

STEPHEN H. LITTLE,
Notary.

Parties adjourned the examination until Wednesday morning, April 3rd, 1872.

S. H. LITTLE,
Notary.

Wednesday morning, April 3rd, 1872.—The parties appeared, pursuant to adjournment, with their respective counsel.

Jesse Cutler, a witness produced and sworn on behalf of the plaintiff, testified as follows :

I reside about two miles from Morristown ; am an attorney ; I have seen Mr. Leonard, the defendant, once before. I know James C. Blanchard. I tried a suit for Mr. Blanchard against Leonard ; Mr. Aug. Cutler was the attorney who brought the suit ; it was an action of trespass, tried before 'Squire Easton, the third day of January, according to an entry in my docket ; Mr. Leonard was present at the trial ; I mean January, 1872 ; Mr. Leonard's attorney was John Betts. A motion was made by Betts to adjourn the cause to another day, on the ground of the absence of a material witness on part of Mr. Leonard ; the motion was opposed ; opposition was finally waived if costs should be paid by Mr. Leonard. (This testimony objected to by Mr. Mills as irrelevant.) The cause was then tried ; in the course of conversation, Mr. Leonard stated that he resided in New York ; that he had subpœnaed his witness ; that the subpœna had been served. The conversation referred to related to the adjournment.

After the evidence on the part of the plaintiff was closed, Betts moved for a non-suit, on the ground that the cattle were not identified by the plaintiff's evidence as Mr. Leonard's. The motion was opposed by me, (Cutler,) and to sustain my objection, I used Mr. Blanchard's evidence ; Mr. Blanchard swore that he had served a verbal notice personally on Mrs. Leonard ; that the cattle, [about eighteen head,]

were in his (Blanchard's) yard, and he wished them to come and take them away ; he was asked if he was sure, positive, that the lady was Mrs. Leonard ; he said he was, as she had represented herself as such.

(All this testimony objected to by Mr. Mills.)

The motion for non-suit was denied.

Q. During the argument of the motion to non-suit, did Mr. Leonard, or his counsel in his presence, state anything, and if so, what, with reference to the residence of Mr. Leonard or the whereabouts of his wife, at the time this notice was given by Blanchard ?

[Objected to by Mr. Mills.]

A. I think statements were made by his counsel that he resided in New York at that time ; I don't remember anything at that period of the case in regard to his wife.

Q. Was Mr. Leonard sworn in his own behalf on the trial of that cause between him and Blanchard ?

A. I think he was, I know he was.

Q. Did he, in giving his evidence, after he was sworn, state where he resided, and if so, what did he say concerning his residence ?

A. The first question asked by his counsel was, where he resided ? He replied, in New York. He was also asked, in the progress of the examination, if his wife, during that Fall of 1871, at the time the trespass was committed, was at the farm [I think in Randolph Township ; I cannot be certain as to the Township, but in this County,] and was notified by Mr. Blanchard that the cattle were in his [Blanchard's] yard ; he [Mr. Leonard] stated that she was not there at the time ; that she was in New York at that time ; it turned out that the notice had been served on Mrs. Kaggen.

Q. Do you recollect whether or not, during his examination, he stated the street and No. of his residence in New York city, and if so, what did he say about that ?

[Objected to by Mr. Mills.]

A. If he did, I do not remember it.

Cross-Examined :

Blanchard swore incorrectly about Mrs. Leonard ; she was not there on the day the notice was served by Mr. Blanchard ; it was Mrs. Kaggen.

Q. When Mr. Leonard was examined about where Mrs. Leonard was, it was to ascertain where she was at the time this notice was served by Blanchard, wasn't it ?

A. I think it was.

Q. In your statement of what was said on the day of the trial, you have given your general recollection of what was said, and have not pretended to give the exact words ?

A. Part of it I have and part of it I have not ; I understand the suit between Leonard and Blanchard is still pending ; it has been appealed.

Re-direct :

Q. Did it appear in the presence of Mr. Leonard how Blanchard came to be mistaken about the identity of the person upon whom he served the notice ?

[Objected to by Mr. Mills.]

A. Only as I have stated, the representation by Mrs. Kaggen that she was Mrs. Leonard.

Q. In answer to Mr. Mills' question, which is : "In your statements of what was said on the day of the trial, you have given your general recollec-

tion of what was said, and have not pretended to give the exact words ?" you say, "part of it I have and part of it I have not," in which part as near as you can tell, have you given the exact words ?

A. In regard to the question asked by Mr. Betts as to where Mr. Leonard resided ; Leonard said he resided in New York.

Q. Then the part relating to his residence you have given in or nearly in the words used by him, have you ?

A. I have.

Q. Have you any doubt that he then and there stated that he resided in New York ?

A. I have not.

JAMES J. CUTLER.

Sworn and subscribed before me, this 3d day of April, 1872.

STEPHEN H. LITTLE,
Notary.

James C. Blanchard, a witness produced and sworn on behalf of the plaintiff, testified as follows :

I am forty-nine years old, and live in Randolph Township ; I never knew the defendant in this suit until the day I had the trial before 'Squire Easton ; I know him by sight ; I had a suit with him ; I was plaintiff ; the suit was before Squire Easton ; an action of trespass for damages done by cattle ; I think the trial took place the forepart of last January, 1872 ; Leonard and I were both present at the trial ; Mr. Betts was Leonard's attorney at the trial ; and James J. Cutler appeared for me ; Augustus W. Cutler brought the suit for me ; he went out of town, so I had to get a new lawyer, same as Mr. Leonard ; at the trial before 'Squire Easton, I heard Leonard speak of his residence ; Mr. Betts asked him, and he said New York ; the question was asked him after he was sworn ; Mr. Betts asked him where his residence was, and Leonard replied, New York ; Leonard was sworn in his own behalf, in that suit.

Cross-Examined :

I couldn't say whether Mr. Betts, in his question, asked Leonard where he "resided" or where he "lived," his reply was New York.

Q. Wasn't the question, "where do you live now?"

A. I think not ; the question was where he "lived" or "resided," and he said, New York.

JAMES C. BLANCHARD.

Sworn and subscribed before me, this 3d day of April, 1872.

STEPHEN H. LITTLE.

William H. Struble, a witness produced and sworn on behalf of the plaintiff, testified :

I am twenty-five years old ; I live on Morris Plains ; I was present at the trial between James C. Blanchard and Amasa Leonard ; it took place the 3d day of January last, before 'Squire Easton ; Leonard was present at the trial ; I heard him sworn and examined in his own behalf on that trial ; Mr. Betts was Leonard's counsel.

Q. After he was sworn, did he give any testimony concerning his residence ?

A. Yes, sir ; as near as I can give the words, Mr. Betts asked "where he resided," and he replied, New York.

Q. Where he resided when, on that day or some other time ?

A. I couldn't say that he put any day or date to it, but I suppose that he meant that time.

Q. Did or did he not ask this question of Mr. Leonard, "where do you reside ?"

(Objected to by Mr. Mills as leading.)

A. Yes, sir.

Q. What reply did Mr. Leonard give, if any, to that question ?

New Jersey State Library

A. New York.

Q. During this trial did you hear any question raised about the service of a notice upon Mrs. Leonard ?

A. Yes, sir.

Q. Who raised this question about the service of the notice ?

A. I think Mr. Betts asked him if he had served a notice.

Q. Did you or did you not hear anything said by Mr. Leonard, or his counsel in presence of Leonard, about his place of residence at the time the notice was served by Blanchard ?

A. His counsel asked him if his residence was in New York, and he replied, yes.

Q. Did you or did you not, during that trial before Easton, hear Mr. Leonard deny that he resided at his farm ?

(Objected to by Mr. Mills as leading.)

A. I don't recollect now.

WM. H. STRUBLE.

Sworn and subscribed before me, April 3, 1872.

STEPHEN H. LITTLE,
Notary.

Pierson A. Freeman, a witness produced and sworn on behalf of the plaintiff, testified :

I reside in Morristown ; I am in the hardware business ; I know the parties to this suit ; I have known Mr. Leonard three or four or five years, I should think.

Q. Did you ever have any conversation with Mr. Leonard about his residence, and if so, state when, where it was, and what was said, as near as you can ?

A. On the sixteenth of January last, 1872, Mr. Stout took Mr. Leonard up to his farm, and I rode with them ; as we got near his farm, I remarked to Mr. Leonard that it was a cold day, and I asked

Mr. Leonard if he hadn't better bring out a bottle of Bourbon whisky ; he told me he hadn't any there, that if I would call on him in New York at his home—he didn't say that he would give me any there—but I inferred that he would ; in the next conversation I asked Mr. Leonard why he didn't come out here and live ; he remarked that it was too far from the depot ; then I asked him why he didn't build a house on his lot here in Morristown ; he said his wife or family liked the city better than they did the country, was the reason he didn't build out here ; I don't know, I think that is about the gist of the conversation.

Q. Did you learn from him that day who lived at the farm ?

A. He said he had a man living on the farm ; I don't know the man's name ; we stopped at Leonard's farm, let him out, and Stout and I went on to Mendham.

Q. Where were you going that day ?

A. We were going to Mr. Walduck's sale at Mendham ; it was the 16th day of January, according to my recollection. Mr. Leonard wanted to go up to his farm, and Mr. Stout, I suppose, invited Mr. Leonard to ride with him, and invited me also, knowing that I wanted to attend that sale. I do not know where Mr. Leonard came from that day. Mr. Stout and Mr. Leonard drove to the store in a two seat carriage, and called for me.

Q. Did or did not you and Mr. Stout, or one of you, invite Mr. Leonard to go with you to the sale ?

A. I think we both did ; he declined to go.

Q. Did he give any reason for not accepting the invitation ?

A. Yes, sir, he said he had to go back to New York that afternoon, and he had to remain at the farm some little time, and would not have time. I have been at Mr. Leonard's place of business in New York ; I think I was there either the latter part of January, or forepart of February, with Mr. Stout ; we were there probably about ten

o'clock in the forenoon ; I don't recollect that Mr. Leonard, on that occasion, invited Stout and me to go home with him to dinner.

Q. Did Mr. Leonard then tell you where he lived or resided ?

A. I think he did ; I can't remember the street—up town somewhere ; he invited me to come down and see him, and he would take me to Central Park. I think, in that conversation, he told me where he lived ; I mean Leonard gave me to understand he lived up town somewhere in New York City.

Cross Examined :

Q. When you asked him why he didn't live at the farm, you meant why he didn't live there all the year around, I suppose ?

A. Yes, sir ; I meant why he didn't move up and live there.

Q. You mean live there all the time, do you ?

A. Yes, that is what I meant ; I knew he lived there in the summer ; I do not often see Mr. Leonard out here in winter—occasionally I do, on his way to the farm, or from it.

Re-direct :

Q. When you asked Mr. Leonard why he didn't live out on his farm, where did you understand he resided ?

A. New York.

Q. Have you any personal knowledge that Mr. Leonard lived at his farm during the summer ?

A. I have never seen him there : I knew he had a farm there, and that he went up there.

Re-Cross-Examination :

I have never been to his house in New York.

P. A. Freeman.

Sworn and subscribed before me, April 3, 1872.

Stephen H. Little,
Notary.

Adjourned the examination until half-past two o'clock this afternoon.

April 3rd, 1872. S. H. LITTLE.

Walter Bain, a witness produced and sworn on behalf of the plaintiff, testified :

I reside in Morristown ; am acquainted with the parties to this suit ; I believe I have known Mr. Leonard six months ; I don't know the location of his farm in Mendham Township, though I was there once ; that was in the latter part of September, 1871 ; I went there with Stout ; I saw Mr. Leonard there ; he came out of the house as Mr. Stout and I drove up ; Mr. Stout called him on one side on some private business ; after they were through, they came over to the stable ; I remarked to Mr. Leonard if that wasn't quite a lonesome place up there ; his answer was, that he did not live there, but lived in New York, but came up to spend a day or two at a time to recuperate ; I believe that was all that was said at that time, except some talk about horses ; then we came home.

Q. Did you ever have any other conversation with him about residence except that one ?

A. Well, since this suit has been pending, I met Mr. Leonard on the stairway, but never before this suit ; that was the only time we met.

Q. Have you had any conversation with him since this suit commenced, with regard to his residence, and if so, state when it was and what occurred ?

A. Last Saturday, I think, Mr. Leonard asked me what they were going to prove by me ; I remarked as to his residence in New York ; he said that he did not intend to deny his residence in New York ; that is all I can recollect.

Q. Have you ever been at Mr. Leonard's place of business or residence in New York ; if so, where are they, and when were you there ?

A. I was at his residence, but I can't recollect when ; sometime within the last three months ; it

was in 53rd Street, five or six doors above Eighth Avenue ; I don't know the number ; I happened to go there because Mr. Stout gave me a letter for Mr. Leonard; on arriving at the house I rang the bell, the servant came to the door ; I asked her if Mr. Leonard lived there. (Objected to by Mr. Mills.) She said yes ; I inquired if Mr. Leonard was in ; she said no, he had gone out some thirty minutes ago ; I requested her to hand the letter to him on his arrival home ; she said she would ; I left the letter with her ; the letter was directed to Mr. Leonard, whether full name or not, I couldn't tell, though I think it was his full name ; the street and number, I think, were on the letter ; I think Mr. Leonards name was on the door of the house ; I went right to the house without difficulty ; I couldn't say whether that letter was addressed by Mr. Ballentine or Mr. Stout, though I think by Mr. Ballentine.

Cross-Examined :

I can't fix the time more definitely when I was at Mr. Leonard's farm, I was invited by Mr. Stout to go there ; it must have been about the twenty-fifth of September last ; I was then a stranger to Mr. Leonard ; merely went along for the ride.

Q. And the conversation you had with Mr. Leonard was merely a casual one, was it not, without any object of obtaining information as to his domicil, or anything of that kind ?

A. It was ; I do not know whether Mr. Leonard's wife and family were there at that time ; I did not know that they had passed the summer there.

Q. You did not know at that time that Mr. Leonard and his family had spent the greater part of the previous year there, did you ?

A. I did not.

Q. You got the impression then that he was merely in the habit of going up there and spending a day or two at a time ?

A. I did ; we were all on the ground when this

conversation took place; we conversed together about ten minutes, while walking about the barn; I didn't know how long he had owned the place, or whether he had just bought it; I had no object in asking the question.

Q. You had the impression at that time that he was a New Yorker, owning a farm out here, had you not, when you asked him the question?

A. I did; I knew that he did business in New York.

Re-direct:

Q. What gave you that impression, that he belonged in New York?

A. From the fact that Mr. Stout told me that he was connected with him in business.

Q. Did or did not Mr. Leonard confirm that impression, when he informed you that he lived in New York, and not there?

[Objected to by Mr. Mills.]

A. Certainly.

WALTER BAIN.

Sworn and subscribed before me, April 3, 1872.

STEPHEN H. LITTLE,
Notary.

Caleb H. Leek, a witness on part of the plaintiff, being duly sworn:

I reside in Morristown; am constable and Township collector; I have been constable from eight to ten years; I had a summons in my hands for service upon Mr. Leonard last summer; I know the parties to this suit; I've known Mr. Leonard three or four years; I should think I had a summons in my hands for service upon him, in favor of James Blanchard, last summer; I can't tell the time; I endeavored to serve the summons; I went to Mr. Leonard's place on the Mountain, in Mend-

ham Township ; what I call the Barker farm ; I did not see him there, nor any of his family ; I did see David Kaggen's wife, I took her to be ; I inquired for Mr. Leonard, and they told me that he didn't live there ; I did not serve the summons in my pocket ; the time expired and I had to get it renewed again ; then I gave it to Mills Loree, a constable in Mendham Township ; he didn't serve it ; whilst he held the summons, Mr. Leonard came along by my place one morning, and asked me if I had anything against him ; I told him I had not, there was a summons out, and Mills Loree had it ; Mr. Leonard told me that if the summons wasn't served on him, to send it to his place in New York City, and he would accept the service, and return it back to me by mail ; I did not send it ; I was ordered not to send it ; it came back to my hands ; I served it on Leonard personally, my impression is, right here by the Iron Bank.

Q. When you were at his farm, did you learn who was living there ?

A. David Kaggen ; I believe that is his name.

Q. Did the woman who you saw there give you any information concerning Mr. Leonard ?

(Objected to by Mr. Mills.)

A. She told me that he didn't live there ; that's all I know.

Q. Did you learn when he was expected ?

A. I did ; that he would be up on a Saturday night.

Q. After you were at the farm, and prior to the time of giving the summons to Loree, did you do anything, or make any effort to get service on Mr. Leonard ?

A. All effort I possibly could, without running there every day ; I was at his place once or twice or three times, and by going to the depot to see if I could meet him ; I went to the depot to serve the summons if he came up on the train ; I was at the depot two or three times for the evening mail train.

Q. When you saw Mr. Leonard upon the road as you have stated, or at any other time, did you have any conversation with him concerning his residence, and if so, when and what was it?

A. He told me that he lived in New York, and if I had anything, to send it to him; after I had given the summons to Loree, one morning when I saw Leonard on the road at my house, this conversation took place.

Cross Examined:

Friday morning, April 5th, 1872.—The parties appeared pursuant to adjournment, and the cross-examination of Caleb H. Leek was commenced.

Cross-Examined:

Before I served the summons, Mr. Leonard asked me if I had anything against him—that's my impression.

Q. You suppose by that expression that he meant a summons, did you not?

A. Yes, sir; the conversation took place near the barn, on the place where I live, on the Mendham road; Mr. Leonard and his wife were driving past; he stopped and we had the talk.

Q. He introduced the subject, not you?

(Objected to as leading.)

A. Yes, sir; Mr. Leonard spoke the first about the summons.

Q. Do you not recollect that in that conversation he told you that if you had a summons or tax bill or anything of the kind against him, to drop it in the Post-office at Morristown, where he had a box, and that he would get it there at once, and acknowledge receipt, or words to that effect?

A. He told me in that conversation that he would acknowledge the service of it in New York, and return it back to me by mail; I went and saw Mr. A. W. Cutler, (Blanchard's attorney;) he advised

me not to do it ; I did not send it. Mr. Leonard has told me to drop his tax bills in the Post-office here, and I think that I have.

Q. He told you the No. of his box in the Morristown Post-office at that time, did he not ?

A. There was something said about the box ; whether it was here or New York, I wouldn't swear positively; I do not recollect that the number of the box was 300.

Q. The direction then that he gave you at that time, was the number of some box in some Post-office, was it not ?

A. There was such conversation, but what the number was, I can't say ; he gave me the direction ; I reported the conversation to Mr. Cutler. There were two or three summons issued in this case by 'Squire Easton, of Morristown ; I didn't serve the second summons ; I only served one summons on Mr. Leonard.

Q. When did you serve the summons on Mr. Leonard ?

A. There was one summons issued which was altered by the Justice ; it wasn't served ; he tore that up, and issued a new one, and I served it on Leonard ; I can't tell when I made the service ; it wasn't charged was the reason ; I can't give the date ; it was paid for at the time.

Q. Have you any recollection of being at Mr. Leonard's house more than once with a summons against him in favor of Blanchard ?

A. Twice I was there.

Q. Whom did you see the first time ?

A. David Kaggen's wife.

Q. Whom did you see the second time ?

A. His wife, (that is, Mrs. Kaggen.)

Q. Can you give the month in which the service was made ?

A. In November, to the best of my recollection, or the last of October.

Re-direct :

Q. You had a conversation with Mr. Leonard

upon the road, as you have stated, and another in relation to his tax bills; in which conversation was it that he gave you the number of his Post-office box?

(Objected to by Mr. Mills as incorrect in its assumption.)

A. The conversation between us, send the summons to New York and the tax bill to Morristown, the way I understand it is this: that the summons was to be sent to New York, and the tax bill to be left here.

Q. Then the conversation about the summons and tax bills took place at the same time, did they?

A. Yes, sir.

Q. Did he give you the number of any Post-office box in New York?

A. No, sir.

Q. In that conversation, where did he direct you to send the summons, in case you had any?

A. New York City.

Q. What did he tell you to do with the tax bills?

A. Send it to Morristown; I gave the tax bill to Mr. Leonard personally.

CALEB H. LEEK.

Sworn and subscribed before me, April 5, 1872.

STEPHEN H. LITTLE.

Jerome L. Stout, the plaintiff in this cause, being sworn in his own behalf, testified:

I reside in Morristown; have lived here one year; formerly lived in Mendham; I lived in Mendham from 1866 to the Spring of 1871; I know Mr. Leonard, the defendant; I first became acquainted with him during the Summer months of 1865, during my Summer vacation from business, at my father-in-law's, near a farm that he owned.

Q. Where did Mr. Leonard reside at that time?

A. They were temporarily staying at the farm; I had just formed their acquaintance, and did not know at that time that they had any other residence; but I learned from them at that time that they had a residence in New York, and were only up there to spend the Summer months. They asked me how long I expected to remain out in the country, (I then resided in New Haven, Conn.) and told them I should go back in a few weeks. Mr. Leonard replied to that, that if they went back first, they wanted us to stop and see them in New York; I don't recollect where it was they invited me to visit them in the city. I then returned to New Haven before they left for New York. After that commenced a social correspondence between us, his letters dating from New York. Next I saw them was the following summer vacation in 1866, after I moved out to Mendham; when they came out from New York they came over to see us, very soon after they came from New York; the same week, according to their statements, and Mr. Leonard was complaining very much of rheumatic affection; then returned home on the mountain after making us a visit, and Mr. Leonard was taken more severely ill, and remained at his farm sometime, nearly helpless. He sent for me to come and see him, saying he was disabled, and wished me to assist him some about his farm; he was inexperienced in farming; he requested me to go and make a deal of some cattle for some sheep; I did so; after that I probably went up a dozen or twenty times while he was sick; sometimes took him out riding; we and our families became very intimate and friendly; Mr. Leonard especially expressed his gratitude for my kindness, which was the only pay I ever got, except some presents to my children of a pair of geese and a pair of ducks; he brought them to Mendham, and stated that it was not pay for my services to him, but that if he ever had an opportunity to do me a favor, he would do it, as he presumed I wouldn't take money; this friendship continued until the Fall of 1870; about Oc-

tober of the Fall of 1870 I went through that neighborhood, and called at his place; I was canvassing for election; I was candidate for the Sheriffalty of Morris County. I called at Mr. Leonard's house, he was not at home; I saw Mr. Kaggen; I mean Mr. Leonard was not at the farm; I asked Kaggen when Mr. Leonard would be up; I think he told me that he had written, though I am not positive about that; that he would be up on a certain day; I went up there that day again; I found Mr. Kaggen and another man back of the house picking stones, and Mr. Leonard walking about with them. I told Mr. Leonard that my business was to talk about election.. We walked away about fifty yards to a stone row, and sat down on the fence; we had quite a lengthy conversation about the prospects of my election or defeat; he then proposed to me to enter into business with him in New York; he told me that I had better throw up my nomination, and go into business with him, as I could make a great deal more money; after talking some time, I declined to throw up the nomination; I told him that it wouldn't be honorable, but that if I was defeated, I would talk seriously with him about it. He stated that he would come over and bring over voters and I told him that if he did so, he must take dinner with me; he said he would; he said he was glad of an opportunity to repay an old debt of kindness he owed me; he only wished he had a right to vote for me, that he would do so cheerfully; I told him that I thought he could, and there would be no objections made, but he refused, saying that he didn't want to change his legal residence from New York; that it was an advantage in many points of business, and I think he said in bringing suits, legal actions in New York, to be a citizen of New York; he said he hadn't changed his mind since he wrote me a letter on that subject; I think we were there together two hours, when I left and went home; I next saw him election morning in the same Fall of '70, about the polls in Mendham at the hotel; he was walking about

talking to me and others ; I saw him talking to Major Riley on Phœnix's stoop ; I had conversation with him on that morning, perhaps on half-a-dozen occasions, generally about election matters ; he told me that there was one man that used to work for him, that he understood the other side were going to try to vote ; I have forgotten his name ; he said he meant to watch him and prevent him if he could, as he had no right to vote ; he had brought him out from New York. Mr. Leonard remained around there very closely, occasionally would go out for a few minutes, and about eleven o'clock in the forenoon there was a man voted, who, Mr. Leonard informed me, had no right to vote ; that he had heard so; this man was brought in and voted by the opposite party ; Mr. Leonard remarked to me, "if that is the loose way you allow voting here, if I thought I would not be challenged, I would vote and balance it off," I told him if he desired to do so, I thought I could make an arrangement whereby he would not be challenged.

Soon after that Mr. Phœnix remarked to Dr. Stiger, "I go to dinner at twelve, I want you to take care of things here while I am gone," after that remark I went out, and saw a prominent republican, and requested him to call Dr. Stiger out ; he called the doctor out ; I then beckoned to Mr. Leonard ; he came forward, announced his name, offered his vote, and it was taken without any questions being asked ; the polls closed, I should think, a half-hour afterwards, for dinner.

Q. At the time he proposed to vote, if there were no danger of his being challenged, did he state why he didn't want to be challenged ; if so, what did he say in that connection ?

A. He did ; he said it would have a tendency to disgrace him if he was challenged and that he would not swear in his vote.

Q. Did he state why he wouldn't swear in his vote ?

A. I don't know that he did just at that time ; but had previously told me on two or three occasions

that he was a voter in New York, and didn't wish to change his legal place of voting ; Mr. Leonard, myself and my nephew, Elmer Stout, walked up from the hotel to dinner, together ; Leonard and I conversed, on our way to dinner, about the election generally, and particularly about the fact of his having got his vote in very nicely and easily, without being challenged ; considerable was said ; I couldn't give all the conversation ; besides me and Mr. Leonard at the dinner table that day, were Mrs. Stout, my wife, Miss Gussie Emmons, my nephew Elmer Stout, Jeremiah S. Emmons, part of time, (he came in after we were about half through,) and Elias Briant, now deceased ; Mr. Leonard and I had quite a conversation after we were seated at the table ; Mrs. Stout asked us how we were getting along; and then we went into a general conversation as to what took place at the polls, in regard to different voters, especially in regard to the manner Mr. Leonard voted.

Q. In regard to his voting in what respect ?

A. In regard to his voting illegally ; we were both talking and laughing how slick he had got his vote in, and Mrs. Stout's sensibility seemed to be somewhat shocked, and remarked to Mr. Leonard and asked him if he thought it was right to do wrong because others did; he answered, "I don't think I did wrong ; what I did was to correct a wrong."

Q. How came she to ask that question ?

A. From the fact that Mr. Leonard seemed to be exulting over the fact that he had voted ; and he stated at that time, that he had no more right to vote there than Mayor Hall, of New York ; considerable was said, and I don't pretend to give the conversation exactly as it occurred, but I have given the substance of it to the best of my recollection ; it would be impossible to give it all ; Mr. Leonard and I after dinner started to go, and got outside of the door ; the rest were still at the table ; it then occurred to me that the conversation then and there had ought not to be repeated down town to any one ; I went back in

the dining room and charged the boys to say nothing about it down in the village ; this request was made in the presence of two or three who were at the table, if not all.

I wish here to make one correction ; my servant girl, who was waiting on the table, heard this conversation also ; her name is Annie Scanlon ; we then went back to the polls and remained there, at least I did, during the afternoon ; the next thing that occurred between me and Mr. Leonard, after he heard I was defeated, he came over to Mendham that same week, and said he had come to take me at my word, to make arrangements for me to go into business with him ; we had quite an extended conversation on the subject, but made no definite arrangements at that time ; during this conversation I told him that if I could deal him my house and lot there, and put it in as so much capital, that I might make an arrangement with him ; he told me, "no, I couldn't now, as he had made arrangements to occupy the whole of his house in New York again ; I remarked that he might re-rent that and come to live at Mendham ; he said, no, a few weeks or a few months at a time was enough for him in the country ; that if Mrs. Leonard would have consented to live in the country, they would have bought Walduck's house ; that they had been talking about it.

The interview then terminated, so far as business was concerned, and residence, by an arrangement with him as to when he would come out again from New York ; I met him, and we concluded preliminary business arrangements ; this was in the latter part of November, 1870 ; I think some two or three weeks had elapsed ; I don't positively recollect where the second business interview took place, but I think it was at my house in Mendham, that is my impression ; he remarked then that he thought it would be a good idea to have one of the partners live in New York, and one up here ; he suggested to me that I had better sell my property, and move to Morristown ; he said, I am like the lobbyist, I

state this because I have an ax to grind, as I live in New York; your house will be a very convenient half-way house between my house and the farm; either at that time or soon after, he told me they were going to move their fruits and other matters to New York, and asked me if I would come up to the moving; I told him that I would. I was there the biggest part of one day helping them pack fruits, dishes, &c., a large number of boxes and barrels; this was in December, 1870; don't recollect the day; they sent one load that day to the depot, and was to send one next day in my spring wagon, as they feared the dishes, &c., might be injured on the cars; these things were to be sent also to New York; it was quite late in the evening before I left there; I went down and stayed all night at my father-in-law's, near by; next morning I saw them go by with a load, (this load was not the load in my wagon; that went earlier, I think.) I was standing outside, talking with my father-in-law, and they came along and halted, and I think it was Mrs. Leonard remarked, "We are off, bag and baggage;" Mr. Grover, (that's my father-in-law,) replied, "I am sorry to lose any of our neighbors, we've none to spare around here;" Mr. Leonard replied, "you must make the warm weather last longer, then;" they proceeded to New York. In the course of a few days, I don't remember how many, Mr. Kaggen returned my wagon to my farm; I asked him if Mr. and Mrs. Leonard and all their goods got to New York safely; he replied they had, he believed, except one article; he also stated they were settled down in their house.

Can't say how many loads were sent away at that time, two or three; I think there were two two-horse loads and one one-horse load.

Prior to this moving, Mr. Leonard was generally on his farm several weeks in the Summer time; he was there occasionally in the Winter, but not his family.

My business agreement with Mr. Leonard com-

menced the second day of January, 1871 ; business was located at the foot of 59th street and North River.

Further examination adjourned until nine and a half o'clock, Friday morning, April 5th, 1872.

S. H. Little,
Notary.

The direct examination of Mr. Stout was resumed this Friday morning, April 5th, 1872.

S. H. Little,
Notary Public.

I was Justice of the Peace in Mendham in 1870. The tax list was returned to me as Justice of the Peace, by Samuel Anderson, collector that year ; I had conversation with Mr. Leonard while the unpaid tax list was in my hands ; I met Mr. Leonard on the sidewalk in front of Mr. Voorhees' store ; I told him that the tax list had been returned to me, and that his name was returned unpaid ; I had the duplicate with me ; we compared the duplicate and his tax bill, which he took from his pocket ; I noticed that there was no poll tax on it, and knowing he had voted, I asked him if this bill had been rendered to him before or after election ; he said, "Previous to election ;" I told him that I supposed the collector would have given him a new bill when he saw him vote, as that was customary for the collector to do at the polls ; I mean a new tax bill with poll tax on ; he said he didn't think he was in there when he voted ; I told him that I knew it was the collector's duty to add poll tax to a new voter, but I didn't know whether it was my duty or not ; he replied that he would rather I wouldn't put it on ; that he didn't care so much for the dollar, but he didn't want to be considered liable to pay toll tax in Mendham Township, as he would not probably vote there again until I ran for sheriff again ; I told him that would never be ; he told me then to not make any expense on it until, or as soon as he went to New York again, he would make a

check and bring or send it over to me ; with that understanding I did not return it under a warrant with the other taxes ; I don't recollect whether it was paid within the limit I held the list or not ; after that time—sometime, I don't know how long, he sent the money or a check over to me, I think, by Elmer Stout ; I stated in my examination the other day, that the second business interview with Mr. Leonard, I had the impression that it took place at my house ; but after refreshing my memory, I find that it took place on Thanksgiving Day and evening at his farm house ; that is all of that conversation I wish to correct.

I wish to state that about the time Mr. Leonard and his family moved out of the farm house, Mr. Kaggen moved in from the old house.

I entered into partnership with Mr. Leonard ; (paper shown witness, purporting to be partnership agreement between Amasa Leonard and Jerome L. Stout, dated January 2d, 1871 :) all this agreement is in Mr. Leonard's handwriting, except the endorsement, my signature, and witnesses' name ; the witness, Mr. Meyer, is Mr. Leonard's foreman ; he lives in New York ; he signed the agreement as a witness in my presence.

This agreement is marked " Exhibit B," on the part of the plaintiff.

S. H. Little,
Notary.

I continued in partnership with him until January 15th, 1872 ; during that time the business was carried on at the foot of 59th street on North River, New York City ; during that period I lived in Morristown most of the time ; I moved from Mendham down here, 1st day of April, 1871.

I didn't go to New York every day ; did generally ; missed now and then a day : I had a commutation ticket, and went every day unless sickness or accident prevented me.

Q. During the time that you were in business with Mr. Leonard, where did he reside ?

A. At 241 West 53rd Street, New York City; he kept house; I invariably got my dinners or lunches at Mr. Leonard's house, unless I was down town, and it was inconvenient to do so; during that time I never found the house shut up; Mr. and Mrs. Leonard were out of the city—Mrs. Leonard from four to six weeks, Mr. Leonard about three—from three to four; Mr. Leonard told me that Mrs. Leonard had gone South, and he was going after her; I think Mrs. Leonard left the last of August, it might have been the first of September, and Mr. Leonard went away some two or three weeks later.

Q. Were they at the farm in Mendham for any length of time, while you were in partnership with him?

A. So far as I know, they were not there at any time continuously for a week; Mr. Leonard would come up to visit the farm quite frequently, Mrs. Leonard seldom.

Q. At what time of the year did Mrs. Leonard go the most frequently?

A. She has been there but very little during the last year; generally during fruit time to can fruit.

Q. Did you have any conversation with Mr. Leonard in regard to voting, in the Fall of '71?

A. I did; it was just previous to election, in our office in New York; I asked him if he intended to go to election; he said no, that he did not, that in consequence of this ring business it wouldn't be any credit to him to have anything to do with election; I mean the New York ring. There may have been some more said, but I don't recollect particularly about it except that we had the conversation.

Q. Did you ever hear Mr. Leonard say anything with regard to his intentions of building on his Maple Avenue lot in Morristown?

A. I did, it was in his dining room in New York; he showed me the plan of his house here, and stated that he was going up to Morristown to submit it to some builders. That was in November or December last, in 1871.

Q. Did he say anything about his wife's feelings as to living in the country ?

A. Yes, sir ; he said Mrs. Leonard and his daughter were both opposed to building here ; that they liked New York City Society the best ; that they were acquainted there, and preferred to remain there.

Q. Have you ever heard Mrs. Leonard express herself on that subject ?

A. Very frequently that she didn't like to live in the country, and was very sorry that they had ever bought the farm ; that when they bought it, if they liked to live in the country they had intended to make it their home ; but a few weeks in hot weather was all the country they desired.

[All this testimony objected to by Mr. Mills.]

Q. In speaking of the Mendham farm and property, what expressions did Mr. Leonard make use of ?

A. They always characterized it as the farm, and the house in New York as their home.

Q. Did that continue up to the time this suit was commenced ?

A. It continued up to the last interview I had with him in New York with Mr. Freeman, a few days—perhaps ten days before the attachment was issued ; it continued up to the 10th of February ; during the entire year I was in business with Mr. Leonard, except, perhaps, a short time in the latter part of the year, they kept from five to seven boarders in the house—that is, steady boarders that remained in the house, as I understood it, having rooms in the house.

During the hottest part of the weather some of these boarders went to some watering place some few weeks, up the Hudson River, I understood it was.

There never was a time during my taking dinner there through the year that Mrs. Leonard or her

daughter was not there, to the best of my recollection ; I made compensation for my meals ; the arrangement was made with Mr. and Mrs. Leonard ; I paid them at two different times, and have an acknowledgement from each of them of a receipt of the money.

(Paper shown witness, purporting to be an agreement between the parties, dated January 15th, 1872, which I have marked "Exhibit C," on part of plaintiff in the cause.) This is the handwriting of Crawford Ballentine, all except the signatures and witness ; the endorsement is in the handwriting of J. W. Ballentine ; the signature of Amasa Leonard attached to this agreement is in Mr. Leonard's handwriting. The agreement was read over to Mr. Leonard.

I had a conversation with Mr. Leonard in our office in New York, with reference to the roads going up to Leonard's farm ; he said he was in hopes now that we would soon have better roads up there ; that there had been an arrangement made to put the road in good order ; that the arrangement was brought about through Mr. Thompson ; that Mr. Thompson, himself and Mr. Stiles had agreed to contribute one hundred dollars—I am mistaken, seventy-five dollars was the amount contributed.

They wanted a hundred dollars ; that he feared he had offended Mr. Thompson, in refusing to give what they had allotted to him. I asked him how he could be offended at that ; he said because he had told them that he was not a resident there, and ought not to pay as much as they had assessed him ; he said that Mr. Thompson had already complained bitterly, because he supposed when he purchased there, that we intended to make the farm our home, and hadn't done so ; he said that they couldn't think of it, because it would be doing an injustice to their daughter to keep her from society ; I have heard both Mr. and Mrs. Leonard frequently make that remark ; this conversation with reference to the roads, led me to see Mr. Stiles to ascertain

the fact in regard to the matter ; I had another conversation with Mr. Leonard, in the office, with reference to the Blanchard case of cattle damage ; he asked me if I had heard any person say that they were looking for him with a summons ; I told him I had ; that I had been inquired of several times by Mr. Cutler as to when Mr. Leonard would be out from New York ; that Mr. Cutler had told me that they had been looking for him —I think he said two or three weeks ; Mr. Leonard laughingly replied, "Let them look," if Blanchard had come to him he would have settled the damage without any trouble, but since he had put it in a lawyer's hands, and had the constables chasing around after him, he meant to bother them all he could ; that he had left word with Kaggen not to allow a summons served at the house ; he said when he got ready he would allow it served on him ; I afterwards saw Mr. Cutler again—went in there to pay for a piece of land I bought of him.

Adjourned till three o'clock, April 5th, 1872, P. M.

Parties appeared at three o'clock, P. M., April 5th, 1872, and continued the examination of Mr. Stout.

STEPHEN H. LITTLE,
N. P.

My interview with Mr. Cutler the second time, was when he asked me if I wouldn't be kind enough to do him a favor confidentially ; I asked him what it was ; he said to inform him when Mr. Leonard would be up, and I told him I would if he wouldn't tell him. (This conversation with Mr. Cutler objected to by Mr. Mills.) I then told Mr. Leonard the next time I went down that they were looking out for him pretty sharp up in Morristown, and during the conversation I asked him when he was going up to Morristown, and he told me at that time, but I forgot how long afterwards it was that

he was to come up—the day passed by and he didn't come.

Mr. Leonard drew the original agreement which I have produced here, dated January 2nd, 1871 ; he has a duplicate of it ; I copied his duplicate from the original and gave it to him—that's my impression—it was previous to the execution of the original that I made the copy.

The original and copy were both executed at the same time ; I took the one in his handwriting, and he took the one in my handwriting—that is my recollection of it ; he told me, at the time, that he had drawn the original principally from one that a lawyer had drawn for him in a previous partnership ; I think he showed it to me ; so far as I know, no scrivener or lawyer was employed in getting up the agreement between me and Mr. Leonard ; it was generally understood that Mr. Phœnix and Dr. Stiger were the Republican challengers at the Mendham polls ; when I ran for sheriff, they acted as such the most part of the day.

Q. What was your object in getting Dr. Stiger away from the polls on the election day ?

A. To carry out an arrangement made with Mr. Leonard, whereby he might not be challenged when offering his vote—he did vote and was not challenged.

There is one other correction that I meant to have stated this morning, and forgot it in regard to my evidence the other day ; I stated that Mr. Leonard was at his farm occasionally in the winter time, but none of the members of the family ; since giving my evidence, I recollect that his daughter and a young lady were up there one Winter, about from four to eight weeks, I couldn't say exactly—during a term of good sleighing ; I think this was during 1868 or 1869.

Cross Examined :

I don't recollect the name of the young lady with Mr. Leonard's daughter at the farm, during the

Winter I have spoken of ; there was a servant girl there at that time, though I don't know her name ; I think the young lady, referred to by me, was a visitor ; I recollect that Nathan Guerin's daughter was there at Leonard's, though I didn't know that she was living there ; I can't recollect when Mr. Guerin's daughter was at the farm during the Winter that Mr. Leonard's daughter was there.

Since the adjournment the other day, I have read over the testimony ; I read from Mr. Little's notes ; Mr. Cutler asked me to tell him confidentially, when Mr. Leonard was coming up, last Fall or the beginning of the Winter ; I think it was not far from Thanksgiving Day; I can't tell whether it was two weeks before or after it —I have no memoranda to fix the date ; I recollect now when it was, it was between the election and the meeting of the Legislature, but I can't tell when ; I told Cutler I would let him know if I could ; I requested him that he would not tell.

Q. That you thought was honorable dealing with your partner ?

(Objected to as immaterial.)

A. I didn't consider that there was any harm in it.

Q. Why did you wish it concealed then ?

(Same objection, immaterial.)

A. Because I feared Mr. Leonard, and didn't wish to offend him—that was the reason.

I know Mr. Leonard said he dodged the constable, he told me so ; he told me that in the course of that conversation ; he didn't name the constable he dodged.

Q. Did he say why he meant to dodge him ?

A. He had already said he meant to bother him all he could.

Mr. Leonard and I were alone when this con-

versation was had ; I might have had five conversations with Mr. Leonard about the Blanchard suit ; I know I had two ; he talked quite freely about it ; we scarcely ever talked about such matters, except when we were alone.

I couldn't tell now exactly when I had the first conversation with Leonard about the Blanchard matter—it was within the limits of this time ; as nearly as I can fix the time of the first conversation, it was between election and the meeting of the legislature, I can't state it any more definitely.

Q. When you were running for Sheriff in the Fall of 1870, and you told Mr. Leonard that you thought he could vote, did you or not think he was entitled to vote, and a resident of Mendham Township ?

A. When I told him he could vote, I presume the wish was father to the thought.

Q. You have not answered my question.

(Question repeated.)

A. I cannot conscientiously say that I had any definite thought about it.

Q. Will you answer my question any more definitely than that, or do you refuse ?

A. I will answer you at all times as definitely as I can.

Q. The question is whether, at the time you told Mr. Leonard you thought he could vote, you thought he had a right to vote, or that he had no right to vote ?

(Objected to by Mr. Pitney, as already answered, and as immaterial.)

A. I cannot recollect now what my honest convictions were at that time.

Q. Would you advise a friend to vote when you thought he had no right to vote ?

(Objected to as immaterial.)

A. I might consent that he should vote; I did not advise Mr. Leonard to vote; I merely told him he could.

Q. When you told him he could vote, did you not want him to vote, and intend that he should so understand you?

A. I wanted all the votes that I could get, of course.

Q. Then you did want him to vote for you?

A. I did not request him to; when I told him that he could vote, I intended only that he could vote without being challenged.

Q. Did you then think that he had no right to vote?

(Objected to as already asked twice and answered, and as immaterial.)

A. I cannot now recollect what my honest convictions were then.

Q. On Wednesday, just at the close of the examination, I gave you notice to produce a letter which you referred to in your testimony as written to you by Mr. Leonard—will you produce that—have you it here?

Counsel for plaintiff says that there has been no such reference made to any letter as to entitle the other side to a production of it, and that no letter written by the defendant to the plaintiff can be made evidence by the defendant in his own behalf; no objection, however, is made to the production of the letter if the witness has it.

A. Yes, sir; I have it here.

Q. Will you show it to me?

A. Yes, sir, I will.

(Witness shows letter to defendant's counsel.)

Q. Before the writing of that letter, had you urged Mr. Leonard to fix his legal residence in Mendham Township?

A. I think I had, sir; this letter is dated the 29th of October, 1868; I presume it was received by me at or about the time of its date; I couldn't say.

Q. And this letter was referred to in this conversation between you and Mr. Leonard, of which conversation you have given us an account, was it not?

A. I do not know that; that is the only one that I have found among my letters, so far as I have looked, relating to that subject.

Q. Did you not just produce this letter as the one referred to in that conversation, and did you not state the truth when you said this was the one that was referred to?

A. This is the letter I produced, but I cannot tell that it is the letter that Mr. Leonard referred to in the conversation.

Q. Did you not just show us this letter as the one referred to in your testimony of Wednesday?

(Objected to because Mr. Stout himself did not refer to any letter in his evidence, but only stated that Mr. Leonard, in a conversation, referred to a letter to him (Stout.)

A. I suppose it to be the one, but I may have other letters relating to that subject, which I have as yet been unable to find.

This letter is marked by me as "Exhibit F," on the part of the defendant.

S. H. LITTLE.

(Objected to by Mr. Pitney as incompetent.)

Q. How long was this conversation before election day; I mean the conversation in which you told Mr. Leonard you thought he could vote?

A. A few days—I don't recollect the number.

Q. When did you first learn that Mr. Leonard was going to vote?

A. About eleven o'clock, I should think, in the forenoon, somewhere about the polls; I can't tell; I learned it from Mr. Leonard.

Q. Prior to his giving you that information on election day, had you any talk with Leonard about his voting at that election, except the conversation which you have detailed ?

A. I probably had.

Q. In any of those conversations, did you learn that he was going to vote at that election ?

A. I think not ; but I cannot swear positively about it.

Q. When he told you on election day that he was going to vote for you, who was present ?

A. I don't think he ever told me that he was going to vote for me ; I never knew what he voted ; he voted a close ticket if my memory serves me.

Q. You have stated that about eleven o'clock on election day, Leonard told you that if he thought he would not be challenged he would vote, and stated the reasons that he gave for saying so—who was present when this was said ?

A. I don't remember as any one but ourselves.

Q. Who was it that voted that he said had no right to vote ?

A. I do not remember his name.

Q. Who was present, when, as you say, you proposed to make an arrangement by which Leonard should not be challenged ?

A. No one but ourselves ; such things are generally managed by twos.

Q. That is your custom ?

A. It was at that time.

Q. What is the name of the prominent Republican whom you requested to call Dr. Stiger out ?

A. That was promised to be a confidential matter—honorably so, and I dislike to expose him to his party.

Q. Will you not give me the name of the prominent Republican to whom you referred in your testimony ?

A. I can if you insist upon it ; it would be a breach of good faith for me to do so.

Q. I repeat my previous question.

A. Mr. John W. DeMond, candidate last Spring

for Justice of the Peace, and elected on the Republican ticket.

Q. You were at this time a Justice of the Peace, were you not?

A. I was.

Q. How soon after Dr. Stiger was called out was it that Mr. Leonard voted?

A. Five or ten minutes I should think, perhaps not more than five; he voted, I think, between twelve and one o'clock.

I think the full board of election was there; I don't think there was two persons in the room besides the board of election; I am not positive; I thought it necessary to call Dr. Stiger out, because I didn't know but he would challenge Mr. Leonard; the board of election consisted of Mr. John Reynolds, Marius Robinson; I think those were the two Democrats, and old Mr. Samuel Reynolds the Republican; the polls closed at one o'clock for dinner.

Q. When you were talking at the dinner table with Mr. Leonard about his getting in his vote so slick, did you think at that time that he voted illegally?

[Objected to as immaterial what witness thought.]

A. That was the presumption at that time.

(Repeated by counsel, and witness gave the same answer.)

Q. Did you think it becoming for a Justice of the Peace, and a candidate for the Sheriff's office, to be exulting with a man because he has got in his vote illegally?

[Objected to as wholly irrelevant and immaterial, and advised the witness that he needn't answer unless he chooses, by Mr. Pitney.]

A. He suggested it, and I simply consented to it ; I've seen many things at election time less becoming by officers higher in authority than a Justice ; that is all the answer I have to make ; I mean to be understood that there were some articles of household goods packed up in the Fall of '70, when Mr. and Mrs. Leonard went to New York ; that was in December, 1870.

They packed some pieces of furniture ; I don't recollect what, and I think some bedding.

Q. Please name any articles of household furniture that you can remember.

A. I don't recollect the particular articles ; they left a portion of the furniture of their parlor there ; I saw articles of furniture being packed, and they wondered whether or no they would carry safely ; I assisted more particularly in packing fruits.

Q. Do you not know that the articles taken by them to New York at that time were fruits, preserves, produce of the farm, and their clothing, and that their furniture remained in their house on the farm ?

A. Part of that question is true and part is not.

Q. Do you mean to say that the only articles of household furniture left by them there, was the furniture in the parlor ?

A. That was all, to my knowledge ; I cannot name any of the articles of furniture taken.

Q. When was it that you had that talk with Mr. Leonard in front of Voorhees' ?

A. It was during the time that I held the duplicate of taxes ; the taxes were generally returned to the Justice the 20th of December, and given up by him about the 26th of December ; it was during the limit of that time ; I can't tell whether I received the check within that time or afterwards.

Q. When you said to Leonard that you knew it was the collector's duty to add poll tax on a voter, but didn't know whether it was your duty as Justice of the Peace to add it, were you in serious or in joke ?

A. I was serious.

Q. And when Mr. Leonard said he would rather you wouldn't put it on—not that he cared so much for the dollar, but that he didn't want to be liable to pay poll tax in Mendham Township—did you think he was serious ?

A. I did.

The agreement about taking my meals at Mr. Leonard's house was made some two or three weeks after the articles of partnership was signed.

I was perhaps for two or three weeks dining with Mr. Leonard without charge, immediately after I commenced business ; from the fact that Mr. Leonard had told me that I was perfectly welcome to dine with him during my business connection with him ; I missed going there two or three days ; Mr. Leonard asked me why I didn't come regularly ; I told him I would rather not unless they would take pay for it, so I should feel perfectly welcome ; he told me he would see Mrs. Leonard and fix upon a price ; he did so at twenty-five cents a meal, which was cheap enough ; they gave me plenty of good food, and treated me nicely.

Adjourned by consent until ten o'clock A.M., Monday, April 8th, 1872.

S. H. Little,
Notary Public.

Monday, April 8th, 1872.—Parties appeared pursuant to adjournment, and the cross-examination of Mr. Stout was continued.

I havn't the acknowledgements of receipts of my board from the Leonards here ; I may have them among my papers ; Mr. Leonard's receipt includes something else, Mrs. Leonard's does not ; if I have them I will produce them.

Q. Where was it that you had the conversation in New York with Leonard in reference to the roads near his farm ?

A. Sometime in the latter part of the Summer of '71, I think; it was in our office, and no one was present but ourselves.

We were speaking about the mountain roads having been washed; it was directly after a heavy rain.

Q. Did you understand from Leonard that he thought Thompson was offended with him because he (Leonard) wouldn't acknowledge himself a resident of Mendham Township?

A. No, sir.

Q. What had Leonard's residence to do with the subject?

A. He gave me as a reason that he would not pay the $35.00 allotted to him, that he was not a resident there, and only up there occasionally, and only used the roads a little comparatively to Messrs. Thompson and Stiles.

Q. And he had given that as a reason to Thompson, why he (Leonard) didn't subscribe more, had he?

A. I so understood him that he gave such a reason to Thompson and Stiles.

Q. You say that Mrs. Leonard or her daughter was always at the house in New York, when you took dinner there, during the time of your partnership; and that you always went to New York, except occasionally for a day or two at a time, during the time of the partnership; am I correct in so understanding you?

A. I am unwilling to answer that question in the shape it's in; I can't do it; I think I never took dinner there, to the best of my recollection, unless Mrs. Leonard or her daughter was there; I traveled for the firm, and was absent a great deal of the time in the country, when I didn't take dinner there; but took dinner there invariably when in New York, unless being far down town and inconvenient to do so; I could not tell now how much of the time I was absent traveling for the firm; I should think I was traveling for the firm from one-third to one-half of the

time—in New York, Jersey City and Brooklyn, a great deal of that time.

Q. You have spoken about Mrs. Leonard's being absent in Virginia four weeks or more during the year 1871; what was the longest time she was absent during that year?

A. I have no recollection of her being absent but very little after that; I think she was absent a week or two; I think she was at Harlem, helping take care of her mother or some friend who was sick, during the forepart of the Summer, if I mistake not; I don't recollect any other time; I think she was up at the farm in fruit time for a few days, canning blackberries and peaches; that was in August, if I am not mistaken; I think I'm not.

I do not know of the house in New York being shut up at any time during the summer of 1871.

Q. Where did the conversation in reference to the New York election take place; when was it, and who were present?

A. It was, I think, between the first day of November and election, a day or two before election, either in our office or on the way to dinner, from our office to Mr. Leonard's house; my impression is, 'twas in the office, and we were alone in either event.

Q. Will you give the words of that conversation, and how it came about?

A. I couldn't say how it came about, except that it was just previous to election, and probably some article in the paper we had just read might have drawn our attention to it; can't tell.

The exact words I won't pretend to give; the substance of it I will give as near as I can recollect now; I asked him if he was going down to election; he said, he thought not; that in consequence of this Ring business, (referring to the New York Ring) it would be no credit to him to have anything to do with election this Fall; I don't know that there is anything further particularly to say; we talked quite a little spell on the subject.

Q. When was it Mr. Leonard showed you his plans for building in Morristown ?

A. Sometime last Fall, or early in December, I don't know which ; in his dining room in New York ; no one was present but ourselves ; he was sitting in the dining room alone when I went in, reading the paper ; that is not the only time the plan was shown me ; I have seen it or another one before ; he had been making some alterations in it he told me, and brought it down to ask my opinion of it ; I do not know that Mr. Leonard called his farm his mountain home ; I never heard it before that is, attached to that place.

In New York they usually speak of it as going up to the farm ; and when at my house in Mendham, they speak of it as going back to the farm.

Q. You say that Mr. Leonard had from five to seven boarders in his house in New York, that roomed there and boarded there ; for how long a time was that, and what were their names ?

A. The most of them were there when I went there first ; two of them were school teachers ; I think they were absent during vacations ; and most of them remained there until sometime in the Fall of 1871, or the first of December ; I couldn't tell the first names of any of them ; Mr. and Mrs. Stevens and daughter, a Miss or Mrs. Hansel, I don't know which ; a Miss Lottie Moore, another young lady teacher, whose name I can't remember ; these persons, the most of them, were there when I commenced to take dinner there ; the Stevens family, Mrs. Hansel, and I can't say as to the other two, whether they were there or not ; they were there soon after ; these boarders that I have named as near as I can recollect, remained there the major part of the time, until the Fall of 1871.

Q. Please give the name of the man whom you have spoken of as voting illegally at the Mendham election, and to whom Mr. Leonard referred when he said he was going to vote. A. I stated in my direct examination, that I did not know his name, neither do I now.

Q. Was he named or called Bowen ?

A. That is another man altogether ; Mr. Bowen didn't vote ; I don't know now where the man referred to lived ; he worked for somebody—who, I don't now remember.

Q. Was his name Borden ?

A. I think Bowen and Borden are the same man ; some called him Borden, some Bowen.

The man who worked for Leonard in the early part of the season is not the man referred to ; he never worked for Leonard as I know of ; I was generally acquainted throughout Mendham Township before I moved to Morristown.

I have not lately examined the poll list of the Fall of 1870 for Mendham Township ; I have since this suit commenced; I should think from three to four weeks ago.

Q. Did you find on that poll list the name of the man who voted illegally, as Leonard said ?

A. I didn't know his name, and haven't looked for him, because I didn't know his name.

Q. His name was mentioned when you and Leonard were talking on election day, wasn't it ?

A. It probably was, but I don't recollect it.

Q. You saw all the members of Mr. Leonard's family at the farm last Summer, did you not ?

A. I have no positive recollection of seeing his daughter there ; I saw Mr. and Mrs. Leonard there two or three times during Spring and Summer ; they came up from New York at one time, especially to go fishing at Lake Hopatcong with us.

Q. Did Kaggen vote at the same time that Leonard did, at the Mendham elction ?

A. I think he voted soon after—from two to five minutes ; I think he was standing in the bar room when Mr. Leonard voted ; within hearing, but not within sight of the polls ; there was a door between ; the door was open, and he was within sight of the polls, if he stood in that door-way.

Q. Since the adjournment on Friday last, you have had Mr. Little's copy of your testimony, have you not, and copied it ?

A. I had it, and read it over, but I did not copy it.

Re-direct :

Perhaps I would miss dining at Mr. Leonard's four days at a time ; at the extent, by reason of my traveling.

Q. Did you miss going there to dinner, at any time, for a whole week ?

A. I wouldn't be willing to swear that I was absent from dinner for a week at any time.

The night that Mr. Leonard moved to New York in December, 1870, I slept at my father-in-law's, Mr. Grover ; he lives about half-a-mile from Mr. Leonard's farm house.

Q. Were you invited to sleep at Mr. Leonard's ?

A. No, sir, I was not ; they apologized for having no accommodations ; that they were torn up.

Q. Previous to that moving, how was Mr. Leonard's farm house as to being fully or scantily furnished, according to your observation ?

A. I never saw but very little furniture there, and except a bedstead that they kept there for themselves in the parlor, the furniture was of a very inferior grade ; the carpet being a common ingrain or three-ply, I have forgotten which ; they had just barely enough there to get along with in warm weather.

Their farm house is a story and a half house, the rooms in the second floor being cut down by the slope of the roof ; at the time of the moving I was up stairs to see what furniture was left there.

Q. How is his residence in New York furnished, as compared with the farm house ?

A. It is very elegantly furnished throughout, handsome carpets, furniture, pictures and paintings ; the carpets, they frequently told me, cost six dollars a yard; their furniture was generally, I think, black walnut, marble trimmed bureaus and wash stands.

At the house on the farm, the parlor, dining-room and kitchen, and I think a small bed-room back of

the dining-room, are on the first floor, and a hall also ; I think there are three, and may be four rooms in the second story.

Q. How does the farm house compare in size, convenience and style with the New York house ?

(Objected to by Mr. Mills as wholly immaterial.)

A. It is very much smaller, and more yet, inferior in every respect.

Second Cross-Examination :

Q. Which house had the most furniture in—this farm house of Mr. Leonard, or your house at Mendham ?

A. I should think mine had three times the amount, and five times the value ; my house was not handsomely furnished.

I think there was a piano at Mr. Leonard's farm house, some pictures on the walls ; I might, years ago, have passed the night at Mr. Leonard's place ; I am not positive.

Q. Do you not remember ever staying there all night ?

A. Yes, sir, I do ; I don't recollect that I ever stayed there more than once, or when that was ; I cannot say whether my wife and children were with me ; I don't recollect now that I was not comfortably lodged when I did stay there.

Q. Do you not know there are five rooms on the second story, besides garret ?

A. I am not willing to swear that there was more than three ; there may be four.

Q. Are you sure there are not five ?

A. There may be, but if there are they must be very small ; I do not know.

Q. When was the bedstead moved into the parlor—before or after Kaggen moved into the house ?

A. I could not state that ; all the recollection I have about the bedstead, I have always noticed it in the one place ; I can't tell how long it has been there.

Q. Do you know of Mr. Leonard's making improvements about the house some years ago, fitting it up for his residence ?

A. I know Mr. Leonard did improve his house, and all the other buildings there, but I never understood that he intended to make his residence in that house, but on the contrary, they repeatedly stated they intended to build anew if they ever moved up there.

Second Re-direct :

Q. What sort of a piano is it at the farm house? What do you know about it ?

A. It is a very ancient piano, pretty well worn out, worth perhaps a hundred and twenty-five dollars ; I sold a much better one for that when I left New Haven.

There was a very nice one in their house in New York ; whether it belonged to them or their boarders I can't say ; I don't know.

Q. Did you ever hear them say anything about this piano at their farm ?

A. Yes, sir ; I have heard them talk about it ; they were talking about moving it, and concluded not to, as there was one in the parlor in New York, and they didn't need it there.

Third Cross-Examination :

I am not an expert, but I should judge that the piano in their parlor in New York was a great deal better than the one in the farm house ; I can judge of appearances and sounds.

Q. Are you a judge of pianos ?

A. Not mechanically so.

Q. Is there also a melodeon at the farm house ?

A. They had one there at one time during the Summer ; whether they removed it to New York in the Fall of '70 or any other time, I can't say.

Q. When was this conversation with Mr. Leonard about taking his piano to New York ?

A. It was December in the Fall of '70, at his

farm house, the day we were packing; there were a number in and out of the room; I couldn't say whether any one heard the conversation or not, except ourselves.

JEROME L. STOUT.

Sworn and subscribed before me, }
this 8th day of April, 1872. }

STEPHEN H. LITTLE,
Notary Public.

Adjourned by agreement until half-past two o'clock, April 8th, 1872.

S. H. LITTLE.

Monday, 2.30 o'clock, P. M.—Counsel for plaintiff offered in evidence a certified copy of deed from Amasa Leonard and wife to Anna Thompson, dated December 1st, 1871, which I have marked "Exhibit D," on part of the plaintiff.

Also a certified copy of a deed from Amasa Leonard and wife to John and George Ruddell, which I have marked "Exhibit E," on the part of the plaintiff.

STEPHEN H. LITTLE,
Notary.

Mrs. Martha G. Stout, a witness called on the part of the plaintiff, (objected to by Mr. Mills as incompetent,) being duly sworn, testified as follows:

I am the wife of the plaintiff; my maiden name was Martha Grover; my father lives north of Brookside, just this side of Mr. Leonard's farm; I have known Mr. and Mrs. Leonard from five to seven years; I knew Mr. Leonard and daughter before we moved from New Haven to Mendham; can't say positively that I knew Mrs. Leonard until afterwards; I visited them at their residence in New York a number of times; I don't know that I can recollect my first visit to them in New York; I think it was the first Winter after we moved out here to New Jersey; that was six years ago this April.

I found them very pleasantly situated at their home in New York, and the house beautifully furnished.

Q. During the six years have the Leonards spent any time at their farm ?

A. Yes, sir ; most usually in the hottest of the weather ; I couldn't tell how long, because I couldn't say when they went up ; perhaps a few days or a few weeks at a time—mostly in the warm weather.

Q. How was it in the season of 1870 about staying up ?

A. Sometime that season, I don't just remember when, I heard them say that they thought they should remain up in the country through the Winter ; I think Mrs. Leonard told me (objected to by Mr. Mills as incompetent) that they had rented their house to some one ; I remarked that I was glad that they were to stay up through the Winter, it would seem like company to me to have them there, even though I saw but little of them. They did not stay up ; shortly after Thanksgiving, I can't just tell the week, my husband went up to help them pack ; Mr. Leonard came up from New York a few days after that, and called at our house ; I asked him what in the world made him move back to New York ; that I thought they were to remain up to the farm through the Winter ; his reply was that Mrs. Leonard didn't wish to stay up at the farm, it was so lonesome there ; he said something about making arrangements with Mr. Stevens' people, to take them to board ; Mr. Leonard was to take Mr. Stevens as a boarder ; I asked him why he didn't bring Mrs. Leonard with him ; he said she was rather busy putting things to rights, but that he would bring her up to see me in a few days ; that he was coming upon business with Mr. Stout ; he came and brought her, and they remained over night ; I told her I was very sorry they moved ; she remarked that she couldn't bear the thoughts of staying upon the mountain through the Winter ; that she was glad to get back home again to New York, and that she meant to stay there ; said, true,

she would have considerable care. (She referred to her boarders.)

[All this conversation objected to by Mr. Mills as incompetent.]

Q. Did you ever hear Mr. or Mrs. Leonard speak of building on their farm, or making it their permanent home? What have you heard them say on that subject, and how did they speak of the farm?

(Mr. Mills objects to the witness detailing any conversation between her and Mrs. Leonard.)

A. I heard them speak of building, the first year or two that I knew them, and at one time I heard Mrs. Leonard say that Mr. Leonard thought of building a dwelling farther in from the street than the present one, and that he wished them all to move up from New York and make it their permanent home, but that they didn't like it, and she didn't wish to consent to it; I asked her how they ever came to buy there; she told me that Mr. Leonard was out of health, and that his physician thought that he ought to go into the country for awhile; said they saw the advertisement of that farm for sale, I think, in a New York paper; she said she was sorry he ever saw it, for that the farm was more expense to them than profit; she remarked that it was very nice to come up in fruit time, and have nice vegetables, and to get out of the city in the heat of the season; she said it was very difficult to get servants to stay out on the country, and that made it too hard for her; she said she wished Mr. Leonard would take board somewhere for himself and family, through the heat of the season; that it would not be near as expensive, and that it would do them all more good, and that she would not consent to be up there to the farm as much as they had been, for another year.

Q. What place, if any, have you heard them speak of as their permanent home or residence ?

(Same objection by Mr. Mills.)

A. I have always heard them speak of New York as their home.

Q. Did you ever hear them speak of their farm as their home, call it home ?

(Objected to by Mr. Mills.)

A. I don't remember as I ever heard them call it home ; but I have heard them speak a great many times of going to the farm, up to the farm, over to the farm, and up to the mountain.

Q. How did you hear them speak of their house in New York ?

A. I have always heard them call it home ; when up in the country speak of it as going down home to New York ; they always spoke of it as home.

Q. Did you ever hear either of them say as to whether they would probably build on their lot here in Morristown ?

(Objected to, so far as it calls for declarations from Mrs. Leonard, by Mr. Mills.)

A. Yes, sir ; I have heard them both speak of it ; I heard Mr. Leonard say that if he built there that he expected to put up a handsome residence ; I once saw the plan while in New York visiting there, which they thought they should build from.

I remarked to Mrs. Leonard that it would be a handsome house ; she said, "yes, that if she had to go into the country to live, she meant to have such a house as suited her ;" after that I heard some of them say, I can't tell who, (objected to by Mr. Mills) but it's my impression it was Mr. Leonard, that he didn't think they should build on the lot ; when we first came to Morristown to live, a

year ago this last April, I heard they were still going to build ; (just merely a report ;) I asked Mrs. Leonard if it was so ; she said, "no ; she didn't think they would; that they were settled down nicely in New York, and that she preferred to stay there ;" she said that her mother and sisters were living there, and that she would rather live there than in the country.

Q. Do you recollect election day, that your husband ran for sheriff ; was Mr. Leonard at your house at dinner that day, and if so, state any conversation that took place?

A. Mr. Leonard, I recollect, took dinner with us on election day ; that Mr. Leonard and Mr. Stout were conversing about election ; that they were speaking of who had been voting open tickets, and who had voted closed tickets ; then they were talking about some person who had voted on the opposite side, that had no right ; then they were laughing and telling how Mr. Leonard had managed to get his vote in ; and until then I never knew enough about politics to know the difference but what Mr. Leonard could vote in New York and here too.

I knew his voting place was in New York, but I supposed because he owned a farm here, that he had a right to vote here, too ; but by this conversation that they had at the table, I learned that he really had no right to vote here ; and I asked him a question, because he seemed so pleased that he had voted ; he said that he had matched this other vote.

Q. What was the question you asked him ?

A. I asked him if he thought it was right to do wrong because others did ; (of course I asked him in a pleasant manner ;) he replied, "I don't think I did wrong ; I voted to correct a wrong ;" after this, I can't tell just how soon after, but before we left the table, I said, "then Mr. Leonard, you couldn't vote in New York to-day ?" he said, "well, no, I guess not, but I don't care very much about it, for very likely they will have a pretty rough time there ;" there was some other conversation, mostly about election ; Mr. Elias Briant took dinner with

us also ; he is dead ; he was giving us some of his experience occasionally.

Q. Did Mr. Leonard say there at the table, whether he had a right to vote in Mendham that day ?

(Objected to as leading by Mr. Mills.)

A. I heard him say something about it, but I can't just give his words ; but something that gave me the impression that he had no legal right to, but that he did it as a kindness towards Mr. Stout.

Q. Was it stated at the table, how Mr. Leonard had managed to get his vote in ?

(Objected to.)

A. I don't remember ; I know they were speaking about some one's being called out, but I can't remember the name now ; but I remember of their laughing, to think how nicely they managed it.

Q. Do you recollect of your husband's giving the boys any warning or charge after dinner ?

(Objected to by Mr. Mills as leading.)

A. I don't recollect just what he said ; I know that he was speaking to them ; his saying something about being still down town ; but I can't tell his words.

Q. How does the furniture that the Leonards had in their house on the farm compare with the furniture in their house in New York ?

A. Their furniture on the farm was rather plain ; enough to make them comfortable while they were there and accommodate some of their friends when they came there ; their furniture in New York City was elegant, most of it, in their parlors especially ; their carpets were very rich, beautiful mantle ornaments, handsome pictures, rich furniture in general ; everything for convenience and comfort, as far as I could see.

Cross-Examined :

I remember of having stayed at Mr. Leonard's farm house one night ; I might have stayed there other nights ; I don't recollect of having done so ; the time I recollect was sometime, (I can't remember just when ;) I think it was in the Fall of 1870 ; I don't remember any date ; I was comfortably lodged and accommodated ; the house was plainly furnished, but comfortable ; I was always made comfortable there ; I can't tell exactly the number of bedrooms in the second story ; I never was in but two, and never saw others that I know of.

Q. Do you recollect Mr. Leonard's being at your house before the election in 1870, when Mr. Stout complained to him of Rev. Mr. Stoughtenburgh's having published a letter that Mr. Stout wrote to him ?

A. It seems as though I recollect about his being there one Sabbath afternoon ; I think it was previous to the election ; I couldn't positively say that that was the conversation about Mr. Stoughtenburgh ; it might have been.

Q. Do you not remember Mr. Leonard at that time promising Mr. Stout to vote for him ?

A. No, sir ; I do not remember any such a thing.

Q. Did you hear Mr. Leonard, before the election, promise to vote for Mr. Stout ?

A. No, sir ; I never knew that he had promised to ; he promised to send Mr. Kaggen up.

Q. Did you hear nothing said about Mr. Leonard's voting ?

A. No, sir ; not about his voting ; not that I can remember ; I heard him say that he would try and come up, and have Mr. Kaggen use his team for Mr. Stout.

Q. At the dinner on election day did you hear that a man who worked at the Phœnix house in Mendham, and to whom Mr. Stout's son had promised $15 for voting for his father that day, called at your house for the money ; and was not that what Mr. Stout was laughing at, at the dinner table ?

A. I never knew that my son ever promised him,

or even said so ; nor I never knew that he or Mr. Stout ever gave him $15.

Q. Did you not hear the matter spoken of at the dinner table that day ; and did not Mr. Stout after dinner, tell the boys to say nothing about it ?

A. Nothing of the kind that ever I knew of.

Q. Do you recollect of any one calling there to see Mr. Stout or your son during the dinner ?

A. I recollect of one being there ; but I don't recollect of his asking for Mr. Stout at all.

Q. Who was it that was there ?

A. I don't know his name ; might have heard it at the time, but don't recollect it.

Q. Do you recollect Mr. Stout or your son being called out during dinner time ?

A. My son was not there, I think, until we got up from the table ; I know he took his meal after us ; I don't recollect that Mr. Stout was called out ; I have no recollection about it, and I can't remember just when my son came in, only I knew he didn't eat with us.

I knew Mr. Leonard's voting place was in New York, from some conversation that I had heard, and some conversation that I heard then ; I never doubted that his voting place was in New York.

Q. Did you ever have occasion to think of the matter before that day ?

A. I had thought of it ; but as I said before, I was under the impression that he could vote in both places.

Q. When had you thought of it before election day ?

A. I can't tell just when ; I couldn't tell you any time ; I don't know how long it was ; ever since I knew them ; I knew his home was in New York, and that his voting place was there ; I can't tell when I thought of it first.

Re-direct :

Q. Did you ever hear Mr. Leonard say or pretend that New Jersey was his home or residence ?

A. Why, no, sir ; I never heard him say that it

was his home ; as I said before, I always heard him speak of it as the farm.

MRS. MARTHA G. STOUT.

Sworn and subscribed before me, April 8, 1872.

STEPHEN H. LITTLE,
Notary.

Miss Augusta Emmons, a witness produced and sworn on behalf of the plaintiff, testified as follows :

I live with my uncle, Mr. J. L. Stout ; I taught school ; I am Mr. Stout's niece ; I was at his house the election that he ran ; I was at the dinner table that day ; I saw Mr. Leonard there.

Q. Did you hear anything said that day about his having voted, and if so, what ?

A. My uncle and Mr. Leonard were talking of affairs at election ; Mr. Leonard was speaking of some man who had voted illegally on the opposite side. In the conversation I learned that Mr. Leonard had voted in Mendham, and that he had done it in a sly manner, so as not to have it generally known ; I remember my aunt, Mrs. Stout, asking him if he thought it right to do wrong because others did ; he laughed, and replied that he had voted to correct a wrong.

Q. Did Mr. Leonard say anything as to whether he had a right to vote in Mendham or not ?

A. I heard him say that he had no right to vote there ; his voting place was in New York.

Q. Did you hear anything said as to not mentioning or keeping still about what had been said at the dinner table ?

(Objected to by Mr. Mills.)

A. I heard my uncle (Mr. Stout) caution the boys not to say anything about Mr. Leonard's having voted when they went down town.

Q. Who all were at the table and in the room ?

A. Mr. and Mrs. Stout, Mr. Elias Bryant (now deceased) Mr. Leonard, Elmer Stout, myself; my brother Jerry Emmons, came to dinner when we were nearly through; then there was Annie Scanlon, who waited on the table; that is all.

Cross Examined:

I am now living with my uncle, and have been between six and seven years; I am not now teaching, and have not been for nearly two years; I form one of my uncle's family, though not entirely supported by him.

Q. How did Mr. Leonard come to say at the dinner table that he had no right to vote in Mendham, as his voting place was in New York?

A. He said it just after he said that he had voted in Mendham; I don't know why he said it.

Q. How came he to say that he had voted in Mendham?

A. It came out in the conversation between him and my uncle.

Adjourned by consent until ten o'clock, April 9th, 1872, A.M.

STEPHEN H. LITTLE,

Tuesday this cross-examination of Miss Emmons was resumed.

S. H. LITTLE,
Notary.

Q. Who first spoke of his having voted, he or your uncle?

A. I do not remember.

Q. When Mr. Leonard said that he had voted at Mendham, did your uncle seem surprised?

A. I don't know that Mr. Leonard said that he had voted in Mendham.

Q. Did you not say yesterday that Mr. Leonard said that he had voted in Mendham ?

A. I do not think I did ; I learned that he had voted there through the conversation at the dinner table.

Q. Did you think, from the conversation, that his voting there that day was a secret ?

A. I thought from the conversation that it was not generally known.

Q. Did you understand Mr. Leonard to be desirous of keeping it from being known ?

A. I don't remember as I did.

Q. State, if you please, the words used by Mr. Leonard when he spoke about his right to vote.

A. I heard him say, as nearly as I can recollect, that he had no right to vote in Mendham.

Q. Did he say that in response to anything said by any one else, and if so, what, and by whom ?

A. I do not remember as he did.

Q. It was then a volunteer remark on his part, was it ?

A. I do not remember.

Q. Do you know who he said it to ?

A. I do not know as he said it to any one in particular.

Q. Was he addressing all of the table at that time ?

A. He spoke so all could hear him, if they paid any attention to what was said, I think.

Q. Do you now remember whether in that conversation he said that he had voted in Mendham ?

A. I do not.

Q. How long were your uncle and Mr. Leonard at the dinner table ?

A. I could not say exactly ; possibly, half-an-hour.

Q. Can you tell us anything else that was said by them there besides what you have already told us ?

A. They spoke of some things that had taken place at the polls ; they spoke in reference to some voting open and some closed tickets ; I don't remember anything else particularly.

Q. What did Mr. Leonard say about his voting place being in New York—give his words, as near as you can?

A. I understood him to say that New York was where he voted.

Q. How long had he been at the table when he said that?

A. I don't know.

Q. Fifteen minutes?

A. Couldn't say—might have been.

Q. Can you say whether it was five minutes?

A. No, sir.

Q. Was it the first part of the dinner or the last part of the dinner?

A. I should think it was nearer the first than the last.

Q. Did Mr. Stout caution any one else there, besides the boys, to say nothing about Mr. Leonard's having voted?

A. I don't think he did; he spoke in particular to the boys.

Q. To what boys?

A. Jerry Emmons and Elmer Stout.

Q. Did he speak to and caution Orrin Stout?

A. I do not know that Orrin was there when he spoke.

Q. Have you talked of this matter with your uncle, [Mr. Stout] before you came here as a witness?

A. I have heard the matter spoken of.

Question repeated.

A. It has been spoken of, but not to me very particularly.

Q. The question is whether you have talked with your uncle [Mr. Stout] about this matter before you came here as a witness?

A. I believe he has spoken to me about it.

Q. Did you tell him what you knew about it?

A. I told him some things that I remembered about it.

Q. How often have you and he talked about this matter?

A. I don't know.

Q. More than once?

A. It may have been.

Q. Was it more than twice?

A. I don't know.

Q. When did he first speak with you about the matter?

A. I don't remember.

Q. Was it within a month?

A. It may have been.

Q. Was it within two months?

A. Perhaps it was.

Q. Can't you approximate the time when your uncle first spoke to you about the matter?

A. It was between one and two months probably.

Q. And how often has he spoken to you about it since that?

A. I don't know.

Re-direct:

I am twenty-four years old; I have a small income from property left by my father; I assist my aunt in the house; Orrin Stout is my uncle (Mr. J. L. Stout's) son; I do not think he was in the house at dinner that day with the rest; he is now in Washington, District of Columbia.

Q. This conversation which your uncle had within two months with regard to what occurred at the dinner table on election day, was it with you especially, or was it general talk in the family?

[Objected to by Mr. Mills as leading.]

A. There were other members of the family present.

GUSSIE EMMONS.

Sworn and subscribed before me, April 9, 1872.

STEPHEN H. LITTLE,
Notary.

Annie Scanlon, a witness produced and sworn on behalf of the plaintiff, testified :

I am twenty-two years old ; I live with Mr. Stout, and have lived with him eight or nine years ; I came with him from New Haven ; I was at Mr. Stout's on election day—he ran for sheriff, and was in the dining room during most of the dinner time, waiting on the table, running in and out during the meal—Mr. Leonard was there to dinner that day.

Q. Did you hear any talk at the dinner table that day about Mr. Leonard's voting for Mr. Stout ; if so, state it ?

A. Yes ; I heard Mr. Leonard say how slick he got his vote in ; while some men on the opposite side were out, he went there and voted ; I heard him say his voting place was in New York.

Q. Anything said as to why he stayed up there and voted that day ?

A. I heard him say, all he stayed for was to help Mr. Stout all he could.

Q. Who were all at the diinner table ?

A. Mr. and Mrs. Stout, Mr. Leonard, Miss Emmons, Elmer Stout, and Jerry Emmons, who came in afterwards, when they were about half through ; I think that was all ; I forgot to mention Elias Briant ; he was there too.

Q. Did you hear any warning given to the boys about telling what they heard there ?

A. Yes, sir ; I heard Mr. Stout, [just as Mr. Leonard and Mr. Stout started to go down town,] he came back and told the boys they mustn't mention anything about Mr. Leonard's voting there ; down to the polls, I heard Mr. Leonard say that he really hadn't any right to vote there, his voting place being in New York ; he said he didn't care much about voting there [I mean in New York] that day, because he thought they would have a rough time in New York.

Cross-Examined :

Q. When was this talk about Mr. Leonard's voting, the first part or the last part of the dinner ?

A. I don't remember—after they had been there some time.

Q. Have you no idea whether it was the first or last part of the dinner ? A. No, sir.

Q. Had anything been said at the table before Mr. Leonard's voting was talked of ?

A. I don't remember.

Q. Was this the first subject spoken of after they sat down to dinner ?

A. I wasn't there when they first sat down.

Q. Where were you at that time ?

A. I was out in the kitchen.

Q. How many times did you go out into the kitchen while dinner was going on ?

A. I don't remember.

Q. Six times ?

A. I guess not more that five times ; when I went out it was to get food ; I went into the dining room may be five minutes after dinner commenced.

Q. What was the first subject talked of at the dinner table, after you came in ? A. I don't remember.

Q. Tell all you heard said at the dinner table.

A. They were talking about voting ; I heard them say something about some man on the opposite side, who voted, and had no right to.

Q. State everything that was said.

A. I don't remember all that was said.

Q. I want you to state everything that you do remember.

A. I remember about Mr. Leonard's voting ; I thought it very clever in him, in leaving his voting place in New York, to come up here and vote for Mr. Stout, if he could.

Q. Did you understand him that he had come up for that purpose ?

A. At first I thought that he had a right to vote here.

(Last question repeated.)

A. Yes, sir, I did.

Q. Did he say so ?

A. I don't remember as he did.

Q. Had you ever seen Mr. Leonard before ?

A. Yes, sir.

Q. I have asked you to state what Mr. Leonard said about voting, in his own words, as near as you can.

A. I heard him say how slick he got his vote in.

Q. Is that the only answer you have to make to my question ?

(Objected to because no question is put.)

Q. Please state what you heard said by Mr. Leonard at the dinner table that day, in his own words as nearly as you can, and state the whole of what he said without further question from me.

A. I heard him say how slick he got his vote in ; while a man on the opposite side was out, he went in and voted ; I heard him say his voting place was in New York, and he really had no right to vote here ; I heard him say, all that he stayed for was to help Mr. Stout all he could ; I heard him say he didn't care much about voting in New York that day ; he thought may be they would have a rough time there.

Q. Have you stated all that he said ?

A. As near as I can remember, I have.

Q. To whom did he say this ?

A. Mrs. Stout ; she was saying something to him—I don't know what.

Q. Did he say all this to Mrs. Stout ?

A. I don't know as he did any more than to the rest of the family.

Q. Did anybody else say anything about it besides Mrs. Stout, to Mr. Leonard ?

A. Mr. Stout, he was talking too ; I don't remember what he was talking about, though.

Q. Did Mr. Leonard say who the men were that went out when he voted ?

A. I don't think he did.

Q. When was it he said his voting place was in New York, before or after he told how he voted at Mendham?

A. I don't remember just when it was.

Q. Did he tell about how he voted at Mendham, in the first part or last part of the conversation ?

A. I don't remember just when it was.

Q. Did you go out into the kitchen at any time, while they were talking about this matter ?

A. Yes, sir.

Q. How often ?

A. I think I went out four or five times during meal time ; I don't remember how often I went out during this conversation.

I think I was waiting on the table while I was in the dining room ; I handed around the dishes and things on the table.

I think they were talking most of the time while they were at dinner ; I don't remember, as Mr. Leonard was boasting all the time how slick he got his vote in.

Q. Did you talk about it then or afterwards ?

A. I think I said something to Mrs. Stout about it sometime after election—I don't remember how long after election.

Q. A year ?

A. It might have been that same week.

Q. How came you to talk with Mrs. Stout about it ?

A. Because I thought that it was very kind in Mr. Leonard to miss his place in New York, and come up and vote for Mr. Stout here—I said so to Mrs. Stout.

Q. When next did you speak of it ?

A. I don't remember when.

Q. When did you first speak of it to Mr. Stout ?

A. I don't remember when.

Q. Was it a month ago ?

A. I think it was more than a month ago.

Q. Was it two months ago ?

A. I don't know.

Q. How often have you talked with Mr. Stout about it ?

A. I heard him talk at the dinner table about it on election day ; I meant some time ago about it ; I told him then what I heard Mr. Leonard say on election day.

Q. How often have you talked with Mr. Stout about it ?

A. I might have told him two or three different times about it lately.

ANNIE SCANLON.

Sworn and subscribed before me, April 9, 1872.

STEPHEN H. LITTLE,
Notary.

Tuesday morning, April 9th, 1872.—The parties appeared pursuant to adjournment, and *John M. Moore*, a witness produced on behalf of the plaintiff, being duly sworn, testified as follows :

I was constable in Morris County last Fall ; I had a summons in my hand to serve on Amasa Leonard ; I think it was in December ; I couldn't say exactly, whether November or December ; I have no memorandum ; my impression is I had more than one summons ; I mean in two different suits ; I did not serve any summons on him ; I did not find him.

Q. Did you go to his farm ?

A. No, sir, I did not.

Q. Why not ?

A. I think I came from Mendham one time, or somewhere else from up country ; I did not know where Mr. Leonard lived ; I enquired of somebody where he lived; they told me he didn't live there ; came home occasionally.

Q. Did you start to go to his farm ?

A. I can't say that I did after I was informed that he wasn't home.

Q. Where were you told that ?

A. I couldn't say where exactly ; I think it was up the road near the school house ; I mean the brick school house, near Arnold's, on the road leading from Morristown to Brookside.

I can't tell how far from Mr. Leonard's farm ; I don't know where Mr. Leonard lives ; the brick school house, I think, is about two and a half or three miles from Brookside ; I can't tell how long I had the summons in my hands ; my impression is I had two ; I think it was the first summons that I inquired after Mr. Leonard.

Q. Did you try to find Mr. Leonard personally ?

A. I undertook to ; I went to the depot to find him when I heard he was coming up.

Q. Can't you tell how long you had the summons in your hands, one or both of them, within a few days ?

A. I can't ; the last one I can ; I had it only a few hours.

I want to correct one statement ; I know one was a summons, but I can't say what the other paper in my hands was ; something to be served on Leonard.

Cross-Examined :

Blanchard was the plaintiff in one case where I had a summons ; I can't say what Blanchard's first name was; I think it was Jim ; I couldn't say who issued the summons ; my impression is 'Squire Easton.

I can't tell the time ; I make no memorandum when I don't serve it ; I didn't serve any summons in this case ; I didn't know Mr. Leonard, and Mr. Blanchard went with me ; I gave the summons to Mr. Blanchard, I should think, some three or four hours after I got it ; I had never seen Mr. Leonard, nor been to his house ; I couldn't say what was the nature of the paper, it might have been a summons ; I didn't serve that paper ; I know what I did with it ; I think I do ; I sent it to Mills Loree.

Re-direct :

Q. What did you send it to Mills Loree for ?

A. To serve it.

I don't know that I went to more than one or two trains to meet Mr. Leonard ; all in one evening ; Mr. Blanchard was with me.

Second Cross-Examination :

I don't know whether Blanchard knew Leonard ; he told me he did ; I don't keep a horse and wagon.

JOHN M. MOORE.

Sworn and subscribed before me, April 9, 1872.

STEPHEN H. LITTLE,
Notary.

The plaintiff now rests his case.

S. H. LITTLE,
Notary.

Friday afternoon, April 12, 1872.—The parties appeared with their respective counsel, and the defendant, to sustain his case, called *James H. Day*, who testified as follows :

I reside in Mendham ; am twenty-four years old ; I have always had my home in Mendham ; I have been in the habit of attending elections there ; I am Town Clerk of Mendham Township ; last year was my first year in that office ; I was re-elected this Spring.

I have in my possesion the poll book, giving list of voters in Fall election, 1870 ; that book was passed over to me by Rd. T. Bowman, Town Clerk in 1870, and I think for several previous years ; the book was passed to me, with other Township's books and papers, a year ago this Spring, when I entered upon the duties of my office ; it has since been in my possession. (The

book produced by witness.) This book purports to show the names of the voters in the Township for the year 1870; this book is in Richard T. Bowman's handwriting.

The book alluded to, offered in evidence, and marked by me "Exhibit C," on part of the defendant.

S. H. LITTLE,
Notary.

(Book shown to witness.)

Q. Please look at that book, see if the name of Amasa Leonard is there, and if so, find it?

(Objected to, because the book itself is the best evidence of its contents, and not being in the handwriting of the witness, it cannot be used by him as a memorandum—by Mr. Pitney.)

A. It is the name—is 137.

Q. Please look at the names of all the voters that precede Mr. Leonard's name in that list, and tell me, whether or not you are acquainted with them, and if so, whether there is any name preceding Mr. Leonard's, of any man who is not a legal voter in Mendham Township at the time of that election?

(Objected to, for want of knowledge of the witness on the subject inquired about; also, because it is a matter of judicial judgment, and because of the immateriality of the matter, whether they are illegal voters or not—by Mr. P.)

A. I have looked at the names, and I don't see any names on here except what are legal voters; I think they are all legal voters whose names are on here; I refer to those prior to Mr. Leonard's name.

Mr. Stout was at my house; I didn't see him; my wife told me he had been there.

Q. When was it that Mr. Stout was there ?

(Objected to.)

A. Mr. Stout was at my house about two months ago, and saw the poll book.

Q. For what purpose did he come there, as you understood ?

(Objected to as hearsay.)

A. He said that he wanted to see two or three names on the poll book, and after looking over the poll book, he asked my wife if she knew who Lemuel Chambers was—he voted before Amasa Leonard.

Cross-Examination :

This conversation that I have related, occurred with my wife in my absence ; all I know about Mr. Stout's calling for the poll book, and his conversation about it, is what my wife told me ; my wife's name is Caroline M. Day.

JAMES H. DAY,

Sworn and subscribed before me, April 12, 1872.

STEPHEN H. LITTLE,
Notary.

Samuel Anderson, a witness produced and sworn on behalf of the defendant, testified :

I reside in Mendham Township ; in 1870 I was Collector of Taxes for Mendham Township ; in the Fall of 1870, as collector, I made a return of unpaid taxes to a Justice of the Peace for Mendham Township, to Jerome L. Stout, Justice ; that return was made, I think, the 21st day of December ; I think I went to Mr. Stout's house when I made that return ; I think it was in the forenoon ; I won't be positive ; it might not have been till night, but it was on the 21st.

(Paper purporting to be tax bill to Amasa Leonard for the year 1870, being shown witness.)

I think I made the figures on the face of that bill in pencil; I suppose that I receipted the bill; the handwriting of the receipt looks like Mr. Stout's. (Paper purporting to be a check given by Amasa Leonard, on the National Tradesmen's Bank, of New York City, payable to Samuel Anderson, collector, for $77.14-100, being shown witness.)

The handwriting of my name endorsed on that check was made by me.

Tax bill and check alluded to, offered in evidence, on behalf of defendant. (The tax bill I have marked "Exhibit D," on behalf of defendant.) S. H. Little, N. P. [The check I have marked "Exhibit E," on behalf of defendant. S. H. Little, N. P.]

I couldn't say whether Mr. Stout or Mr. Leonard handed me that check; I think it was Mr. Stout, though I couldn't say which; the check was received in payment of Mr. Leonard's taxes that year, less his road tax.

Cross-Examined:

Q. The words Samuel Anderson, on the tax bill just shown you; is that not in the handwriting of 'Squire Stout?

A. Yes, sir.

I haven't my tax warrant here—that was issued by 'Squire Stout—nor my duplicate.

In the small book in which I returned the unpaid taxes to 'Squire Stout, Mr. Leonard's tax is marked paid, in 'Squire Stout's handwriting; I haven't that book here with me.

Q. It is your duty to return unpaid taxes on the 20th, isn't it—I mean 20th of December?

(Objected to.)

A. I don't know but what it is ; I don't know but what the law says the 20th ; I knew at the time, but I got it in my head that it is the 21st.

Q. Did you return the taxes to the 'Squire on the day that it was your duty by law to return them ?

A. I think I did ; yes, sir.

Q. And you say now that you think it was the 21st that you returned Mr. Leonard's tax to 'Squire Stout, because you thought that was the day it was your duty to return it ?

A. I think that I returned it on the 21st of December.

Question repeated.

A. Yes, sir.

Q. Have you any doubt that 'Squire Stout handed you that check ?

A. I have no doubt in my mind but what Mr. Stout gave me that check.

Re-direct :

Q. How long were you collector of Mendham Township ?

A. One year.

Q. What is the universal custom of collectors of Township taxes, as to allowing to tax payers a full time of the 20th of December for paying the unpaid taxes, so far as you know ?

[Objected to by Mr. Pitney for want of knowledge of witness.]

A. I couldn't say, because I never had but one year ; that was my impression, that they generally kept it till the 20th, and collected all they could.

Q. After having had your attention particularly called to the matter, what is your impression as to the time when you handed the list of unpaid taxes to Squire Stout ?

A. My impression is that I returned it the 21st day of December.

Second Cross-Examination :

Q. Have you looked at the statute lately, to see what day of the month it is your duty to return it ?

A. I have not.

Second Re-direct :

Q. In stating the custom of Township collectors as to keeping in their hands the tax bills, do you mean to say that it is, so far as you know, to keep the tax bills up to the 20th of December, or up to and including the 20th of December ?

(Objected to as leading, and as an attempt to vary the witnesses' evidence previously given ; Mr. Pitney.)

A. Well, I had an impression that they kept it the 20th, including the 20th in——

Third Cross-Examination :

Q. Didn't you take the tax list up to Mr. Stout's on the night of the 20th of December, the very day fixed by the statute for you to return it to the Justice ?

A. I think it was on the 21st day of December, that I returned it to 'Squire Stout.

Q. What makes you think so ?

A. It's on the bills, that after the 20th they are liable to pay twelve per cent. interest.

SAMUEL ANDERSON.

Sworn and subscribed before me, April 12, 1872.

STEPHEN H. LITTLE,
Notary Public.

Marius Robinson, a witness produced on behalf of the defendant, being duly sworn, testified :

I reside in Mendham ; have lived there fifteen

years ; I am thirty-seven years old ; am a merchant ; I knew Amasa Leonard, the defendant ; have known him by sight for five or six years ; can't say positively ; I have taken some interest in politics ; I have made or assisted in making canvasses on the Democratic side ; I can't state positively whether I assisted in making a canvass in 1870 ; I presume that I did.

Q. In making up the canvass for 1870, what was the general repute as to Amasa Leonard, so far as you know, being a voter in Mendham Township or not ?

(Objected to as hearsay and irrelevant by Mr. Pitney.)

A. I can't say particularly for that year ; his name has always appeared on our canvass book as a Democratic voter, but one that didn't usually vote ; that is we didn't count him as certain for a vote.

Q. And how is it at the present time ?

(Same objection.)

A. He is considered in the same light at the present time ; I was not a judge of election in the Fall of 1870; I was the year before my term expired—that Spring ; that was the only time I was judge of election ; I have been Commissioner of Appeals ; that is all.

Cross Examined :

Q. Do you ever get any names on your canvass book that are not legal voters ?

A. I presume that we do sometimes.

Q. Have you ever had any conversation with Mr. Leonard as to whether he was a legal voter or not ? I mean until within a few months ?

A. No, sir.

Q. You have never inquired of him, for the pur-

pose of making up a canvass, whether he was a legal voter or not?

A. I have not.

Q. Did you know that he was taxed as a non-resident?

A. I did not.

Q. Did you know that the Fall of 1870 was the only occasion he ever voted in New Jersey?

A. I didn't know it until within a few days.

Q. Did you know that up to the year 1870 he had voted regularly in the City of New York?

(Objected to by Mr. Mills, because it implies as fact what is not so.)

A. I knew nothing about where he voted.

Q. Did you know that he was taxed in New Jersey for only such property, real and personal, as was actually located here in the State?

A. I knew nothing about what he was taxed for.

Re-direct:

I did not see him vote in the Fall of 1870; that's my recollection.

MARIUS ROBINSON.

Sworn and subscribed before me, April 12, 1872.

STEPHEN H. LITTLE,
Notary Public.

John W. DeMun, a witness produced on behalf of the defendant, being duly sworn, testified:

I reside in Mendham; am a blacksmith; am a little over fifty years old; I was at the election in Mendham, in the Fall of 1870; I was at the polls two or three times in the course of the day; I couldn't tell exactly; I ran up occasionally from the shop; I have always held the staff of a Repub-

lican ; I didn't know that Mr. Jerome L. Stout had any conversation with me that day, with reference to Amasa Leonard's voting.

I don't know that Mr. Stout requested me to call Dr. Stiger out from the polls so that Mr. Leonard could vote, not on those grounds.

I went up to the tavern to election, and I think the first man I met was Major Riley, in the bar-room ; him and myself had a conversation in regard to the voting that was going on, and I asked him whether a certain man by the name of Ammerman had been there ; he told me he didn't know. (Conversation between witness and other parties objected to.) Mr. Stout asked me if I had seen anything of him, and I told him I would like to see him, and we talked about it ; whether he asked me that qoestion or not, I don't know ; but I told him we could find out about it if I could see Mr. Phœnix ; and as Phœnix was gone I called Dr. Stiger out, for he attended the poll, too ; and then they said (but I don't recollect as I saw him) that Mr. Leonard voted.

Q. Did you call out Dr. Stiger more than once that day ?

A. I don't know that I did.

Q. Did Mr. Stout make any other request of you than the one you have stated ; to call Dr. Stiger out that day ?

A. I don't know that he did ; I never knew that there was any such a game of that kind at work to get a vote in.

Q. Did you have any idea or suspicion that Mr. Stout wanted you to get Dr. Stiger out so that any illegal vote could be cast ?

A. I don't think I had at all ; I never thought of such a thing.

Q. Did you have any idea that you were to get Dr. Stiger out so that Mr. Leonard could vote while he was out ?

A. No, sir ; I called Dr. Stiger out for my own satisfaction, to know whether this Ammerman had been to the polls or not.

Q. Was any promise made to you by Mr. Stout, that this was a confidential matter, that he wouldn't expose you?

A. I think not.

Q. Or anything of that kind?

A. I don't know that anything was said of that kind.

Q. Who told you that Mr. Leonard voted while Dr. Stiger was out; and when were you so told?

A. I heard Mr. Phœnix tell it; I can't tell when, because I never thought it was of any account to charge my memory with it; I know it was talked of afterwards; I can't say when.

Q. At that time had you heard, or did you know, or have any cause to suspect that Mr. Leonard was not a legal voter?

A. I never knew anything about his circumstances or anything of the kind about Mr. Leonard; I didn't at that time know Mr. Leonard, and didn't know whether he was a legal voter or not; I had heard of him before that time, of his owning a farm on the mountain.

Q. State, so far as you know, whether at that time he was generally regarded as a voter in Mendham Township or not?

[Objected to by Mr. Pitney as hearsay.]

A. I don't know as I do, within myself; I was a stranger to him, and never inquired with regard to it; canvassing the Township I never knew anything about.

Cross-Examined:

Q. Mr. Stout did suggest to you to call out Dr. Stiger and enquire of him about Ammerman, did he not?

A. When I spoke about Ammerman, I think he said that I could find out by asking Dr. Stiger.

Q. This talk that you heard about Leonard's

voting while Dr. Stiger was out of the room talking with you, occurred shortly after the election, didn't it ?

A. I never heard Dr. Stiger say anything about it.

Question repeated.

A. Yes, shortly after election ; there was a number of others talked about it, as well as them ; I won't say particularly them.

Q. And did not the Republicans hint that you had called Stiger out so that Leonard could slip his vote in, or insinuate something of that kind ?

A. I think not ; I don't recollect that they ever did.

Q. Did they not blame you for calling him out ?

A. I think not ; not that I ever heard.

Q. How came Phœnix to talk with you about it ?

A. Phœnix never said anything ; he wasn't particularly talking to me ; all that I ever heard Phœnix say about it, I heard him telling others that he thought Mr. Leonard was a legal voter ; I heard him say it not a month ago.

Q. I am asking you about that talk that you heard shortly after election at which Mr. Stout was a candidate, and I ask how people came to be talking about Leonard's voting while Stiger was out ?

A. I never heard anything about it shortly after, nor nothing within a year ; all that I have heard has been within the last six months with regard to election.

Q. What was the talk you heard shortly after election ?

A. I don't recollect as I heard anything.

Q. What was it you wanted to see Mr. Ammerman about ?

A. I wanted to see him about his voting.

Q. What passed between you and Dr. Stiger about his voting ?

A. I asked Dr. Stiger if Abram Ammerman had been there ; he said, "no"; that is all that was said.

Q. How far out did you call Dr. Stiger ?

A. I called him from the back part of the room where they were voting, out into the other corner ; there was quite a crowd in the room.

Q. What was Ammerman's politics ?

A. Democratic.

Q. For whom did you vote for Sheriff in the Fall of 1870 ? You needn't answer it unless you choose, but I would like to have you do so.

A. I don't think that has got anything to do with this at all.

Re-direct :

Q. When you asked Dr. Stiger if Ammerman had been there, how long were you talking with him ?

A. Nothing longer than to ask him the question, and he answered me, but he stood still there ; but he began to talk to somebody else, and I walked away from him.

Q. Do you know how long he stayed there ?

A. No, sir.

Q. Whom was he talking to when you left ?

A. I can't tell, don't recollect ; when I left him I went through the bar-room, as I went home ; I didn't see Stout after I saw Stiger.

Q. Did you do anything, in any way, to detain Dr. Stiger in the corner of the room after you had asked him that question about Ammerman ?

A. No, sir.

Q. Was the spot where you and Dr. Stiger stood, at the time you asked him that question, within hearing distance of the ballot box, so that the names of voters announced by the judges of election could be heard there or not ?

A. Sometimes it could, and sometimes it was not.

(After the counsel had asked so much of the question as is embraced in the first three lines, and before the question was entirely asked, the witness replied, "not at that time"; and was

stopped by Mr. Mills, who said, "stop, I haven't completed my question yet"—and then finished it.)

Q. Did you hear anything said about this matter before you heard that there was a difficulty between Stout and Leonard ?

A. No.

Q. What time of day was it that you asked this question of Dr. Stiger ?

A. I don't know ; through the course of the day ; I can't tell what time.

Q. Can you tell whether it was in the forenoon or afternoon ?

A. In the afternoon, I think ; I know that I was up several times, but I think it was in the afternoon.

Q. How was the hall or entry of the tavern, was that accessible from the voting room ?

A. No, sir, the doors were locked ; they were never opened, but were always locked on public days ; that is from the bar-room into the hall ; the voting room was back of the bar-room ; I don't think there was a door from the room in which the voting was done, into the hall.

I think I saw Mr. Leonard there on election day ; I don't know that I can say what time of day it was that I saw him.

I should suppose that the voting room was about as large as this room (Mr. Mills' office) about 25x13.

JOHN W. DEMUN.

Sworn and subscribed before me, April 12, 1872.

STEPHEN H. LITTLE,
Notary.

Examination adjourned by consent until Saturday at 10 A. M., April 13th, 1872.

STEPHEN H. LITTLE,
Notary.

Saturday morning, April 13th, 1872.—Parties appeared pursuant to adjournment.

Jacob S. Carey, a witness produced on behalf of defendant, being duly sworn, testified :

I live in Morris Township, on the road leading from Morristown to Brookside, and to Walnut Grove ; I have lived there nearly forty years ; I have known the defendant, Amasa Leonard, for more than six years ; I live about two miles from him ; I live nearer Morristown than he does ; I have been in the habit of frequently seeing him since he has bought that property ; I have seen Mr. Leonard at all seasons of the year, frequently pass and repass, and seen his family frequently in the Summer, and seen his wife and perhaps some other members of his family, during the Winter months, but not frequently ; I have seen them on the road, passing and repassing our place ; I think I have seen Mr. Leonard pass two or three times a week—I mean round trips, perhaps three or four ; this is in the Summer ; in the Winter time about once a fortnight (this last Winter I have seen him more frequently than I did a year ago, because I was there—I was away from home)—though I saw him a year ago last Winter, at different times, but I can't say how often.

I have seen him with his family and without them ; I have seen his wife and daughter come this way without him, towards Morristown, and I have seen him in the carriage with them when going back—this would be in the afternoon or evening ; I have also seen him with his family coming this way, mornings, and they go back without him.

JACOB S. CAREY.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

Ebenezer Roff, a witness produced on behalf of the defendant, being duly sworn, testified :

I live on the road from Morristown to Walnut Grove, about a mile from Amasa Leonard ; I have known Mr. Leonard about five or six years ; I was at his house once or twice ; I have seen Mr. Leonard at his house, on the farm, this Winter quite frequently ; last Summer I saw him there two or three times a week, sometimes not so often ; I couldn't say how often the summer before that ; I was away from home most of the time ; when I have seen him at the times I have referred to, it was going by my place, on the road ; I have seen him at his family, I don't know exactly how often, perhaps once or twice a week ; I commenced working for Mr. Thompson last September ; I continued to work for him until six weeks ago ; I have seen Mr. Leonard and his family at their house up there this Winter, and last Fall ; sometimes I would see him two or three times a week, and sometimes I wouldn't see him again for two or three weeks ; I mean I have seen all of them there at the times I have referred to.

Cross-Examined :

I mean by all of them, Mr. Leonard and his wife ; I think I last saw Mrs. Leonard at the house, in the last part of March ; I couldn't say when next before that, two or three times ; I don't recollect whether I saw his wife there in January last, though she might have been there ; I don't remember that I saw her there in February last ; I think I did see her there in the forepart of December.

Q. Were you at Leonard's house in December last ?

A. I was by there every day ; I guess Mrs. Leonard stayed all night at the house last December ; I saw her two or three times ; I couldn't say positively whether I saw Mrs. Leonard at the house in the forepart of December or the last of November—it was one or the other.

Q. How do you recollect it ?

A. I think it was about that time—I don't know what makes me think about that time any more than I saw her there.

EPENEZER ROFF.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

Robert Roff, a witness produced and sworn on behalf of the defendant, testified :

I lived with Mr. Leonard one year ; I don't know the date of the year ; I went there three years ago this April, and stayed there one year ; I was at Mr. Leonard's farm up here ; I boarded with Mr. Leonard and his family ; Mr. Leonard hired me—I worked for him on the place ; Mrs. Leonard, and his daughter, and his adopted daughter and adopted son, Charlie Burnside, and Mrs. Moore, and Mr. Leonard [most of the time] formed the family while I lived there, and also the work girl that lived there ; I slept at Mr. Leonard's house.

A year after I went away from there, I saw him there once, right after the first of April ; that year I visited his family two or three times, and was there to dinner once or twice ; that year I lived on Mr. Coe's place, up at Walnut Grove ; I lived there, and worked on Mr. Wheeler's place ; Mr. Coe's place, I suppose, is about two miles from Mr. Leonard's ; it was on the opposite road north of Mr. Leonard's place ; this last year I have lived over at Walnut Grove, on the opposite side of the mountain from Leonard's ; I had occasion to pass Mr. Leonard's house during this last year ; I saw him and his family two or three times during the summer ; when I lived with Mr. Leonard, his house was furnished very good all through.

Cross-Examined :

Mrs. Moore is Mrs. Leonard's mother.

Q. Did you leave Mr. Leonard's place in the Spring of 1870, two years ago ?

A. I suppose I did.

Q. Did Mr. and Mrs. Leonard keep house in New York the Winter that you lived there ?

A. I couldn't say whether they did or not ; they were out there most of the time.

Q. Do you mean that Mr. and Mrs. Leonard were at the farm most of the time in the Winter of '69 and '70?

A. Yes, sir.

Q. Who occupied Mr. Leonard's house in New York, in the Winter of '69 and '70 ?

A. It was rented out ; Mr. Leonard told me so.

Q. Where did Mr. and Mrs. Leonard stop when they went to New York ?

A. I don't know.

his
ROBERT X ROFF.
mark.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

Philip A. Welsh, a witness produced and sworn on behalf of defendant, testified :

I live in Morristown, keep a livery stable, and have for some years ; I attend the railroad trains with my carriages ; have been in the habit of doing so, for, I think, ten years ; I have known Amasa Leonard [the defendant] ever since he bought his farm [how many years that is, I can't say ;] I generally see him at the depot twice a week ; I generally see him when he comes up, and also when he goes back ; on an average, I sometimes see him going up and returning twice a week ; sometimes once a week.

Sometimes I send him up to the farm ; sometimes his carriage comes down for him ; most generally he comes to me and asks if I have seen his carriage or man ; if his carriage is not there, sometimes I

send him up, and sometimes he takes a horse and keeps him over night, and comes back the next day ; I know some members of his family [his wife and his daughter ;] I know the workman he used to have ; I have quite often seen them at the station during the past Fall and Winter ; sometimes his wife or daughter hire carriages of me ; I should think it was between four and five miles from the railroad station to his place.

PHILIP A. WELSH.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary Public.

John C. Thompson, Jr., a witness produced and sworn on behalf of the defendant, testified :

My father's name is John C. Thompson ; I am seventeen years old ; I lived from April, 1870, until September, 1870, at Mr. Leonard's, on his place, about five miles from Morristown ; when I first went up, Mr. Leonard, his wife, his daughter and his adopted son, and two men and their wives, composed his family ; one of the two men I speak of was a gardener, by the name of Brown ; the other one's name was Borden ; he took care of the horses and stock, and worked about the place.

Mr. Leonard and his wife, and his adopted son, and the two couples I have spoken of, composed Leonard's family most of the time I was there ; his daughter went away about four weeks after I came there ; I lodged and slept there ; the house was comfortably furnished for a good sized family ; during the time I was there, Mr. Leonard had another house, about six hundred yards west of his residence, on the same farm ; that house has since been sold to my father.

My father now lives in New York ; I am up at the place my father bought of Mr. Leonard, most

of the time ; during the past year, from April last, Mr. Leonard and his family have been in the habit of being at their place in Mendham Township ; in the Spring and Summer of '71 Mr. Leonard, or part of his family, were up there on the farm most of the time.

Q. Who of his family were out there during that time ?

A. Himself and wife, and adopted son.

Q. Who of Mr. Leonard's family have been staying there during the past Winter ?

A. Mrs. Moore and his adopted son ; they are still there ; they have been there all or most of the Winter ; I have seen Mr. Leonard or his wife out there once or twice a week on an average.

Mr. Leonard has had in his house, this Winter, a man by the name of Kaggen, with his wife and family ; Kaggen was working for Mr. Leonard, farming and taking care of the stock and cattle.

Cross-Examined :

I am engaged in no business ; I employ my time in helping my father ; I come to town for him, and read and study ; I help my father by driving to town, going on errands ; my mother's name is Anna Thompson ; I think my father bought eighty-three acres of Mr. Leonard ; I was going to school last year in New York City, in 13th Street, near 6th Avenue ; the first part of last year until April, I was going to school ; the rest of the time I was up on the farm ; I came to the farm the 23d of April ; I went to school ten years ; in the Spring and Fall of '70, I went to school in New York City, and the rest of the time I was at Mr. Leonard's ; my term at school in the Spring of 1870 ended the last of April ; I didn't go to school in May, 1870, in New York ; the term commenced in the Fall of 1870, about the 17th of September, and continued till the last of April, 1871, or until about the middle of April ; I did not go to school last Winter ; during the Winter I was engaged in helping my father in the same way I before stated ; I spent

last Winter home on the farm, about five miles from Morristown ; my mother spent the Winter there ; my father was up about once a week ; my mother makes her home there.

Q. How long since your mother has made it her home on the farm ?

(Objected to by Mr. Mills, as not legitimate.)

Cross Examined :

A. Since the 25th of last April.

Q. Hasn't she kept house in New York since that time ?

(Same objection by Mr. Mills.)

A. No, sir.

Q. Isn't she going back to keep house in New York this Summer ?

[Same objection, and also because it is impossible for witness to tell what his mother is going to do.]

A. Not that I know of.

Q. Is your father engaged in business in New York ?

(Objected to by Mr. Mills as improper, on cross-examination, and irrelevant.)

A. Yes, sir.

Q. Does he keep house in New York ?

[Same objection as to last preceding question.]

A. No, sir.

Q. Since the last of April, 1871, how often has your father come out from New York to the farm ?

(Same objection.)

A. Once a week—no oftener in the Summer time.

Q. How long does he stay when he comes out ?

[Same objection.]

A. Three or four days.

Q. How does he live in New York—how does he lodge and get his meals while there ?

(Objected to by Mr. Mills for same reasons above.)

A. At one of his houses in 69th Street, with a family by the name of Howard.

Q. What makes you think your father bought that place ?

A. I don't think anything about it—I know it.

Q. How do you know it ?

(Objected to for same reasons above.)

A. I know it because he told me so.

Q. Did you ever see the deed for it ?

A. No, sir.

I didn't know the deed was made out in my mother's name when my father bought that place ; I know it is now.

Q. Did you see Mrs. Leonard at the farm in the month of January last ?

A. I think I did ; I can't say positively ; I can't say positively that I saw her in New Jersey during January last ; I think I did.

I did see her here in December last ; I think I saw her up at the house shortly before Christmas, a week or two weeks before ; I think I saw her there in November last.

Q. What makes you think that ?

A. Because she was up there shortly before

Thanksgiving day, and we asked her if she was coming up Thanksgiving day or not.

I can't say positively that I saw her there in October last; I think so, though; I have visited New York within a year past five or six times; I went down in the morning and came back at night; I have visited Mr. Leonard's house in New York within a year since; I do not remember when that was—I think in October or November last; I saw his daughter and his adopted son and daughter there; I didn't see Mr. Leonard; I don't know whether Mr. and Mrs. Leonard were South at that time; I don't recollect whether I saw Mrs. Leonard here in September last; I think I did in the first part of September; I don't remember how many times I have been at Mr. Leonard's house in New York; five or six times; I have never been in any part except the basement; I have never been in the parlor.

Q. Does Mrs. Leonard come out from New York with Mr. Leonard every time he comes?

A. I do not know.

Q. What have you observed in that respect for the last year?

A. She came up with him the greater part of the time.

Re-direct:

I happened to be at Mr. Leonard's place in the Spring and Summer of 1870, because I was in ill-health, and the doctor said I must go somewhere on a farm that Summer.

Q. Can you tell me who of Mr. Leonard's family were out at the farm in July last?

[Objected to by Mr. Pitney as not rebutting.]

A. I think all of them were—Mr. and Mrs. Leonard and their daughter, and their adopted son and daughter, and Mrs. Moore; that was only for a few days that they were all out, near and on the 4th of July.

Second Cross-Examination :

Q. Who took care of the house in New York while they were out there about the 4th of July ?

A. I do not know where they went to when they went back after the 4th of July.

J. C. THOMPSON, Jr.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary Public.

Adjourned by agreement until half-past one o'clock, April 13th, 1872.

S. H. LITTLE,
Notary Public.

Cornelius V. Freeman, a witness produced and sworn on behalf of the defendant, testified :

I reside in Morristown ; the Evergreen Cemetery is about a mile from the Morristown Green ; I am Secretary of the Evergreen Cemetery Association, and have been some six or seven years ; I know Amasa Leonard, the defendant ; I should think I have known him for three or four years ; Mr. Leonard bought a lot of the Evergreen Cemetery Association, April 14th, 1869 ; he negotiated with me.

Q. For what purpose did he purchase that lot, as he then stated to you ?

(Objected to as hearsay.)

A. He first told me, I think, that he had a brother buried in Greenwood, and he wanted to bring him there, and that probably would be his place of burying ; he still owns that lot ; I don't know how often he spoke to me about it ; I don't

remember that he spoke to me about it at any other time than when he purchased ; the purchase was made a few days or some little time previous to the date of the deed (which deed was produced and shown to witness); Mr. Leonard owns a lot on Maple Avenue, within two hundred feet of my residence.

Q. At the time Mr. Leonard purchased that lot, or after that, did he have any connection with you in reference to the lot, and his intentions in regard to it, and if so, when, and what did he say ?

(Objected to by Mr. Pitney as hearsay and incompetent.)

A. Well, he told me that he was going to build a large house there ; the conversation was had directly after he bought the lot ; I don't know exactly when ; his calculation was to live there.

I keep store in Morristown ; I have been in the habit of seeing Mr. Leonard and his family since that ; most generally every Sabbath, and frequently through the week ; I attend the Methodist Church ; I was an officer of that Church at the time the new building was opened for worship ; I was one of the stewards of the Church ; I think Mr. Leonard has rented a pew there for the past two years ; I couldn't say whether he paid the rent ; Wilbur Day is Collector ; Mr. Leonard and family occupied that seat after he rented it.

Cross-Examination :

I have never been to Mr. Leonard's house in New York ; I didn't know that he had been keeping house in New York for the last eighteen months ; I didn't know that he kept house at all in New York ; I generally saw Mr. Leonard's wife with him when he came to church, or have frequently seen her with him.

Q. Have you been in the habit of seeing her there at church without him ?

A. I couldn't say; I don't remember; I couldn't answer the question; they are on one side of the church and I on another, so I wouldn't have an opportunity of seeing.

Q. How often have you seen him there without her?

A. I couldn't answer the question.

Q. You haven't paid any attention at all to the question how often they attended church or which attended, have you?

A. No, sir.

Re-direct:

I have kept no memorandum of his attendance at church or his family; I haven't the attendance of other families; most always I am at church.

Q. What is the only residence you have known Mr. Leonard to have since he bought that cemetery lot?

[Objected to by Mr. Pitney as leading and not rebutting.]

A. I don't know hardly how to answer that question; I don't know anything about it except by hearsay; he has told me his residence was on the Mountain, on the farm; and as soon as he could sell his farm he intended to build a house on the avenue—Maple Avenue Mountain; he told me that since he bought the lot on the avenue, and told me how and what he was going to build it with, where he was going to get the timber from.

(All declarations of the defendant objected to by Mr. Pitney.)

Q. State as near as you can the last time he told you that?

A. Well, sir, I couldn't; I should say it was about '70 or '71.

Q. Has he told you that more than once or not?

A. I couldn't answer.

Second Cross-Examination :

Q. Did he say anything more to you, Mr. Freeman, than that he owned a farm on the mountain, which he used as a summer residence ?

A. I don't know as he ever told me about its being a summer residence.

Q. He spoke to you about owning a farm on the mountain, didn't he ?

A. Yes, sir.

Q. And said when he could sell that he would build on Maple Avenue ?

A. Yes, sir ; I was never at his farm on the mountain ; he has invited me to call and see him ; he never asked me to call and see him in New York.

C. V. FREEMAN.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

James Tankard, a witness produced and sworn on behalf of defendant, testified :

I am baggage master at the Morris and Essex R. R. Station in Morristown, and have been seventeen or eighteen years ; I knew Mr. Amasa Leonard, the defendant ; I got acquainted with him because I used to check baggage for him ; once in a while I have seen him at the depot in Morristown ; sometimes I would see him twice a day ; sometimes once a day ; sometimes his wife would be with him ; may be I have seen him, as near as I can think, once a week on an average, for the past two years ; sometimes at three o'clock in the afternoon, sometimes upon the arrival of the morning mail going West ; sometimes he would go down in the last train at night ; he had his own team, I think, to come and go from the depot ; I attend to the baggage department only—not the freight.

Cross-Examination :

Quite a good many passengers go up and down every day ; there is a good deal of baggage to be checked ; I have sole charge of it ; Mr. Leonard I have seen come up in the morning ; he comes up at noon sometimes, I suppose.

Q. And he goes back, as I understand you to say, sometimes at 3.20 and sometimes in the later train ?

A. Yes, sir.

Re-direct :

Q. Does Mr. Leonard ever come up any other hours than morning and noon ?

A. Well, I don't know sir.

JAMES TANKARD.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

Peter Huffman, a witness produced and sworn on behalf of the defendant, testified :

I live near Mendham, Morris County, I suppose about three miles from Mr. Leonard's ; I have known him six or seven years—our families are acquainted, they visit each other, and have been in the habit of doing so about six years ; I have been at his house both with and without my family ; we visit once a year about ; I couldn't hardly say ; I guess about six months ago ; his house is comfortably furnished ; his family have called at my house frequently, but I think it is about a year since they have visited ; they called about a week ago for a few moments.

Q. How frequently ?

A. They called within the last week.

Q. How frequently within the last year ?

A. I couldn't say hardly how often, but they call most every time they go by.

Q. And how often have your family called at their house?

A. Quite often.

Q. Was or was not Mr. Leonard a resident of Mendham Township, as you understand it?

(Objected to as generally incompetent.)

A. Yes, sir; I have been a resident of Mendham Township twenty years; I have lived in different places in that Township.

Cross-Examination:

I lived on the Col. Drake farm for seven years past; it is one mile this side of Mendham; I work it on shares; I visit Mr. Leonard's family about once a year; the visits average about that; neither myself nor my family have ever visited him in New York; he has never invited me to call and see him in New York; I don't know that he has ever told me where his house is in New York; I knew that he had a house there; I supposed he had; I don't know that he has kept house there for nearly eighteen months past; I didn't know it; I didn't know where he and his wife and family stayed in New York.

Q. Didn't you have any idea on that subject?

A. No, indeed; no more than I supposed that he had a house there, and supposed that likely he stayed there; I didn't know where he stayed.

Q. Didn't you ever hear from him, or any of his family, that he had a house there which he had rented out for a year or two?

A. I believe I heard that he talked of his renting his house there, or heard something to that purpose.

Q. Didn't you hear from him, or some of his family, that he had taken his house in New York back off the hands of the man to whom he had

rented it, and had taken the man and his family to board with him (Leonard) and his family ?

A. I think not ; I heard nothing of that kind from his family.

Q. From whom did you hear it ?

A. I think I heard it from some of his men that worked for him that he talked of taking it back.

Q. Didn't you hear from some source that Mr. Leonard was keeping house in New York, and that the family who had previously occupied his house were boarding with him ?

A. I think not, nor anything of that kind ; Mr. Leonard and his wife attended church in Mendham, I believe, five or six years ago ; they were there very regular at that time ; I don't know but what they have been there a few times, but not regularly.

Re-direct :

They had a pew when they attended there regularly, and paid rent for it ; the cushion in the seat, I suppose, belonged to Mr. Leonard ; I don't know whether it is there yet or not ; I suppose it was the Methodist church.

Q. In your examination you have used the word "visit," what do you mean by visiting ?

A. Well, I will tell you what I call it—when we come together, and we have a good tea, and a good time and a good chat—a good sociable visit, that is what I call a visit. A "call" is merely stopping when you meet a neighbor, and talking a little while, and then go on about your business ; that is what I call it.

PETER HOFFMAN.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

John Bates, a witness produced and sworn on behalf of the defendant, testified :

I sold a lot on Maple Avenue to Amasa Leonard ;

it strikes me the sale was made three years ago last April—I ain't sure it is ; Mrs. Leonard had conversation with me about her residence at the time she came to see me about buying the lot ; she said they wanted to buy a lot to build a residence on, or something to that effect—I think those were her very words.

(Objected to as before.)

I think after that that Mr. Leonard said to me, when I asked him whether he didn't want to sell me that lot back, that he replied, "No, I want it for a residence."

Q. Did he say where his residence was ?

(Objected to by Mr. Pitney.)

A. Well, I ain't certain whether he did or did not ; I have been thinking it over ; it strikes me he did, though I can't be positive.

Q. Can you say—

A. He—

Q. Can you say where he stated his residence was ?

A. Well, I can't say whether he told me that at that time or not ; he has said to me at some time.

Q. At the time he did name it to you, where did he say it was ?

(Objected to as hearsay.)

A. Well, I think it was in Mr. Mills' office.

Q. The question is, where did he say his residence was ?

A. I think he said he lived on the farm.

Cross-Examination :

I think he told me that, when he paid me $500 to bind the bargain ; that was before the deed was

delivered, I couldn't tell how long before the deed was delivered; it might have been a month or six weeks; it was when he met me and paid me so much on the bargain.

I suppose Mr. Mills was acting as Leonard's lawyer; he was not acting for me; I believe Mr. Mills drew the deed; I don't know but he acted for both of us; I don't know whether Mr. Mills examined the title for him or not; I don't know who did examine the title for Mr. Leonard; I don't know it was examined.

Q. How came it written in the deed that you gave Mr. Leonard, that Mr. Leonard lived in the City of New York?

A. I don't know; Mr. Mills knows that; it was because, I suppose, he did live there, but was going up to the farm in a week or two; or was on the farm then; I ain't sure; I don't know anything about it; it has just come to my mind; he did live in New York at that time, but said he was going to move up in a few days, and he met me here from New York.

I was at his house in New York, and stayed all night; I can't tell the month, it was about the time of the sale, either before or after, and I can't tell which; he lived between 30th Street and 50th Street, west side of the City; a very comfortable house, very nicely furnished; I suppose he was keeping house; he asked me to come over and stay all night, and I went; it strikes me I have called since—haven't stopped; it was within a month or two from that time; it might have been six months; it was so long ago I don't remember; the last time I called I found both Mr. and Mrs. Leonard there; I can't tell the time of the year; it strikes me it was within five or six months of the sale; I think it was in warm weather; it might have been within two weeks of the sale; I think I was just going by, and saw Leonard sitting on the stoop; I stopped half-an-hour or so, but didn't go in.

Q. If Mr. and Mrs. Leonard were sitting on the stoop, it must have been warm weather, mustn't it?

A. It wasn't cold—I haven't been there since.

JOHN BATES.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

Nathan Guerin, a witness produced and sworn on behalf of the defendant, testified :

I live in Mendham Township, about three and a half or four miles from Mr. Leonard's, and have been acquainted with him for some six or seven years ; our families are acquainted, and have visited back and forth some ; I have taken meals there ; the house looked comfortably furnished when I was there ; my daughter, Ann Hart, lived there at one time ; I can't say how long she lived there, positively : I should think as much as six months : I could not tell exactly the year : I have been in the habit of visiting them, more or less, ever since they have been there : we haven't visited this last year, I think, only as we have called : we called there two or three times during the past year.

Cross-Examination :

I stopped at the house last, I think, in the forepart of the Winter : that is the last time I was there : my wife I think, was there once since : I mean this present last Winter.

I didn't see anybody but Mr. Kaggen, I believe, sir : I wanted to see Mr. Leonard, and asked Mr. Kaggen if he was about home, and he said he wasn't that day : I forgot whether I called there last Summer or not : it appears to me that I did once, though I ain't positive whether I did or not : I have called there frequently before that, but within the past year not so frequently, for I haven't been very well, and have had a great deal to do, and haven't been out much without business called me out : neither my wife nor I are any relation to Mr. Kaggen or his wife : only acquaintance.

Q. How long have you been acquainted with Mr. Kaggen and his wife?

A. I have been acquainted with him between fifteen or twenty years, and his wife about fifteen. My wife and I visit him and his wife.

Q. Did you visit them while they lived on Mr. Leonard's farm?

A. Yes, sir: I visited Mr. Kaggen and his family and Mr. Leonard and his family all at one time, at his house: I never visited Mr. Leonard in New York: he never invited me to visit him in New York, nor did Mrs. Leonard: I didn't know that he had a house in New York: I didn't know it from him or any of his family, that he had a house in New York: I think I heard it outside.

Q. Have you heard from any source that he had been keeping house in New York for the last sixteen or eighteen months, or for any length of time?

A. I heard it from my daughter when she came from there, that they were going to New York, but I didn't know whether they were going to board or keep house.

I don't know that I was aware how they lived in New York: I heard my daughter say once, I think, that they were boarding in New York: I never asked many questions about their business, for I didn't suppose it was any of her business, or mine either.

Re-direct:

I am a farmer.

NATHAN GUERIN.

Sworn and subscribed before me, April 13, 1872.

STEPHEN H. LITTLE,
Notary.

Mrs. Ann Hart, a witness produced and sworn on behalf of defendant, testified:

I am a daughter of Mr. Nathan Guerin, the last witness: I am a widow: I lived in Mr. Amasa

Leonard's family, in Mendham Township, from August, '69, to April '70, in capacity of housekeeper.

Mr. Leonard and his wife part of the time, and his daughter and a young lady, and a boy named Burnside, (they were brother and sister) were at the farm while I was there ; they were not related to Mr. Leonard, as I know of ; no blood relation as I know of.

Q. Were they adopted children of Mr. Leonard's ?

(Objected to as leading.)

A. I don't know.

Q. Do you know whether they are still members of Mr. Leonard's family or not ?

A. The boy is, I think, but I don't know whether the girl is or not ; there was a family visiting at Mr. Leonard's, in August, 1869 ; Mr. Benjamin's ; I forgot his first name ; there were seven members of his family visiting there ; they remained four weeks, I think.

Q. Can you name any other visitors who stayed there while you lived at Mr. Leonard's ?

A. There was a lady there for a week in August, '69, I forgot her name ; there were several there to stay all night, and to stay there two or three nights.

I should think Mr. Leonard's daughter was there as much as four months, while I was there ; she was home at the farm when I came away ; she wasn't home when I first went there ; then she came and was home for a while ; then she went away again ; during the Winter prior to my leaving there, she was on the farm.

Q. During the time you lived there as housekeeper, were or were not some members of Mr. Leonard's immediate family always there ?

A. The most of the time.

Mr. Stout and his family visited there once, while I lived there.

I think the house was comfortable enough for anybody; I have called at Mr. Leonard's house on his farm since April, '70, several times.

Q. Were they or not, when you called there, living there in the same way as when you yourself lived there?

A. Yes, sir, I think they was; sometimes when I went there I was alone; twice my mother was with me.

Cross-Examined:

Mrs. Leonard went back to New York in the Winter of '69; Mr. Leonard didn't go, only backwards and forwards.

Q. Didn't they keep house in New York in the Winter of '69 and '70?

A. I can't say positively.

Q. Why not positively?

A. Because I don't know.

Q. After, as you say, Mrs. Leonard went back to New York in the Winter of 1869 and '70, how long did she stay there?

A. Two or three months.

Q. And Mr. Leonard stayed at the farm all that time didn't he?

A. Well, he was there most of the time.

Q. Slept at the farm mostly, did he?

A. The biggest part of it.

Q. Did he stay down to New York in the Winter any more than he had the previous Summer and Fall?

A. A little more of the time; I can't tell where Mr. Leonard's son was all this time; I never saw him but once in my life.

Mr. Leonard had but one daughter that I know of; it would be hard to tell what Charles Burnside did around there; different things; he worked steady enough for a boy, I suppose; I can't tell what the daughter was doing away from home; visiting, I believe, part of the time; I went to live with Mr. Leonard the middle of August, '69;

Mrs. Leonard didn't go to New York until the Winter.

Q. Can't you tell nearer than that when she did go to New York?

A. I think at was about New Year's, or a few days before. before.

Q. Why did Mrs. Leonard go to New York?

A. I suppose because she would rather be in the city than in the country.

Q. Did you know at that time that Mr. Leonard owned a house in the city?

A. Only by hearsay.

Q. Did you know what condition the house was in at that time, as to occupation or otherwise?

A. Nothing more than I heard say it was rented.

Q. Did you hear that Mr. Leonard rented a house to live in, in New York, during the Winter that you were on the farm?

A. I think I heard him say that he had rented rooms, I don't know for how long.

There were men about the house on the farm that Winter; Mr. Kaggen and Robert Roff were there; Robert Roff was in the house in which Mr. Leonard lived; Charles Burnside was not there too—they said he was in New York during the Winter.

Q. What was he doing in New York?

A. I don't know.

His sister, the Winter I was there, was in Morristown; she was learning a trade, I think.

Q. Then the persons who lived in the house on the farm, were yourself and Robert Roff, during the Winter, and the daughter?

A. Mr. Leonard and his daughter, myself and Robert

Q. This young man Burnside used to help you about the kitchen any?

A. Yes, sir.

Q. Carry wood, build fire, get potatoes and vegetables and things of that kind?

A. He used to do what it was necessary for a boy to do around a kitchen.

Question repeated.

A. He used to do the most of them things sometimes and sometimes he didn't.

Q. Did he used to peel potatoes sometimes ?

(Objected to as irrelevant, and consuming time unnecessarily.)

A. No, sir ; he never peeled any when I was there.

Q. Did he used to wait on the table sometimes ?

A. No, sir.

Miss Burnside, I believe, learned dressmaking ; I don't know whether she has been working at her trade since that.

Q. Haven't you heard that she was working at her trade as dressmaker in New York ?

A. I heard so about a year ago ; I haven't heard since.

It's two years last month, I think, since I have seen her ; Mr. Leonard's daughter didn't learn a trade that I know of.

Q. When all these visitors were at Mr. Leonard's in August, '69, did they all sleep in the house ?

A. Yes, sir, a few nights ; I or some other members of the family went to the other house to make room.

Q. Did they have to sleep pretty thick on the floor, &c., sometimes ?

A. They all slept comfortable as far as I know.

Question repeated.

A. No, sir ; I don't think they slept any thicker than common.

Q. How many beds were there down stairs ?

A. One, part of the time, and two part of the time.

Q. When was it there was two down stairs ?

A. It was part of the time when the visitors were there.

Mr. and Mrs. Leonard, Miss Burnside and I slept down stairs.

Q. Where did you and Miss Burnside usually sleep ?

A. Up stairs.

Q. Where did Mr. and Mrs. Leonard usually sleep ?

A. Down stairs.

Q. Where was their bed ?

A. In the bed room back of the dining room.

Miss Burnside's first name is Josephine ; she was generally called Josie about the house.

Q. Where did you and Josephine usually sleep when you slept down stairs ?

A. We made a bed and slept down stairs.

Q. Whereabouts ?

A. We used to make it in the parlor.

Q. On the floor or bedstead ?

A. Neither one.

Q. On what ?

A. We used to put two sofas together and lay a feather bed on them, and have our bed.

Q. When, since you left there, have you visited them?

A. I August, 1870 ; I was there several times ; I have been there twice in the past year ; one time not quite a year ago, the other time about two months ago.

Examination adjourned until Monday, April 15th, 1872, at 11 o'clock, A. M.

STEPHEN H. LITTLE,
Notary Public.

Monday, April 15, 1872.—The cross-examination of Mrs. Hart was resumed.

STEPHEN H. LITTLE,
Notary.

As near as I can remember, it is about two months ago that I last visited the house ; I don't know whether it was since this trouble between Mr.

Stout and Mr. Leonard commenced ; I saw Mr. Kaggen's family there on this last visit ; I don't think Mr. or Mrs. Leonard were there ; different ones did the kitchen work when I lived there—cooking and washing, &c.; there was another hired woman about the house beside me ; I can't think of the last name ; Jane was the first name ; I believe she came from New Vernon or Green Village ; she was there as much as three or four months while I was there, in the Summer and Fall ; I had nobody to assist me in the kitchen work during the Winter but the men.

Re-direct :

Down stairs in Mr. Leonard's house there were the parlor, dining room, one bedroom, kitchen, hall and store room ; on the second story there were five bedrooms and a hall ; when I slept in the parlor, as I have stated, it was because there were so many in the house ; there was a piano in the parlor, also a melodeon.

Mr. Leonard, I believe, employed the woman who helped to do the work, and Mrs. Leonard was, I think, along with him ; she remained there until near Christmas ; I have forgotten what the last name was ; during the time I lived with the Leonards, I think they were in the habit of attending church at Mendham most of the time ; I believe they attended at Morristown once or twice, while I was there ; I attended the Methodist church at Mendham, the same church ; I don't think Charles Burnside was a very healthy boy ; I think it was the first week in January, '70, or about that time, that Miss Burnside came to Morristown to learn dressmaking ; I last saw her at her place of business ; I think in March, '70, at Mrs. Post's.

Mrs. Moore was a member of Mr. Leonard's family from the time I first went there, in the middle of August, until near New Year's ; she is Mrs. Leonard's mother ; I did not see Mrs. Moore at the farm the last time I called there, but Mrs. Kaggen

told me she was there ; Charles Burnside was there then ; Walter was there also.

Second Cross-Examination :

Each of the five bedrooms in the second story of the house have beds in them ; none of them is a dark room without windows ; in the second floor the windows are in the ends and front of the house ; there are no dormer windows in the house.

MRS. ANN HART.

Sworn and subscribed before me, April 15, 1872.

STEPHEN H. LITTLE,
Notary.

Mrs. Mary Kaggen, a witness produced and sworn on behalf of the defendant, testified :

I am the wife of David M. Kaggen ; we are now living in Mendham Village ; we moved to our present residence from Mr. Leonard's house on his farm in Mendham Township, the second week in March ; I think we lived at Mr. Leonard's four years ; we went there in January, '68 ; during the first part of the time we lived in one of his farm houses, called the Blackford house, below his house ; we went into Mr. Leonard's upper dwelling house in April, '68 ; the Blackford house is at present owned by Mr. Thompson ; the upper dwelling house is called the Mountain house ; that is not the Blackford house ; we lived in the house known as the Mountain home, one year, and left it in April, 1869 ; then we went back to the Blackford house again, and remained there one year, until April, 1870 ; after that we moved back again to the Mountain home, and remained there till March.

It was in January, '71, when we moved back into the Mountain home, from the Blackford house, and remained there until last March, when we moved to Mendham Village ; January, '71, and since that, my husband and I were employed by Mr. Leonard ; Mr. Leonard furnishe

the table at the Mountain home, since January, '71 ; I furnished my own room, and he the rest ; I brought my furniture from the Blackford house, when I moved up there ; in January, '71, Mr. Leonard and wife, and this young chap Burnside, was there, and another boy that he had employed, named Walter Merrifield ; the boys were there the whole of that Winter, and Mr. and Mrs. Leonard were there about once a week ; Miss Burnside was there six weeks during the Winter ; there was more there in warm weather, and they were there more all through the warm weather, and there were friends of theirs there ; there was a sister of Mrs. Leonard's visiting there during the Summer, and Miss Dressner ; and there were others ; Mrs. Moore was there ; she spent the most of the Summer, I think, and she was with us at the mountain home the past Winter.

She came there last, before holidays, I think ; I can't think of the names, but I know there were more.

There was a time last Summer, in July, when all Mr. Leonard's family were at the mountain home ; I think Mrs. Leonard was there all through the warm weather and Fall ; I had nothing to do, nor did my husband, with inviting Mr. Leonard's friends there ; Mr. Kaggen made the arrangement with Mr. Leonard, by which we went into the mountain home ; I had five children, they did errands as children do ; after we moved into the mountain home, in January, '71, Mr. Leonard and family attended church in Morristown ; the house, I think, was very comfortably furnished ; I heard Mrs. Hart's statement as to the number of rooms, whilst she was on the stand ; her statement was correct ; Mr. Leonard removed none of his furniture to New York last Fall, except a sewing machine and a small chair ; a year ago last Fall they didn't move any furniture either ; it is their habit, when they go to New York for the Winter, to take with them fruits, preserves, vegetables, table linen and clothing ; I don't recollect Mr. Stout's being there

a year ago last December, and assisting in packing]: he he called there the day they were packing fruit, but he didn't pack any; I think it was on business with Mr. Leonard; when he called, I was there at the mountain home; he was talking with Mr. Leonard when he was there.

They were in the parlor; it was in the afternoon; I don't exactly remember how long he was there; may be two hours, or one hour and a half; no furniture was packed at that time; there are plants kept in the parlor through the Winter: they are Mrs. Leonard's; it was so this Winter and last Winter—both Winters that we were there; I should think there were thirty pots or more; when Mrs. Leonard was there she took care of them; when she was not there I took care of them; there is a piano and melodeon in the parlor, belonging to Mr. Leonard.

Examination adjourned until 2 o'clock, P. M., April 15th, 1872.

STEPHEN H. LITTLE,
Notary.

Examination of Mrs. Kaggen resumed, April 15th, 1872.

S. H. LITTLE,
Notary.

I think the chair I have spoken of, belonged to a set of bedroom furniture of Mrs. Leonard, which she took; it was moved in the Fall of '70.

Q. What set of bedroom furniture do you allude to, Mrs. Kaggen?

A. That she has in New York.

Q. Where was that set of bedroom furniture?

A. At the mountain home she has a set: I don't exactly understand that question.

Q. Where was this set of bedroom furniture to which this rocking chair belonged, kept by Mrs. Leonard?

A. I think in New York.

Q. Was that set ever at the mountain home, so far as you know ?

A. No, sir, not that I know of.

The errands which I have mentioned my children did for both families—ours and theirs ; Charles Burnside went to the brick school house last Winter ; I think that is two miles or two and a half from Mr. Leonard's house.

Q. Is it or not the school for that district in which Mr. Leonard's house is ? A. Yes, sir.

Q. Do you know Caleb H. Leek, and when have you seen him ?

A. Yes, sir, I saw him this morning, I have seen him in the street.

Q. Did he come to the mountain home last Fall, and enquire of you for Mr. Leonard ?

A. No, sir.

Q. Did you tell Mr. Leek last Fall or last Winter, or to anybody else enquiring for Mr. Leonard at the mountain home, that he didn't live there ?

A. No, sir, I never told any one that he didn't live there.

Q. Has anybody, since you lived at the mountain home, been there enquiring of you for Mr, Leonard, and stating that they had a summons to serve on Mr. Leonard ? A. No, sir, not to me.

Q. Did you know of any one coming there during that time to serve a summons, issued against Mr. Leonard ?

A. I heard there was one there.

Q. From whom did you hear that ?

A. From my husband.

Q. Do you know of any one being there at any other time than that mentioned by your husband with a summons against Mr. Leonard ?

A. No, sir.

Q. How often has Mrs. Leonard been out to the farm this Winter ?

A. I couldn't hardly tell you, quite often.

Mr. Leonard, during the past Winter, supplied the

provisions for Mrs. Moore, and Walter and young Burnside ; Mr. Leonard supplied the fuel that was used in the house.

At the time the house was filled with company, I never used any other than the ordinary bedrooms for sleeping ; the parlor was sometimes used to sleep in; no bedstead was put up in the parlor until this past winter; a coal fire in a stove was used in the parlor ; fire was kept all the time in the parlor ; I couldn't say how large the parlor is, it is a pretty large room ; there was a wood fire in a stove in the dining room ; fire was kept there also this last Winter ; there were two stoves up stairs, wood stoves ; they were in separate rooms and ready for use ; they were put up in the Fall to have them in the Winter ; the stoves in the dining room and parlor were put up in the Fall ; it has been the custom, all the time since we have been there, to put up these stoves in the Fall for Winter use ; Mr. Stout and his family was there when I was there ; I couldn't say how often they were there while I was living at the mountain home.

Cross-Examined :

The arrangement by which Mr. Leonard furnished us provisions existed all the time we were there ; it was the bargain when we first went therre ; it was not continued while we lived in the Blackford house ; in my answer first, I supposed you meant while we lived in the mountain home.

Q. What was the arrangement in that respect the first year you lived in what you call the mountain home?

A. He (Mr. Leonard) furnished everything that belonged to a family to use ; myself and husband devoted our entire time to his service ; the year we lived in the Blackford house, we furnished the provisions for ourselves ; I did not spend my time in the employ of Mr. and Mrs. Leonard when we lived in the Blackford house, I worked for myself then ; but my husband did ; I first heard this place called

the mountain home since we've been there ; I mean for the four years I was there.

Q. Why didn't you move into the mountain home as soon as you moved there ?

A. Well, it was not convenient for us to go there then, they occupied it themselves ; we moved into the mountain home in April, 1868 or 1869.

We first moved on the farm in January, 1868 ; we moved into the mountain home on the first of April, 1868, and lived there a year.

Q. Why was it inconvenient for you to move into the mountain home in January, yet convenient for you to move into it on the 1st of April ?

A. Well, I suppose they wanted some one to work there. They had other help was the reason we moved out in April, 1869.

Q. Where was Mr. and Mrs. Leonard and their children on the Christmas of '70, and New Year's of '71 ?

A. Well, I suppose in New York ; I suppose they were stopping there in their house ; I can't tell you what part of the city it is in ; I can't remember now ; I have never been there. I don't know whethre they were boarding or keeping house in New York on Christmas, 1870 ; I suppose theykept house in their New York house.

Q. At what time in 1870 did they commence keeping house in New York?

A. I don't know that they were ; I don't know anything about it.

Q. At what time was it that they commenced boarding or keeping house, one or the other ?

A. Well, they there went down sometime through the Winter, before the holidays, I think.

Q. You know, Mrs. Kaggen, whether or not Mr. and Mrs. Leonard went to keeping house in New York, in December, 1870, don't you ?

A. She had rooms at one time there ; it was a year ago last Winter.

Q. Were the rooms in her own house or somebody else's house ?

A. Well, I heard they were not in her own house.

Q. You are quite sure that it was a year ago last Winter that they had rooms in some other house besides their own, are you ?

A. As near as I can remember.

Q. Did you ever hear of their keeping house in New York at all since you lived there ? A. Yes, sir.

Q. When did you understand that they were keeping house in New York, if ever ?

A. Last year, I think, they were in their own house ; I guess the whole of the year.

Q. Do you mean from January to January ?

A. I can't say as to that ; I think it was.

Q. Did they not move into their own house in New York, in December, '70, previous to the holidays, and have they not kept house there ever since—a part of the time keeping boarders ?

A. I have heard that they have had some friends boarding with them ; I have not been there ; I think (I can't call to my mind what time it was) they moved in there somewhere about that time.

Q. Then you are mistaken in saying that they moved into a suit of rooms, in some other house, in December, 1870, ain't you ?

A. No, I am not mistaken ; they had rooms ; perhaps it was '71 when they took their own house.

Q. Was it December, '71, that they moved into their own house ?

A. I don't know what year it was they moved into their own house ; it must have been '69 that they moved into rooms.

Q. Then wasn't it December, 1870, that they moved into their own house and commenced keeping boarders ?

A. I suppose it was.

Q. Then they were keeping house there last Summer were they ? A. Well, they were there sometimes.

Q. The establishment in New York was kept up and the house kept open the whole Summer, was it not, with the exception of a week or two ?

A. It was closed sometimes when they were all out ; I don't know how long they were all there ; I think longer than that.

I did the cooking at the farm last Summer—I mean in the mountain home ; we had another girl ; I don't know what her name was but Katie ; I don't know what else ; she was there nine weeks.

That was a servant girl they brought from New York, I don't know whether she came from the New York house or not.

Q. And the other New York servant stayed in the house, did she not, in New York ?

A. She was out some of the time, and a part of the time, in the Summer ; she was at the mountain home about one week out of the nine.

She went back to New York.

I suppose she was at the house in New York during the rest of the nine weeks.

Q. How came Katie to stay only nine weeks ?

A. Well, she went back to New York—we didn't have much company.

Q. Was Mrs. Leonard at the farm last September and October ?

A. Well, she was away on a visit, I think, somewhere about that time.

Q. Did she come out to the farm every time Mr. Leonard came out last Winter ?

A. He very seldom came without her ; I don't remember that she came out to the farm any time without him, last Winter.

I can't say how often either of them were out in February last—I don't remember.

Q. Can you say now, that either of them were at the farm in February last ?

A. Yes, sir ; I think they were ; I think they were both there in the forepart of the month ; I think he was out once or twice without her, in February, but I can't tell you what time in the month.

Q. They have been there quite frequently since the sheriff was there to serve the attachment, haven't they ?

A. I don't think they were, any oftener than before ; we left there the second week in March ; I can't say whether they have been out very frequently to attend this examination, since the attachment was served.

My husband and I occupied a bedroom down stairs, in the house last Summer—my children slept upstairs—they occupied one room ; Mr. Leonard and wife occupied one room upstairs, when they were there ; there was a bed in the parlor last Summer.

Sometimes we would use this bed in the parlor, last Summer, when we had a good deal of company, though not all the time ; different ones occupied that bed in the parlor ; there was a bedstead and bed in the parlor all the Winter-before-last ; I think that bedstead was put there about December, 1870 ; when Mr. and Mrs. Leonard moved to New York, a fire was kept going all winter in that room, in the parlor, every day ; it was a coal fire ; that is where the plants were kept ; no portion of the plants were taken back to New York in December, 1870 ; some slips may have been taken, but none of the plants or pots.

Mr. and Mrs. Leonard didn't move anything ; as soon as they left the house, in December, 1870, my husband and I moved in ; we have had a fire built up-stairs in those rooms, whenever we used the rooms ; Mrs. Moore occupied one for sleeping, and we had fire evenings ; Mr. and Mrs. Leonard occupied the other when we had the fire ; when they were there, they didn't sleep in the parlor.

Q. Are you not mistaken in saying that Mr. Leonard's house is in the School district, belonging to the Brick School-house ?

A. I think not ; it is the only school in which they will take the childen.

MRS. MARY KAGGEN.

Sworn and subscribed before me, April 15, 1872.

STEPHEN H. LITTLE,
Notary.

David M. Kaggen, a witness produced and sworn on behalf of the defendant, testified :

I think it was the 5th or 6th of January, 1868, that I went to live on Mr. Leonard's farm ; I then moved into the Blackford house and lived there until the 1st of April, 1868 ; then we moved into what they called the Mountain home, and lived there one year, then moved back into the Blackford house ; we lived there about twenty-one months, then moved to the Mountain home the 1st of January, '70 ; I think '71—I believe it is, though—and remained there up to the 14th day of March, 1872 ; then we moved to Mendham Village, where I now live.

The general arrangement made between Mr. Leonard and me, when I moved into the Mountain home, in January, '71, was, that Mr. Leonard was to give me and my wife so much money, and furnish everything necessary for the house ; I was to work on the farm ; my wife was to do general house-work, make the butter, &c. ; I don't know that anything was said particularly what my children were to do, chores around, whatever came in play for them to do ; Mr. Leonard was to furnish provisions, meat and other provisions, also fuel and lights ; I worked for money wages ; I continued there on that arrangement up to the time I left in March last ; my wife was to do the cooking for Mr. Leonard's family ; the house was comfortably furnished when I went there.

During last Spring and Summer the following people were at the farm : Mr. and Mrs. Leonard, (they were there part of the time) Mrs. Moore, Miss Charlotte Moore, (a sister of Mrs. Leonard) Miss Lizzie Leonard, (Mr. Leonard's daughter) Mrs. Gardiner, Mr. and Mrs. Douglass, (Mrs. Gardiner, I think, is Mrs. Leonard's aunt, Mr. and Mrs. Douglass are uncle and aunt of Mrs. Leonard ;) Charles Burnside was there all the time up to the time that I moved away, in March, 1872 ; I don't know that he is connected in any way with Mr. Leonard ; they adopted him, I believe ; I couldn't

say how long he has been in the family; he has been in the family ever since I have been there; he went to this last Winter a year ago, and last Winter just past he went to the Washington Valley Brick School-house; I don't know that I can tell the number of the school district which includes Mr. Leonard's farm, but it is in the brick school house district; Walter Merrifield lived with Mr. Leonard; I think he lived with him two years last Fall; he lived in the house with us after we went there in January, '71.

Mrs. Moore was in the house when we moved away; she lived in the Mountain home with us last winter and Fall; I think she came there in August of last year, and remained there up to the time I moved away in '72; during the time that I was living there, Mr. Leonard bought his groceries in Morristown, at Atno, Pierson & Co's, on Mr. Leonard's account; meat sometimes I got at Arnold's on Mr. Leonard's account; sometimes at Guerin's, and sometimes on the farm, when we killed a lamb occasionally; Arnold and Guerin both have shops in town; I was in the habit of buying things for the farm as I have stated, from the time I went there in January, '71, up to the 14th of March, '72; I know Mills Loree, constable.

Q. Was he at Mr. Leonard's farm last Fall?

A. Yes, sir, and he spoke with me.

(Conversation between Loree and Kaggen objected to by Mr. Pitney, unless Mr. Loree's attention was called to it when on the stand.)

Q. Did he ask you if Mr. Leonard was home?

A. Yes, sir; I told him he wasn't at present; he asked me when I thought he would be up; I told him that we were looking for him through the week; he probably would be up to-morrow night, as that was the day he generally came up; he then asked me if I knew James Blanchard, and said that he had a summons for Mr. Leonard; I asked him what it was about, or for something to

that purpose ; he said it was for damage that cattle had done, and asked me then if I thought he would be up during the week ; I told him that we were looking for him ; he said that he couldn't serve the summons on Mr. Leonard, but would serve it on me ; I told him that I didn't think he could ; he insisted that he could, as I was Mr. Leonard's agent ; I told him that I wasn't his agent, that I was hired there to work, and he paid me my wages ; I felt it my duty to do what he told me to ; if he sent me out in the field to work, or sent me to collect or pay money ; he seemed to think he could serve it on me, but as Mr. Leonard was not there he wouldn't leave it—or said rather if he couldn't serve it, he would return it ; that was the words he used.

This talk took place while I was dressing up fence posts, just below the barn ; probably between two and three hundred feet from the dwelling house ; it was only a short distance ; Mr. Loree passed the dwelling house, he didn't stop.

Q. Did Mr. Loree ask you if any of Mr. Leonard's family was there over fourteen years old ?

A. I don't think he did ; I have no knowledge of it at all ; as near as I can fix the time ; I couldn't tell exactly ; it was sometime in September, from the middle to the last of the month ; probably it might have been later ; I never saw him there but this once on that business.

I recollect Mr. J. L. Stout's being at Mr. Leonard's in December, 1870, when they were packing up to go to New York ; I don't think I could tell the day of the month ; it was in the latter part of the day ; in the afternoon when I saw him, I shouldn't think he was there over an hour and a half ; he came in the house, and Mr. Leonard and him went in the parlor ; what they done I couldn't say ; I didn't see him pack any furniture while he was there, or anything else ; no packing was done in the parlor ; Mr. Stout left there, I think, between sundown and dusk ; I saw Mr. Stout again that night at his dwelling house, in Mendham Vil-

lage, about nine o'clock in the evening ; I went there for his spring wagon, for Mr. Leonard to take some canned fruit down to New York from the Mountain home ; I got the wagon that night ; I think it was on the 23rd or 22nd of December ; it was only a few days before Christmas ; I drove the spring wagon down with the canned fruit on Saturday, and Sunday following was Christmas ; I went to New York the next morning after I got the spring wagon ; I think there was five barrels of canned fruit taken down to New York by Mr. Leonard at that time, a sewing machine, and two or three pots of butter and a rocking chair ; no vegetables were taken down in that load, but he sent down four barrels of potatoes, and turnip and beets ; no clothes were taken ; he also took a barrel or two of apples ; no furniture was packed up and taken at that time, except the sewing machine and rocking chair.

During past Winter and Winter before, we usually had a kitchen fire, dining room fire, parlor fire, and two fires upstairs occasionally ; one of those fires upstairs was in a room that Mr. and Mrs. Leonard occupied ; the other was in a room that Mrs. Moore occupied.

Since the cold weather has commenced this last season I should think that Mr. Leonard's visits to the farm would average once a week.

Last Summer there was quite some company at the farm ; the railroad station was Morristown ; Mr. Leonard and family and his guests most generally went from here to the farm in Mr. Leonard's conveyance ; sometimes they would hire of a livery man here—Welsh ; I most generally drove the wagon when it was brought down from the farm ; I think I moved in Mendham Township in 1851, and have always lived there since, except three years ; I voted on election day in the Fall of 1870 ; I went to the polls on that day with Mr. Leonard and Charles Rheinthaler, from the mountain home ; I suppose we reached the polls somewhere about eleven o'clock ; it is about an hour's drive ; the

distance is about four miles, over a rough, hilly road ; we weren't there over half an hour when we voted ; I think Mr. Leonard, Mr. Charles Rheinthaler and I went up together to the polls ; I wouldn't be positive how near together we voted ; I don't think there were many votes between our votes ; I am under the impression that Mr. Leonard voted first ; I think I voted then, though I am not positive ; there might one vote have gone in between us, not more than one, I think ; then Charles Rheinthaler, Mr. Jonathan Pitney, Peter Melick, Mr. Stout—I think, Sheriff Anderson—were in the room when Mr. Leonard and I voted ; there were quite a number there ; I can't name who they all were ; the board was pretty full where the ballot box sat, and the room was pretty full ; there were quite a number in it.

Examination adjourned until April 23, 1872, at ten o'clock, A. M.

STEPHEN H. LITTLE,
Notary.

Examination of *David M. Kaggen*, continued April 23rd, 1872, before Edmund D. Halsey, Supreme Court Commissioner, at Morristown, New Jersey, by consent of both parties and in their presence.

The said witness being sworn, on his oath says :

When I went for the wagon to Mr. Stout's, in December, 1870, I found it under the wagon-house ; I called at the door of Mr. Stout's dwelling house, and I think his son came to the door first ; I saw Mr. Stout then, and told him I came for the wagon ; he came out with me, and helped me get the wagon ; he got the pole-straps ;

he got the hoops and cover from the granary over the wagon-house; I took the wagon that night to Mr. Leonard's; it was filled the next morning; it was between eleven and twelve o'clock at night when I got back to Mr. Leonard's with the wagon.

I saw Mr. Stout at Mr. Leonard's before the election in the Fall of 1870; I heard Mr. Leonard and Mr. Stout talk some about Mr. Leonard voting for Mr. Stout.

Q. State what you heard Mr. Leonard say to Mr. Stout about voting for him.

A. He said he would vote for him, and would do all he could for him to elect him.

This was three or four days before election; I heard him say this more than once; Mr. Stout was there three or four different times; I was not present with them every time; there were two times when they were talking together about election in my presence.

Q. Before you started for the polls on election day in November, 1870, did you know, from what Mr. Leonard said to you, or to others in your hearing, what his intentions were about voting that day?

(Objected to by Mr. Pitney.)

A. He was going to vote for Mr. Stout.

I heard that talked of on the day of election; I think Mr. Stout came up to Mr. Leonard and myself, and the other gentleman who was with us, Charles Rheinthaler, and asked if we had voted; we had not voted then yet, but we went in in a few minutes and voted; there was nothing else said between Mr. Stout and Mr. Leonard at that present time which I paid any attention to; I knew a man by the name of Bowne, who lived, in the Fall of 1870, with Dr. Fairchild, at Mendham; he did not vote at that election; Mr. Stout came to me and Mr. Leonard, and asked if we knew whether he had voted, or whether he was a voter; we told him that

he was, so far as we knew ; he asked me to go down and get him to come up to vote ; I went down after him and I did not get him : he did not think that he had a right to vote : that was between sundown and dark : I went down to Dr. Fairchild's place for Bowne : we stayed—that is, Mr. Leonard and I stayed—at the polls until after dark : I don't recollect whether we stayed till after the votes were counted : it was after the polls were : I did not take dinner at any particular place : I knew Thomas Borden : he lived with Mr. Leonard in the Spring of 1870 : he came there somewhere about the first of April : they brought him from New York : at the time of the election in 1870, he was living at the village of Mendham : I heard Mr. Stout say he understood Phœnix was going to vote him : he told him that he was not entitled to a vote : he asked us if we would not keep around the board and look out for him, as there was no person knew as much as Mr. Leonard did where he came from : Mr. Leonard told him that he would : this arrangement, I think, was made on the stoop in front of the tavern, in the afternoon of election day : I cannot say exactly what hour it was : I did not see Borden that day : I suppose Mr. Leonard was watching for him, as he told Mr. Stout that he would : I have heard Mr. Stout speak of getting dinner at Mr. Leonard's house : he said he had many a good dinner at Mr. Leonard's of my wife's getting up : he told me that not a great while ago—not more than three or four weeks ago, I think—I often saw Mr. Stout at the farm.

After the Methodist Church in Morristown was opened for worship, Mr. Leonard came to Morristown to church : I went to Mendham : I used Mr. Leonard's team, and he drove his own team, a horse and buggy : I saw Mr. Stout at the mountain home last Summer quite frequently, probably a dozen times : when we left the mountain home, the house was as comfortably furnished as when we went there : the same furniture was in it.

Cross-Examined :

I took some furniture up there when I went up ; I took all the furniture I had up there in January, 1871, when I moved from the Blackford house into the mountain home ; I don't know as we ever took any extra people into the Lodge at the Blackford house, except such as came on invitation of my wife.

Q. Have you ever had any of Mr. Leonard's company, who were visiting him at the mountain home, come to the Blackford house to sleep ?

A. Miss Lizzie Leonard stayed there quite frequently, as company for my wife ; I do not know but what Miss Charlotte Moore stayed there, visiting back and forth ; I am not positive that she has.

Charles Burnside, when not going to school, did various notions about ; he milked and drove the cows night and morning ; he would carry in some wood ; he made himself useful generally ; I suppose he was a pretty good boy to work ; he was not a big enough boy to drive team ; he did not drive team very often ; Merrifield was like all other boys, he generally did what you told him to do ; he did all I asked him to do, I believe; there were pictures moved to New York in December, 1870 ; they had hung in the parlor before they were moved ; in the afternoon of December 23d, 1870, I was engaged in packing fruit and cutting hay ; I was in the barn cutting hay ; I don't think Mr. Stout assisted any in packing fruit ; there was no lantern used to get up to Mr. Stout's house that night ; I did not help get up to Mr. Stout's house that night ; I did not help get the horse ; I got my supper at the Blackford house, at home, that night ; my wife prepared it for me : I don't know who got the supper at the mountain home : I was not there when they were eating supper : I have been at Mr. Stout's to get clover seeds, in 1868, I think ; I did not go after that : I never went but once : I think it was in the forenoon when I went, I will not be positive ; Mr. Stout got it for me.

Charley Rheinthaler lives up in the mountain, on land, which, in 1870, belonged to Mr. Leonard, and which Mr. Leonard sold to some men in New York—John and George Ruddell, I believe ; I have no doubt that he lived on this land which Mr. Leonard sold to the Ruddell's ; he moved there after they bought it from Mr. Leonard ; before that he had lived in Jersey ; I cannot recall the place now ; he did not come from New York State ; I have forgotten where he did come from, but it was some place in Jersey ; he told me so.

A. Whereabouts did this conversation occur, which you heard between Stout and Leonard about voting, shortly before the election in 1870 ?

A. I was in front of the carriage house, and between that and the barn on Mr. Leonard's farm ; we were not doing anything at that present time, only talking.

Q. Did Mr. Stout urge Mr. Leonard pretty hard to vote for him ?

A. He asked him to vote for him, and wished him to do all that he could for him ; spoke of this Rheinthaler, and wanted to know whether he was a Republican or Democrat ; wanted us to look after him, and see that he got to the polls ; Mr. Leonard told him he would, and that if there were any others up there on the mountain, that we thought was doubtful, we would bring them along ; I think he said if there was no way for them to come he would send his team on election day, and carry them over ; Mr. Stout and Mr. Leonard had been friends for a long time previous to that, for all I knew ; they appeared to be friendly ; Mr. Leonard was, I suppose, an out-and-out Democrat ; I always took him to be one, so far as I had ever heard him say anything on political matters ; I never voted anything else but the Democratic ticket ; am not positive whether Stout knew I was a Democrat ; I generally voted an open Democratic ticket at Mendham : I do not know as I thought it was queer that Mr. Stout should ask Mr. Leonard and me to vote for him ; I do not know as I ever

talked of voting against him; I never heard Mr. Leonard say anything to that effect; I heard Mr. Stout ask Mr. Leonard to vote for him, and asked him to assist him in the election; I do not know as there was any one present at this time; the second conversation I heard was a few days before election; he was there several times: I could not tell you the difference between the conversations: the second conversation was not far from the buildings just below the barn along the road, and not far from where the first took place: Mr. Stout complained of a letter which had been written, or some report circulated against him.

Q. What was said about Mr. Leonard's voting at this second conversation?

A. Nothing more than he wished him to vote for him, and to do what he could for him, as there was opposition and these reports against him: he wanted us to turn out, and be sure and come.

Q. You are sure he asked Mr. Leonard particularly, at that time, to vote for him?

A. Yes, sir: he asked him to do all that he could for him—to come over and vote.

Re-direct examination:

I heard Mr. Stout say, that when he was in some of the Eastern States he was a Republican: I cannot tell you the year when he moved here from the Eastern States: Charles Burnside's health is not very good: he is rather delicate: the pictures taken away, which I spoke of, were photographs: Mr. and Mrs. Leonard, Miss Lizzie Leonard, and Mr. Caleb Leonard: I think they were brought up there in the Spring of 1870, and taken away in the Fall of 1870.

The clover seeds which I got from Mr. Stout, was from the garret or upper part of his house, at or near Mendham: this was in the Spring of 1868, probably the last week in March: we sowed the seed on the wheat and oats ground: we sowed it on

our Winter wheat, on the south side of our farm : I sowed it.

D. M. KAGGEN.

Sworn and subscribed before me, }
this 23d day of April, 1872, }

EDMUND D. HALSEY,
Supreme Court Com'nr.

Isaac G. Arnold, a witness called and sworn on part of defendant, deposes and says :

I reside at Morristown, New Jersey, and have done so for a number of years ; am a butcher, and keep a meat shop here in Town ; I think I have known Mr. Leonard by sight about six years ; he lives about two miles from my father's farm ; we do our butchering at the farm ; that farm is on the road which leads from here to Mr. Leonard's farm ; my father's name is Silas H. Arnold ; during the last two years I have been in the habit of seeing Mr. Leonard quite often.

Q. Where has been his residence, as you understood it ?

(Objected to by Mr. Pitney for want of knowledge of the witness.)

A. On the Barker place—that is, the farm which I have called Mr. Leonard's farm.

Q. Had he been in the habit of trading with you, and if so, how long ?

(Objected to as irrelevant.)

A. Mr. Leonard has been in the habit of trading with us ever since he has been up there, but I have entered no ledger account against him until June 14th, 1868 ; since that time he has run up an account with us up to last Fall ; Mr Leonard has done the ordering sometimes, and sometimes his

man (pointing to Mr. Kaggen, the last witness), sometimes another man of his, and sometimes Mrs. Leonard; Mr. Leonard has paid the accounts; I attend generally the Methodist church at Morristown; I think Mr. Leonard attends the same; I have seen him there quite frequently.

Cross-Examined:

I live in Morristown, and have lived there since 1860; I quit going up afternoons to butcher at the farm in 1866; I went up afterwards at intervals; last year I did not go at all; I did not know Mr. Leonard had a house in New York until a short time ago; I supposed that before he moved up here he kept house in New York; I did not know that he kept house there at any time within the last two years.

Q. Did you know that Mr. Leonard has been taxed regularly as a non-resident in Mendham Township?

A. No, sir; I did not know that he had not voted in New Jersey but once; I supposed him to be a resident.

(The last clause objected to as not being an answer to any question.)

ISAAC G. ARNOLD.

Sworn and subscribed before me, this 23d day of April, 1872.

EDMUND D. HALSEY,
Supreme Court Com'nr.

William D. Young, a witness called and sworn on part of defendant, deposes and says:

I reside at Morristown, and was formerly employed by Derrickson, who kept a grocery store in Washington street; I was there with him about a year and a half; I think the time I left was a year ago last January; since then I have been working for different parties; I am now working for myself;

I have known the defendant, Mr. Leonard, about three years; he did business at Derrickson's, when I was there; he bought goods on credit and for cash; he had a running account there: he and his wife made all the purchases, and sometimes his men: they bought all kinds of groceries, provisions, &c.

(All this testimony objected to as irrelevant.)

This continued all the time Derrickson was in business there: Mr. Leonard paid the accounts: I have seen him in Morristown as often as once a week, and sometimes two or three times a week: Mr. Derrickson quit business in Morristown, I think, a year ago last January.

Q. Where has Mr. Leonard resided during this time you have known him, as you understood it?

(Objected to as a question of law, and for want of knowledge in the witness.)

A. Up here on the mountain, on his farm there: I know other members of Mr. Leonard's family—his wife and daughter, and his employes, some two or three which he has had.

WM. D. YOUNG.

Sworn and subscribed before me, }
this 23d day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Com'nr.

Thomas B. Johnson, a witness called and sworn on part of defendant, deposes and says:

I am thirty-two years of age: reside at Morristown, and have been in the grocery business as clerk or principal about sixteen years: I was formerly clerk for B. O. Canfield, then for Briant & Atno, and then entered the firm of Atno, Pierson

& Co. as partner: we do a general grocery business in Washington street, Morristown: I have known Mr. Leonard some three or four years, and perhaps longer: have known his wife—sometimes recollect seeing him every day for a week, and sometimes twice a day: have seen him in his carriage passing, and sometimes in the store—our store, I mean: I have been in the habit of talking with him and his wife: I have never been at his place.

(All testimony objected to as irrelevant, and as a waste of time.)

I have done business with him, selling him goods, groceries, &c.: he paid cash and kept a running account both: the goods charged to him were obtained by himself, his wife, and by his man: I saw his man here a few minutes ago: his name was something like Hageman—Kaggen, I think it was.

Q. Where has Mr. Leonard resided since you have known him, as you always have understood it?

(Objected to as hearsay, and for want of knowledge in the witness, and as a question of law.)

A. About four miles from town, on the mountain; Mr. Leonard is still keeping a running account at our store.

Cross-Examined:

I have never been to Mr. Leonard's house in New York, and do not know that he has kept house there: do not know that he has been keeping house there steadily for sixteen months past: I did not know of his keeping house at all within the last five years in New York: I do not know as I ever heard of that until now—this very moment: no members of our firm have ever been at his house in New York, to my knowledge: I never heard of their being there, though

they may all have been there, for what I know ; I never was at his house on the mountain ; I only know of his residence here from hearsay, and what I have seen, his traveling back and forth to the depot, &c.

THOMAS B. JOHNSON.

Sworn and subscribed before me, }
this 23d day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Comm'nr.

Wilbur F. Day, a witness called and sworn on part of defendant, deposes and says :

I reside at Morristown, and am a steward in the Methodist church here ; I have charge of the books and the collecting of the pew rents ; Mr. Leonard has had a pew there now, not quite two years ; he pays the annual rent of forty-eight dollars.

Q. His residence during that time has been where, as you understood it ?

(Objected to as a question of law, and for want of knowledge of the witness.)

A. As I understood it ; I do not know as I can answer it ; I understood he was living in both places, near Waterville or Brookside, and New York ; I think when he made application for a pew, was the first of my acquaintance with him, though I am not certain.

Cross-Examined :

I have seen him quite frequently since I first knew him; every two weeks, possibly three ; at other times closer together ; I have seen him these times at my restaurant getting something to eat; I should think probably he had been at our place oftener in the last two months than previously; he has not attended church (the church of which I

am steward) very regularly ; he does not come as often as once a month throughout the year ; last Summer he was there a few times ; I could not tell whether he has been at church since last Fall ; I do not know as I recollect of his being there ; I do not personally go around with the collection plate ; I never saw his wife at church alone ; I think they are usually there together ; I do not know as I could tell what hour of the day he comes to my restaurant to get his meals—it is near noon ; he has told me of his keeping house in New York.

Q. When and how often has he told you so ?

A. I could not say how often, but quite frequently, telling me that his business matters were not so arranged that he could attend church regularly ; apparently as an apology for neglect to pay pew rent quarterly ; I have no recollection of his saying anything about his having to pay for the support of the Gospel in New York ; I do not recollect of his telling me what church he attended in New York ; he told me he was keeping house at Brookside, too. (This last statement was made in reply to a question as to whether witness had heard Mr. Leonard say anything more about his keeping house in New York, and is objected to.) As I do not recollect his inviting me to call and see him.

Re-direct Examination :

When he said he was keeping house at Brookside, it was the same time ; I think that he said he was keeping house in New York, and part of the same conversation ; he said he was keeping two houses.

WILBUR F. DAY.

Sworn and subscribed before me, }
this 23d day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Commissioner.

Major Henry M. Dalrymple, a witness called and sworn on the part of the defendant, deposes and says :

I reside in Morristown, and have resided there about twelve years ; I have a wife and children ; I am in the lumber and coal business ; I know Amasa Leonard and his family, and have known them for several years, some six or eight years ; probably longer ; I cannot recollect ; I have been in the habit of visiting him with my family, and he and his family have been in the habit of visiting me ; this has been some four or five years, I suppose ; I cannot remember exactly how long ; I have visited them both at their house in New York and at Mendham Township ; my family also have been in the habit of visiting them the same way ; his family visited my family here at Morristown ; I think we have only visited them in New York in the Winter season ; in the Summer season we visited them on the mountain, as they call it ; I was there once last Summer I know ; I recollect eating some nice peaches there ; I do not go around visiting much, and cannot tell how often we were there ; Mr. Wheeler, my father-in-law, was with me the last time I called there ; it strikes me that Mrs. Dalrymple was there last Summer in cherry time, but I was not with her at that time ; when I was there last Summer I did not notice any difference in their living or keeping house from what it was formerly ; when Mr. Leonard is at his house in New York, he keeps his house open here ; I have called at his house at Mendham Township when Mr. Leonard was not at home and away, and the house was always open.

Q. Did you or not always find some one of his family there ?

Objected to as leading—

A. I think we did, sir.

I have been in the habit of doing some business with Mr. Leonard ; I furnished him his coal.

Q. When did he purchase coal last ?

(Objected to as immaterial and irrelevant, and a foolish waste of time.)

A. I think it was within thirty days ; he sent down his wagon and got a load ; he has a running account with me.

Q. How long have you known of his keeping his house always open, as you have stated ?

(Objected to for want of knowledge in the witness.)

A. Ever since I knew he resided there ; he bought lumber of me as well as coal.

I have stayed with my wife all night at his house in Mendham Township : there was a little party there : we were very comfortably lodged : had a good bed to sleep in.

Cross-Examined :

Q. Do you mean to say that you never called at the house on the mountain on any occasion when neither Mr. Leonard, or his wife, or any of the children, were there ?

A. I do not think that I did : I always found some one of them there.

Q. Do you mean to say that at the same time when Mr. Leonard and his wife and his children were at the farm, they were at the same time in New York ?

A. I cannot say that.

Q. Do you mean to say that there has been no time of late years when Mr. Leonard and his wife, and all his children, were in New York, and made it their home there for a greater or shorter length of time ?

A. No, sir, I do not mean to say anything of that kind.

Q. Have they not spent the greater part of their time in New York for the last sixteen months ?

A. I do not think they have.

Q. How much of their time did they spend in New York from December, 1870, to May, 1871 ?

A. I could not answer that, for I do not know: I visited them in New York, I think, in that time: I think we stayed all might there about a year ago last February: they were all there then: I think we did not visit them on the mountain between December, 1870, and May, 1871.

Q. How much time has Mr. Leonard and his wife and children spent in New York, since last September?

A. I could not answer that definitely, for I do not know much about it: I know they are off and on all the time: I have not visited them in New York in that time, and could not say whether Mrs. Dalrymple had visited them; I have been to the farm since last September; I think it was in the month of September; I was there with Mr. Wheeler just before election last Fall; I think Mr. and Mrs. Leonard were both there then—I am quite positive of it; it was just after dinner-time, for we took dinner at Mr. Wheeler's and then drove over that way to Mendham.

The day and the month I could not tell; it was a pleasant day; the daughter was not there, I think; I could not say whether that was before or after Mrs. Leonard went South; I knew or understood that Mr. and Mrs. Leonard both went South; I think that is the only time I visited them since last September.

Q. Was not that when your father was on from Washington, on his Summer vacation?

A. I could not say—only I know that Mr. Leonard brought out some fine peaches; I think it was in October—I know that while we were at Mr. Wheeler's we gave orders in the apple orchard what to do with the apples, which were then ripe; those orders referred to taking them to the distillery, disposing of the Winter apples, and so on.

Q. Are not arrangements made for taking away apples to the still in the last of August or first of September?

A. I do not know about that; as soon as they

are fit, arrangements should be made ; I think that is the time ; I used to be on a farm.

Q. Were not all the apples in this neighborhood picked and housed last Fall, before the fifteenth of October ?

A. I cannot answer that, even if I had a farm of my own.

Mr. Wheeler came on to vote at the Fall election, and stayed, I think, two weeks.

Re-direct Examination :

I think it was while he was on to vote that he drove up to the mountain with me ; he spends most of his time in Washington, and owns a farm and votes in Randolph township.

Q. In saying that his home here was always kept open, who do you mean it was kept open by, when his wife and daughter were in New York ?

A. By Mr. Leonard ; a man can keep his house open when he is not always present himself.

Second Cross-Examination :

Q. The occasion spoken of by you in your direct-examination, when you ate peaches at Mr. Leonard's, was the same occasion to which you referred in your cross-examination ?

A. There was but the one occasion.

H. M. DALRYMPLE.

Sworn and subscribed before me, }
this 23d day of April, 1872, }

EDMUND D. HALSEY,
Supreme Court Com'nr.

John C. Meyers, a witness called and sworn on the part of defendant, deposes and says :

I reside in New York City ; I am a hair spinner by trade, and and am foreman for Mr. Leonard in fifty-ninth Street, New York, and have been his foreman

since 1861, with the exception of three years when I was away; those three years were, I think, from 1864 to 1867; I was at his house in the Spring, in the latter part of April, 1869; I was packing Mr. Leonard's furniture, storing it on the top floor; Mr. Leonard and his family moved to what I have always called Morristown; I have learned since it was Mendham Township; the house is known as the mountain home; when I was packing the furniture, or during that month, I heard Mr. Leonard say what his intentions were; he told me he was going to move to his farm and rent his house to Mr. Calvin Stephens; I believe they went; I have been up to the farm six or seven times; I have had my wife with me there; she is all the family I have; I believe I was at the farm on Thanksgiving Day, 1870, with my wife; we stayed there with Mr. Leonard then two or three days; I cannot recollect exactly how long; I saw Mr. Stout there on that Thanksgiving Day; the only conversation between Mr. Stout and Mr. Leonard that day to which I paid any attention, was about a patent right on whips; I was interested in it, it being a new thing, nor I don't suppose I could have recollected it; I heard Mr. Stout speak of the patent right, saying that some man, I think he mentioned his name, but I could not remember now, wanted $40,000 for the patent right; I heard Mr. Stout say he thought it was too much, and Mr. Leonard agreed with him; I think on that, I was inclined to think that they talked of going into the business at that time, but I could not say, as I was a little piece off from them.

Q. Did you hear anything said in that conversation about Mr. Stout going into partnership with Mr. Leonard in Mr. Leonard's business?

A. No, sir, not at that time nor during my visit there.

I don't remember how soon after Thanksgiving Day I left Mr. Leonard's; probably it was the next day; I vote in New York City, and have been a voter there for about twenty-two years; am not a taxpayer in New York, but am in Brooklyn; I

never paid any poll tax ; election day last November I was in New York City ; Mr. Leonard was there that day.

Q. Did you hear anything said to Mr. Leonard on that election day about his voting there ; if so, what was it, and what did he say ?

(Objected to as hearsay and generally incompetent.)

A. I heard nothing said to him except what I said myself about voting : I met him election morning at the factory : I asked him if he voted before he came down : he said no, he voted in Jersey, and that he had changed his voting place : I meant came down from his house in 53rd Street.

When myself and wife were at the house on the mountain, the house was very comfortably furnished, and we were very well treated indeed, every time that I have been there.

Cross-Examined :

I don't remember, but I think it quite likely I was out hunting on Thanksgiving Day in 1870 : I never go up there in the Fall without it : when the talk about the patent right occurred, I was about fifteen feet off part of the time : I was not in Mr. Stout and Mr. Leonard's company all the time they were together that day: I do not think I went hunting towards night that day : it was in the morning that I went out : I did not go over in the afternoon the same ground that I went over in the morning, that day : it was in the Fall of 1869, the first time I was at Mr. Leonard's house, that I did that : I helped unpack some furniture in 1870, I think: it was a very small portion of the furniture which I stored up stairs : the house that Mr. Leonard occupies in New York is furnished, and the same furniture which I helped pack is there in the house now—not all of it, but part of it : I did not know or remem-

ber at the time I asked Mr. Leonard that he ever had voted in New Jersey, when I asked him whether he had voted: after he told me he had changed it, then I remembered that he had told me he had changed it to oblige Mr. Stout: he told me that he had voted out here to accommodate Mr. Stout.

Re-direct Examination:

I was out at the mountain home last Fall, but not in the Summer—I don't think; I believe I stayed three days; Mr. Leonard was there and Mrs. Leonard, and Charley Burnside, his adopted son, his boy Walter, and it seems to me that Mr. Kaggen's family were there, too: I was there on the Fourth of July, 1870: there were a good many there then as company: there was Mr. Wilson, a dentist from Morristown; a young man I was introduced to as Mr. Hunt, and Miss Benjamin: I do not know as there were any more there outside of the family, except myself and wife.

Second Cross-Examination:

Last Fall, when I was at the mountain farm, it was one week after Thanksgiving Day: I don't remember whether Mr. and Mrs. Leonard went out at the same time that I did, or whether they were here: when they were in the city they lived at their house in New York.

Q. At the time of your visit to the farm last Fall, was or was not Mr. and Mrs. Leonard living in the city?

A. No, sir.

Q. Were they not at that time staying at the farm for a few days merely?

A. I am sure they stayed a few days, but I could not tell how many; that was after Mrs. Leonard had been South; I do not know how soon she came to the City last Fall.

Q. Then Mr. and Mrs. Leonard did not keep house in the city last Winter?

A. For anything I know, they did.

They were not keeping house in the city last Fall just after Thanksgiving; when I was there they were out in the country; the house in the city was not shut up: I understood Mr. Leonard's daughter kept house there.

JOHN C. MEYERS.

Sworn and subscribed before me, }
this 23d day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Com'nr.

Examination of witnesses here adjourned until to-morrow, April 24th, 1872, at 2 P. M., at which time the examination is continued as follows:

John D. Guerin, a witness called and sworn on part of defendant, deposes and says:

I live at Morristown, and have lived there all my life; for the past three years have been a butcher by trade, and kept a meat shop in Washington Street, in Morristown: I have known Amasa Leonard for the last three years, and have been in the habit of seeing him at my place of business and about the streets of Morristown; I have seen him in that way on an average two or three times a week during that time.

Q. Where has Mr. Leonard's residence been during that time, as you understood it?

(Objected to as a question of law and hearsay, and not within knowledge of witness.)

A. About four miles west of here.

I have been in the habit of doing business and talking with Mr. Leonard; am acquainted with his wife and hired man.

Cross-Examined:

Q. You know that he has been in the habit of

keeping house in New York for the last sixteen months?

A. I did not.

I did not know he was taxed here as a non-resident : I did not know of any other residence but this one.

Q. You knew nothing about his residence, then, except by hearsay ?

A. All I know of his residence here is from his buying meat of me, and when he went from my shop I supposed he went to his place of residence, about four miles from here.

Re-direct Examination :

Q. What was the general reputation in Morristown as to his residence ?

[Same objection.]

A. I do not know as I ever heard any.

Q. Was your knowledge of his place of residence from your having been there, or from having heard it from others ?

A. I supposed his place of residence was here on his farm, and never knew or heard anything to the contrary.

JOHN D. GUERIN.

Sworn and subscribed before me, this 24th day of April, 1872,

EDMUND D. HALSEY,
Supreme Court Com'nr.

George Green, a witness called and sworn on part of defendant, deposes and says :

I reside at Morristown : am a harness maker, and have a shop and store in Washington Street : I have known Amasa Leonard since he moved up here ; during the past three years I could not say how often I have seen him ; I do their work, and

they often drop in ; oftener in the Summer time than Winter ; I mean by they, Mr. Leonard, his hired men and some young people who dropped in with work sometimes, and would say, "Charge this to father ;" he has had a running account at my store, for—I cannot tell how long—for years anyway ; the first work he got I think he paid for.

Q. Where has Mr. Leonard's residence been during the last three years, as you understand it ?

(Same objection.)

A. I understood he lived somewhere up here ; three or four miles up country.

Cross-Examined :

Q. You never heard that he owned and kept a house in New York ?

A. I think I have ; I heard that—it must have been some years back : I have not heard anything about it lately.

G. Green.

Sworn and subscribed before me, }
this 24th day of April, 1872. }

Edmund D. Halsey,
Supreme Court Com'nr.

William Hobbs, a witness called and sworn on the part of defendant, deposes and says :

I reside in Morristown, N. J., at corner of Washington and Mill Streets ; the house was formerly occupied by John Whitehead ; it is on the road leading from Morristown to Brookside or Mendham ; I have lived there now two years in June next ; I know Amasa Leonard, and have known him between six and seven years ; I have seen him often in the course of the last two years, but cannot say how often ; have seen him pass ; seen him here in town and spoken to him ; sometimes I see him week

after week here in town, but I never charged my memory as to how often ; I have seen him alone and seen him with others ; I have seen him here with his wife in town.

WM. HOBBS.

Sworn and subscribed before me, }
this 24th day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Commissioner.

William J. Easton, a witness called and sworn on part of defendant, deposes and says :

I am a Justice of the Peace, and reside in Morristown, New Jersey ; am the only one of that name in Morristown or Morris Township ; I issued a summons in favor of James Blanchard, plaintiff, against Amasa Leonard, defendant ; in the first place, the summons was issued at the request of Augustus W. Cutler, who sent a written order to me for it ; I do not know where that order is ; I have seen it since the commencement of this suit ; I was looking for the original summons, and found the order ; I have since mislaid it and cannot find it : this order was dated, in my opinion, November 19th ; at least, the order was not dated, but when I issued the summons, I put down on the order the date of the summons, and the date of the return ; that was the date of the summons, 19th ; it was returnable December 5th : the summons, I think, was returned to me and a new one issued : I think Caleb H. Leek returned the summons unserved : I have my docket here with me, and from it I see that I issued the new summons December 4th, returnable December 18th : this was given to Mr. Leek and served December 9th : the trial was on the 3d day of January last, and the judgment was rendered January 10th, 1872, for twenty dollars : it was an action of trespass : an appeal was taken January 15th, 1872, and the suit is entered on page 198 of my docket.

Cross-Examined :

Q. Do you recollect of James Blanchard and his witness coming to your Court one day, and Mr. Leonard's not appearing ?

A. Yes. That was before issuing the last summons, and after issuing the first.

Q. Wasn't the first summons issued and returned, not served, sometime before the occasion when James Blanchard came there with his witnesses ?

A. I cannot say whether it was returned or not.

I have no memorandum by which I can tell when the first summons was issued or returnable, except this order which I cannot now find.

The two summonses were made to run fifteen days, to give time for the service ; it is not usual to give such time when the defendant is in easy reach of process ; I do not think I issued three summonses ; there was no entry in my docket of the first summons.

Re-direct examination :

I do not know when the first summons was returned.

WILLIAM J. EASTON.

Sworn and subscribed before me, }
this 24th day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Comm'nr.

Silas Y. Tuthill, a witness called and sworn on part of the defendant, deposes and says :

In the years 1868, 1869 and 1870, I lived in the same election district as Mr. Leonard in New York, and for some part of 1871 ; in the year 1868 I was one of the Inspectors of Registry and Election ; there were four Inspectors, and that was the number required by law in 1868, and also in 1869 ; I acted as

such inspector ; there is a record kept of the voters by the inspectors ; I have examined the records of voters of that district for 1869, and the records of those that voted during that year—the registry book—I did not find the name of Mr. Leonard there ; he could not vote unless his name was on the registry book ; I believe there is no poll tax in New York City, and has not been, to my knowledge ; I have been in the habit of voting in New York City since I have been a voter ; I never paid any poll tax unless it was added to other taxes.

Cross-Examination :

The board of registers make up this book of registry which I searched ; they commence three weeks before the day of election, and it is made for use on election day ; that is the book on which I did not find Mr. Leonard's name for the year 1869 ; that is the book I referred to in my direct examination ; the law allowed a man to vote on election day if his name was not on the registry book, on the affidavit of two voters and his own ; if he had sworn his vote in, his name would have been added to the list on the registry book and a note made of the affidavit ; I was not a register in 1869 in Mr. Leonard's district ; what I speak of refers to the State or November election.

Re-direct examination :

There were other elections held in New York in 1869 ; the same registers acted for these other elections ; there were a new set of books made up for each election ; I examined all the books of registry of all the elections held in 1869 ; I did not find the name of Mr. Leonard on any of those books ; each register has a book, and then there is an extra book for the County Clerk's office, and one for the police headquarters ; these are copies of each other, and what is on one is on all the others, certified to ; at the close of each day registering we wrote up the books for the County Clerk's office and Police Headquar-

ters and compared our own ; the board of registers—the four parties I have named, on election day are the inspectors of election ; they have a chairman ; these books are all alike when we start election morning ; the books of the chairman, that which goes to Police Headquarters, and that which goes to Clerk's office, are all checked by one of the board ; one is checked as the election goes on, and the two books for Police Headquarters and Clerk's office are checked from it afterwards ; each voter's name is checked as he hands in his vote ; when a voter votes whose name is not on the registry his name is put on the registry book.

I inspected the books of the chairman of the board for all the elections held in the year 1869.

Second Cross-examination :

I did not search the copy which is lodged in the Clerk's office ; besides the registry books there is a list kept called the poll book ; on that the names are written down as they vote ; and the name of every one who votes ought to be on that list ; I have not examined that.

Re-direct Examination :

Q. If the name of a person applying to vote is not found on the registry, or is not put there in the manner the law prescribes, would he be allowed to vote or would his name go on this poll list ?

(Objected to as already asked and answered.)

A. No, sir ; neither ; it would not go on the poll list until he voted.

Q. When is the entry on the registry made of the name of a person who has it put there on election day ; is the name put there before or after he votes ?

A. It is put on after the Inspector swears him and he votes.

S. Y. Tuthill.

Sworn and subscribed before me, }
this 24th day of April, 1872. }

Edmund D. Halsey,
Supreme Court Comm'nr.

Edward E. Pierson, a witness called and sworn on part of defendant, deposes and says :

I reside at Morristown, and have been for seven years engaged in the grocery business there—four years as clerk for Briant and Atno, and three years as partner in firm of Atno, Pierson & Co. ; we dissolved March 25th, last ; I have known Amasa Leonard for the last two years ; I have seen him, I should think, every few days, here in town on the street and in my store ; I cannot tell how often I have seen him ; he traded with us ; he kept a running account with our firm ; I have my ledger with me, and by reference to it find that the first date was March 13th, 1871, and was a credit of 25 bushels early rose potatoes, and the next was a charge on March 31st, 1871 ; the last charge on these books is March 18th, 1872 ; payments have been made on it from time to time by Mr. Leonard himself ; the total of goods charged is $201.77. [All this testimony objected to as immaterial.] These charges are made in the months of March, April, May, June, August, September, October, November, December, January, February and March : I cannot give the items from the ledger : they are on the debit side, fifty-eight postings : these goods were mostly groceries and ordered by Mr. Leonard mostly, but also by Mrs. Leonard, and by the man who works for him.

Q. Where, during these two years you have known Mr. Leonard, has he resided, as you understood it ?

(Same objection.)

A. Up above Water street or Brookside, as they call it now, on the mountain ; when I saw Mr. Leonard, as I have testified, he was sometimes alone and sometimes with his family.

Cross-examination :

I knew or supposed that Mr. Leonard went to New York in the Winter time ; I never heard anything about it ; I did not know that he owned or kept a house in New York.

(Witness here produced, and it was offered in evidence, a copy of account which I have marked as an Exhibit on part of defendant.)

EDWARD E. PIERSON.

Sworn and subscribed before me, this 24th day of April, 1872,

EDMUND D. HALSEY,
Supreme Court Com'nr.

Frank H. Fairchild, a witness called and sworn on part of defendant, deposes and says :

I was chief clerk in the Post-office at Morristown for fourteen years, and up to about March 20th last ; four or five years ago I was out of the office for about a year on account of my health ; I cannot say exactly how long I have known Mr. Leonard, but I should think somewhere about two or three years ; I have often seen him at the Post-office ; he had a box at the Post-office since January, 1870, according to the record we now have ; the rent paid every quarter ; the record before January, 1870, was lost in the fire ; I think he had a box before Jaunary, 1870, but cannot say exactly ; the fire which destroyed the records took place March 2d, 1871 ; Mr. Leonard has been in the habit of receiving letters and papers through the Post-office ; we have a record of papers received regularly by him on which the quarterly and half-yearly postage is charged ; from recollection, I would say he took

regularly the Maryland Farmer, a monthly, which came regularly since January, 1870, and a county, or Morristown paper; these papers were addressed to Mr. Leonard; I think the Maryland Journal came to him too; I cannot recollect all the papers every one took, but I know he took two or three; do not recollect whether the Maryland Journal came weekly or monthly, but I think it was weekly; letters were received by him frequently; there were some of the folks down every day, nearly, after the mail, and getting letters when they came; the number of his box was 300; I think he has had that box ever since he has been here in town.

Cross-Examined:

I do not recollect whether letters for any other person were put in his box; there may have been letters to others in care of him, or addressed to that box, but I do not recollect Mr. Kaggen's name; I do not recollect of any letters coming in Mr. Leonard's care; it is a common practice to put letters in care of a person having a box, in that person's box.

FRANK H. FAIRCHILD.

Sworn and subscribed before me, this 24th day of April, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Examination adjourned until Saturday morning, April 27, 1872, at———

Theodore W. Phœnix, a witness called and sworn on part of defendant, deposes and says:

I reside and am a native of Mendham; have always lived there, except a year or two in which I resided in Morristown, which was about fifteen years ago; I am forty years of age; I have attended the elections since I have been of age; am well acquainted with the voters of Mendham, and think there are not three in the Township that I do not know; I represented that district two terms in the

New Jersey State Library

Legislature, 1869 and 1870; I have acted as challenger at the Mendham polls.

"Exhibit C," on part of defendant being shown, (witness) he says:

I find Amasa Leonard's name there, [No. 137;] I have looked over the names on this poll book which precedes Mr. Leonard's, carefully; I find one name, that of Freeman Gillespie, before his, which I cannot exactly call to mind; it is No. 125; I have some recollection of that name; of all the rest I know every man; I recollect that man's voting; I recollect there was a man at Baskingridge that had a stage contract to Mendham, by the name of Gillespie, and that name struck me when he came to vote, but I do not exactly know where he lived, or who he was; that is, I do not now recollect in what part of Mendham Township he resided; he did live in Mendham Township, and was a voter there, I think; I do not recollect of any objection being made to his voting; I think the other names besides Gillespie's, are voters in Mendham Township.

I attended the election in the Fall of 1870, at the time Mr. Stout was running for Sheriff: the polls were held at the tavern, kept by William Taylor: the room where the polls were kept was not quite as large a room as this is, which is about twenty-five by thirteen feet: the board sat at the east end of the room [the board of election, I mean,] and the entrance from the bar-room was at west end of the room, at the side: the ballot box was kept on a table which stood the short way, or cross-ways of the room, and there was, perhaps, three feet behind the table, and between it and the east end of the room the table was about three feet wide.

Q. Would you think there would be any difficulty in hearing the voter's name announced by the Judge of Election, by a person in either corner of the west end of the room, or by a person in any part of the room?

A. No, sir: I assisted in making a canvass of the

voters in Mendham Township in the Fall of 1870, and in years previous thereto.

Q. Was or was not Mr. Amasa Leonard considered by you as a voter when you were making out those canvasses ?

(Objected to as immaterial and generally incompetent.)

A. He was.

Q. Was or was not his name put down by you as a voter ?

[Objected to ; the canvass book will speak for itself, and must be produced.]

A. I think it was.

Q. How long have you known Mr. Leonard ?

Q. I have known him since he lived in Mendham Township ; I connot tell how many years it is.

Q. Did you or not suppose him, in the Fall of 1870, to be a voter ?

[Objected to as immaterial and generally incompetent.]

A. I supposed he was a voter in Mendham Township; I do not recollect being present when he voted that Fall in Mendham Township.

Q. Do you now know, or did you then know of any reason why he should have been challenged when offering his vote at that election ?

(Objected to as immaterial.)

A. I do not know, and did not then.

Q. If you had been present when he voted, would you have challenged him ?

(Objected to as immaterial.)

A. I would not.

Q. When did you first hear of any question being raised in any way, shape or manner, in regard to Mr. Leonard's right to vote in Mendham Township, in the Fall of 1870 ?

[Objected to as irrelevant and immaterial.]

A. I never heard anything until this suit began.

Q. Did you hear of evidence being taken in this suit before a commissioner—I mean, of the fact that it was being taken ; and if so, was what you heard relative to Mr. Leonard's right to vote after or before you heard that the evidence was being taken ?

(Same objection.)

A. I did hear, and it was while the suit was going on.

Q. Did you speak to any one in the presence of Major Riley or John W. Demun, or any one else, in regard to Mr. Leonard's right to vote in the Fall of 1870, until after you heard of this suit between Stout and Leonard?

A. I did not.

Q. Did you hear any one else speak of it before then?

A. No, sir.

Cross-Examined :

Q. Where are the Republican canvass books for Mendham Township for the last few years ?

A. Dr. Stiger took charge of them, and that is the last I know of them—I did not examine them before I came here to be sworn.

Q. Did Freeman Gillespie ever live in Mendham Township ?

A. I think he did, or he would not have voted there.

Q. His voting, then, is the reason you think he lived there ?

A. Well, not exactly—it is a peculiar question to answer ; no, sir.

Q. Did he not originally live in Somerset County ; is not that his native place ?

A. I do not know.

Q. How long did he live in Mendham Township ?

A. I do not not know.

Q. You know well enough by reputation, that he was a Somerset County man ?

A. I do not.

Q. Was there any such stage line as a line from Mendham to Baskingridge ?

A. Not that I know of ; there was no mail route from Mendham to Baskingridge.

Q. What did you mean, in your direct examination, that he came from Baskingridge to Mendham ?

(Objected to.)

A. I did not say so.

Q. What did you mean by this expression, then, "I recollect there was a man at Baskingridge, that had a stage contract to Mendham, by the name of Gillespie ?"

A. Because the voter was of the same name as that party.

Q. You do not know whether it is the same man or not ?

A. I know it was not the same man.

Q. Can you tell how many times this man, Freeman Gillespie, voted at Mendham ?

A. I don't think he ever voted there before or since—or whether he was a married man or single man ; I do not know what has become of him.

Re-direct Examination :

Q. Do you know a man by the name of Bowen, who lived with Dr. Fairchild in the Fall of 1870 ?

A. I do.

Q. Did he vote at that election ?

(Objected to as irrelevant, and as shown by the poll book, if at all.)

A. I think not.

Q. Did you hear anything, before the commencement of this suit between Leonard and Stout, which gave you any idea or suspicion, or intimation that Leonard's right to vote in Mendham Township had been questioned by any one ?

A. No, Sir.

THEO. W. PHŒNIX.

Sworn and subscribed before me, this 27th day of April, 1872.

EDMUND D. HALSEY,
Supreme Court Com'nr.

John S. Stiger, a witness called and sworn on the part of defendant, deposes and says :

I am a practicing physician, living in Mendham ; have lived there for the last twenty-two years, excepting about two years and a half in which I lived here in Morristown ; I am forty-six years of age ; I have been in the habit of attending elections, and taking an active part at the polls ; I have been engaged in making canvasses of voters before election for eighteen years back ; I engaged in that duty in the Fall of 1870 ; at that time I considered Amasa Leonard a voter.

(This latter answer objected to as incompetent.)

Q. How was he put down on the canvass book ?

(Objected to for the non-production of the canvass book.)

A. As a voter—as a Democrat ; I kept the canvass book after election ; the canvass book of 1870

was destroyed, I think last Fall, after the new canvass was made; I never have retained them more than one year; I have no recollection of Mr. Leonard voting; I knew he voted; I have no recollection of seeing Mr. Leonard vote in the Fall of 1870; I did not see him vote, but knew he voted.

Q. If you had been present at the time he voted, would you have challenged his vote?

[Objected to as immaterial and irrelevant.]

A. I would not; I supposed him to be a legal voter.

Q. Had you heard from any source any intimation or suspicion expressed that he was not a legal voter?

A. Never, in my recollection, till the commencement of this suit.

Q. Did you hear before the commencement of this suit, any statement or expression of any kind, or any boasting that Mr. Leonard had got in his vote without your knowing it?

(Objected to as immaterial.)

A. Never previous to the commencement of this suit.

Q. Previous to the commencement of this suit, had you talked about the matter to Philip Riley or John W. Demun, or in their presence?

A. I have no recollection of having done so.

Q. Could a person in any part of the poll room in Mendham hear the name of a voter announced by the Judge of Election when announced in the ordinary way, or the Judge's taking his vote?

A. Under ordinary circumstances they could.

I have known Mr. Leonard about three or four years.

Cross-Examined:

I destroyed the canvass book of 1870, by burning or tearing it up; I do not remember which.

That is the Republican canvass book I mean.

JNO. S. STIGER.

Sworn and subscribed before me, }
this 27th day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Commissioner.

Joseph W. Coe, a witness called and sworn on part of defendant, deposes and says :

I was Sheriff of Morris County from 1864 to Fall of 1867 ; in the year 1866 I had a summons put in my hands for service in favor of Ebenezer B. Osborn against Amasa Leonard ; this is the writ.

[Witness here produced the original suit issued out of the Morris Circuit Court, tested May 26, 1866, which I have marked Exhibit on part of defendant.]

I served that writ by leaving a copy at his residence with his wife, or some member of his family, which would be a legal service ; I cannot remember now with what person I left it.

(Objected to as immaterial.)

A. His residence was between Walnut Grove and Mendham, on the Barker Farm ; the date of the service was May 28, 1866.

Cross-Examined :

I know that it was not served personally, because I recollect distinctly leaving it at his house ; Mr. Leonard was not home.

JOS. W. COE.

Sworn and subscribed before me, }
this 27th day of April, 1872, }

EDMUND D. HALSEY,
Supreme Court Com'nr.

Hampton O. Marsh, a witness called and sworn on part of defendant, deposes and says :

I am President of the National Iron Bank in Morristown, and have been for three years last past : I know Amasa Leonard, and have known him five or six years ; he has kept an account with us since July, 1870.

Cross-Examined :

He keeps a bank book, that is, a bank pass-book, which will show the extent of his transactions, if produced.

H. O. Marsh.

Sworn and subscribed before me, this 27th day of April, 1872.

Edmund D. Halsey,
Supreme Court Com'nr.

Silas H. Arnold, a witness called and sworn on part of defendant, deposes and says :

I live at Washington Valley, in Morris Township, on the road leading from Morristown to Mendham, or Walnut Grove ; I have known Mr. Leonard about six years; I think he passes my house on his way to his own place; his place is about a mile and a half further on from Morristown ; I have had dealings with him ; I have bought stock of him, and he has had dealings with the firm—that is, my sons ; in the past two years he has passed my house, I should think, as often as twice a week, and sometimes as often as three or four or five times a week.

Q. Where has his residence been, as you understood it ?

[Objected to as incompetent.]

A. I always thought that Mr. Leonard was a resident with us ; I always considered him so in our school district.

We are in the Washington Valley Brick School District, formerly No. 5, now No. 60 ; I have been in the same school district as Mr. Leonard for the last six years—that is, he has been in the same as I ; I have always been in that district, except about two years of my life.

SILAS H. ARNOLD.

Sworn and subscribed before me, this 27th day of April, 1872.

EDMUND D. HALSEY,
Supreme Court Comm'nr.

John W. Betts, a witness called and sworn on part of defendant, deposes and says :

I am an attorney-at-law, practicing at Morristown ; last Winter I attended a suit as attorney for Mr. Leonard, before Squire Easton, in Morristown, in which suit James Blanchard was plaintiff and Mr. Leonard was defendant ; I do not recollect the date now ; I never had met Mr. Leonard prior to the day of the trial ; the action was an action of trespass, in which damages were claimed for damage done by Mr. Leonard's cattle ; the question of Mr. Leonard's residence was not raised in any way on that trial further than this, that it was stated where he owned a farm ; the question came up in this way : it was questioned how far Mr. Leonard lived from Mr. Blanchard, and I did not know he owned a farm until then ; Mr. Leonard was sworn as a witness in the case, to rebut the testimony of the plaintiff, who testified on his direct testimony that he had notified Mrs. Leonard that these cattle were trespassing ; I think that Blanchard, the plaintiff, testified that he either told Mrs. Leonard that the cattle were trespassing, or asked her to send up and take the cattle away ; I am speaking

only from recollection ; Mr. Leonard was sworn to prove that at this time his wife was in the City of New York.

Q. Did Mr. Leonard state at that time he was a resident of New York City ?

(Objected to as leading.)

A. No, sir.

Q. Please give the substance of his testimony, as near as you can recollect it.

A. I think the only question which was asked Mr. Leonard was, as to whether his wife was in Morris County at the time Blanchard testified that he had notified her that the cattle were trespassing, or to send and get them away ; Mr. Leonard swore that his wife at the time was in the City of New York ; that was all his testimony, as near as I can recollect.

Q. After Mr. Leonard's testimony was given, was this point about the service of notice on Mrs. Leonard insisted on by the other side, or was it admitted by the other side that Blanchard had been mistaken ?

A. Question withdrawn.

Cross-Examined :

It turned out that Blanchard had mistaken Mrs. Kaggen for Mrs. Leonard.

Q. Did Mr. Leonard state how or why he knew that Mrs. Leonard was not there at the time the notice was served ?

A. I don't recollect that he did, though I will not answer that question certainly, because, the truth is, I do not recollect now much about the case, though he may have said something about it ; I will not say he did not.

Q. Did not Mr. Leonard state, in a general way, when on the stand, that his wife had not been out to the farm for sometime previous to, or after the date of the notice?

A. I have no recollection of it ; I did not under-

stand that the notice was in writing ; my impression is that it was verbal ; I think Mr. Blanchard stated the particular day when he went there and saw her personally.

Q. Was, or was it not a notice in writing, that the cattle had been impounded damage feasant, and calling on Mr. Leonard to take the cattle away, and pay the damages and costs of impounding ?

A. As I stated before, my impression is that Blanchard swore that he went there and saw Mrs. Leonard, and told her personally.

I do not know as Mr. Blanchard fixed the date in any other way than by stating it ; I have not looked at my notes of the case since the day of the trial, and had I known that this point would have been raised, I would have refreshed my memory.

Q. How did Mr. Leonard swear intelligently, that Mrs. Leonard was not at the farm on a particular day, unless he swore generally that she was not there at all in the neighborhood of that particular day ?

A. When Mr. Blanchard swore that he served the notice upon Mrs. Leonard, upon a certain day named by him, or gave her the notice verbal—whichever it might have been, and of this I do not recollect, although my impression is that it was verbal—that then Mr. Leonard produced and showed me either a letter or some paper, by which he called my attention to the fact. (Mr. Pitney here interrupted the witness, and said that he did not want the private conversation of the witness and Mr. Leonard, and that the question was not so intended, and objects to an answer of that kind ; also that the question referred to what the witness stated on the stand —witness resumed.) That his wife was not in Morris County that day, and upon that statement I swore Mr. Leonard.

Re-direct examination :

Mr. Leonard had no other counsel except me at that trial ; I did not state that Mr. Leonard resided

in New York on that trial, because my impression was that he lived here ; I have my notes here ; I wish to modify my previous testimony thus far ; that I have looked at no other of my notes, except the note of Mr. Leonard's testimony.

On looking at his notes of evidence, witness says :

I got my idea that the notice was a verbal notice, from the testimony of David Kaggen, Mr. Leonard's farmer, because he swore that he was absent at the time Blanchard came there, and that upon his return his wife told him that Blanchard had been there, and told her about the cattle ; I have now read over my notes of evidence, which cover nearly five pages of my writing ; I swore before that the only question I recollected being asked Mr. Leonard, was as to the whereabouts of his wife at the time that Blanchard said he notified her ; I desire to be understood that that had reference merely to the direct examination of Mr. Leonard in the case.

Q. Did you, in your examination, ask Mr. Leonard where he resided ?

(Objected to, as being already asked and answered.)

A. I don't think I did.

JOHN W. BETTS.

Sworn and subscribed before me, }
this 27th day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Com'nr.

John C. Thompson, a witness called and sworn on part of defendant, deposes and says :

I reside in the City of New York ; I am fifty-two years of age ; I have been personally acquainted with Amasa Leonard about five years ; my wife purchased a place of Mr. Leonard some time in

March or April, 1871, the title to which passed somewhat later in the season ; my wife's name is Anna ; the place she purchased was a part of the farm which Mr. Leonard owned, on which is what is called the Blackford house ; I think I was up in that section, and met Mr. William H. Stiles there ; it was in the early part of June, 1871 ; the date was the 10th day of June ; Mr. Stiles came to my wife's place, and desired me to go with him to Mr. Leonard's, in order to repair a road running in front of our houses ; both of us went from our house to Mr. Leonard's and found Mr. Leonard at home ; we entered into conversation with regard to repairing the road ; we were trying to get an estimate required to put the road in good condition ; I tried to find out how much it would cost, and likewise inquired of Mr. Stiles what my road tax would be ; he said he couldn't tell, unless he could find out how much I was worth ; Mr. Leonard stated to him that I was not a Jerseyman, and that he could not expect to tax me for property, other than that which was in New Jersey ; Mr. Stiles contended that he had a right to tax for all ; I then agreed to subscribe fifty dollars independent of taxes, if Mr. Leonard would subscribe twenty-five towards the reconstruction of the road ; Mr. Stiles and Mr. Leonard agreed to divide the amount of twenty-five dollars between them ; we parted with that agreement ; Mr. Stiles and myself went off together back to the Blackford place ; Mr. Leonard did not say, in that conversation, that he was not a resident ; he said that I was not ; he did not say, in that conversation, that he lived in New York.

Q. In that conversation did Mr. Stiles, addressing Mr. Leonard, say, "I suppose that when you are in New York, your residence is in New Jersey, and when you are in Jersey, your residence is in New York," or words to that effect ?

A. I did not hear any conversation of that kind.

Q. In that conversation was anything said by Mr. Leonard about his residence ?

A. Not about Mr. Leonard's residence.

Q. Or anything said by Mr. Stiles about Mr. Leonard's residence? A. No, sir.

Q. Was anything said about residence except what was said about your own residence?

A. No, sir.

We were engaged in this conversation from fifteen to twenty minutes—it might have been less; I made no memorandum of the conversation except as to the amount of money to be expended, and the general understanding between Mr. Stiles, and Mr. Leonard and myself; there was nothing said about taxes, except road taxes, and the amount which I was to pay; Mr. Stiles was very anxious to find out how much I owned, in order to fix the amount I would have to work on the road; I think there was something said about Mr. Leonard's taxes; it was about the road, taxes, &c.; I think it was that last year there was money owed to Mr. Leonard, by the county, or town, or wherever the money came from—owed to him because he had overpaid, or that there was a balance due him on account of the assessment; there was something due him on account of last year's taxes; Mr. Stiles stated the amount, but I have now forgotten; it was, I think, between seven and ten dollars, as near as my memory serves me; I don't remember that anything was said about overwork, except as to this amount, which was due Mr. Leonard, and which Mr. Stiles agreed to rectify; I have stated all that was said about taxes in this conversation.

I don't remember the time when the taxes were paid on Mrs. Thompson's place, though it strikes me it was about December 20th; they were paid by Mr. Leonard, and the amount was $61.49; the payment was made by him at my request; there was a poll tax charged in my tax bill; it was one dollar; I showed it to Mr. Leonard, and he said it was a mistake; that the same mistake was made with his; that he was not taxed, and he would assume mine and pay it; it was never charged to me, and I paid no poll tax; I have settled with Mr.

Leonard, and that settlement was made some time in January—between the first and fifteenth, I think ; the arrangement as to the poll tax was made previously about the middle of December, I think.

Q. At the time this farm was purchased by Mrs. Thompson, was anything said by Mr. Leonard as to his residence—and if so, what was it ?

[Objected to as incompetent.]

A. Yes, sir ; it was part of the inducement on the part of Mrs. Thompson buying the place—Mr. Leonard living here ; I have heard him speak of it at other times within the past two years, and before January first last, I learned that his residence was here, from his saying so, and I recollect at one particular time on the 4th of July, 1870, my wife and I were invited guests at Mr. Leonard's farm, and he desired me to buy there in order to have neighbors ; at another time, I think it was in March, '71 —he invited Mr. Tuttle and myself up to see the farm, or the part which he chose to sell ; he expected to build, and desired to sell a part of the farm ; we went over the farm and proposed to buy ; a short time after the bargain was concluded, he said he would not sell his part, and had no intention of ever selling it ; his reason was that he had gained his health on the farm, and that the locality suited him.

The testimony foregoing objected to as given, by Mr. Pitney, as generally incompetent.

Mr. Leonard and Mrs. Leonard, Mrs. Leonard's mother, and an adopted son, have been at the farm during the past Winter ; I don't know as I could tell which ones were there all the time, as I might not have been there always myself ; Mr. Leonard I generally found there ; Mrs. Leonard always there, but once or twice ; the adopted son I have never seen off the place but once, and Mrs. Moore I have never known to be away since she first came there.

Cross-Examined :

I reside in New York, at the corner of 69th Street and Madison Avenue ; I keep house there ; my family, at that place, is composed of myself alone ; I do not board there ; I own the house and live there ; I do not know as I could tell who else lives in the house entirely ; Mr. Howard and his wife and two sons compose the family who live there ; I sleep there nights ; I take my meals there ; I do not furnish the table ; my wife lives at Mendham, New Jersey ; she has lived there very near a year ; she keeps house there, and has had no other house or home than that ; I have children, three in number, aged eleven, seventeen and twenty-two ; all have lived with Mrs. Thompson ; I do not remember the date of the contract for the purchase of the farm, but it was somewhere in the month of April, 1871 ; it was in writing ; I do not know now where it is ; it may be in my papers in New York, and it may be among my papers here ; the parties to it were Mr. Leonard and myself ; my wife is only named in it as an heir, I think ; the price is to be given for the farm I cannot give ; there were several contingencies, and if there was an amount stated, I have forgotten it ; it was considered cash.

Q. Was the farm paid for in cash or trade ?

A. The considerations were cash.

Q. Do you mean to say that Mr. Leonard was paid for it in money ?

A. No, sir ; I can explain.

Q. How was Mr. Leonard paid ?

A. By a mortgage ; nothing else ; the mortgage was for the whole consideration money ; between the contract and the giving of the deed, I built a house upon the premises ; I built it by special contract—portions of it ; these contracts were in writing, and were with Mr. Davenport and Mr. Cooper ; Mr. Searing, in Morristown, had a contract, but not in writing ; as builder, the contracts were made with J. C. or John C. Thompson, and the parties named ; John C. Thompson agreed to pay for the

work ; I have not the deed for the premises here ; I cannot say where it is, for I do not know ; I don't think I have seen it since it was executed, though I am not clear on the subject ; if I was present, I think it was executed at Mr. Alfred Mills' office ; I do not know whether it was delivered at that office ; I could not tell where the bond and mortgage was executed ; could not say whether I executed it or not ; my best recollection is that I did ; the bond and mortgage was prepared in Mr. Mills' office ; I could not state in what office the deed from Mr. Leonard to Mrs. Thompson was prepared; I think I gave instructions to Mr. Mills to have the deed recorded ; Mr. Mills has never handed it back to me ; some of the funds expended in building on this property have been furnished by me ; all have not been furnished by me ; my wife furnished some ; at the best of my recollection, I did not repay Mr. Leonard the taxes he paid for me ; I think there was a small balance due me at the time, and Mr. Leonard consented to pay the taxes and await the settlement to get the balance ; we had open accounts of nine months' or a year's standing ; I keep regular books of account by my clerk ; I do not know as I can place my hand on the tax bill which Mr. Leonard paid for me ; I think it is very likely it is preserved ; I have not looked at my accounts lately to refresh my memory of the transaction ; I really could not say whether I charged Mr. Leonard with the amount of this tax bill or not ; I know that he had it charged in his bill when we settled, but whether I gave him credit for it in any other way, I cannot say ; I think I have the bill which Mr. Leonard made out against me, and it has been settled ; the balance when we settled was, I think, in my favor, and has been paid, I think, by note; I should think for less than five hundred, but I do not remember now the amount : I do not know what became of the note : you did not ask what I did with it : I paid it out : I think it is past due, and I have received no notice of its dishonor ; I come out to my wife's place once a week, and stay

generally two days : I generally come out Friday evening and stay till Monday morning : I think I should know Mr. Leonard's hand-writing.

Counsel for defendant here admits that a deed from Amasa Leonard and Mary his wife, to Anna Thompson, dated December 1st, 1871, and recorded December 9th, 1871, in Book D 8, page 441, is in the handwriting of Amasa Leonard, except, of course, the printed parts, which deed I have marked "Exhibit F," on part of plaintiff.

I suppose this to be the deed which I received for the land conveyed to my wife : I do not know how I came to be taxed with the property ; Mr. Leonard has been talking of building a new house on his farm : this was about the time he was selling to me, and since then I think he is making preparations to build there : I have heard of his building here in Morristown, but do not know as it was to live in : he talked of building on some lots he owns here : I never heard him say he was going to build a house here in Morristown, to live in ; I heard him say he had had thoughts at one time of building here, for the purpose of occupancy : I understood him to have abandoned his plans of building in Morristown, from the fact of his having plans to build on the farm : I do not know as I have heard him say, since my wife owned the place near him, that he would build in Morristown, but I have heard him say he was undecided whether he would build here or on the farm ; I have been at Mr. Leonard's house in New York three or four times within the year, may be oftener : I did not generally find the house closed when I went there : I have found him there : (I mean in my visits within the last year) ; sometimes I have seen Mrs. Leonard there : I have seen Miss Leonard there.

Q. Why didn't you bring out the original tax bill, account rendered by Mr. Leonard, your account against him, and all other papers relating to this settlement with Mr. Leonard, and produce and exhibit them before the Commissioner, so that we

could just see how this settlement of the poll tax was made ?

A. My private affairs do not often get mixed up, and I did not know as they would be required here ; if they were required I do not know as I could lay my hands on them in New Jersey, nor did I know that I would be required here myself.

I had heard that my son had been sworn as a witness; I had not heard that my wife had been attending here several days as a witness ; I had not heard what my son had sworn to ; I am willing that Mr. Mills should keep my wife's deed and produce it before the Court when this cause is argued, as far as I am concerned.

Re-direct examination :

I came from the mountain (my wife's place) when I came this afternoon ; my wife is here now ; I never knew that she had been here before to-day ; she came not as a witness, but for the ride with me.

The mortgage that I gave Mr. Leonard for the property bought by my wife was on property in New York; neither me nor my wife guaranteed this mortgage ; it did not emanate from me ; I think it was given by one Jerome B. Crane to Mr. Leonard, and that mortgage was accepted in payment of the land, and in that way the transaction was treated as a cash transaction ; I do not know where the mortgage so given to Mr. Leonard was drawn or executed ; the mortgage I spoke of as being drawn here is the one now shown me.

(Mortgage referred to and shown witness was one given by witness and Anna his wife to Ichabod Searing, dated January 6th, 1872, and recorded in Morris Record of Mortgages, Book V 2, page 541, &c., and marked "Exhibit K," on part of defendant.)

I am not aware of there being any other mortgage given by me, drawn here in Mr. Mills' office ; I think the giving the mortgage to Mr. Leonard was done in the city of New York ; I think the deed to my wife was left with Mr. Mills only for record.

Second Cross-examination :

This mortgage given by Mr. Crane was upon property which I conveyed to him, and was given by Mr. Leonard direct, instead of being given to me and then assigned to him ; I could not give you the number, but the street was 68th where the property was situated ; it was between Fourth and Madison Avenues ; the amount of the mortgage I have forgotten, but think it was $13,-500 ; this was one house conveyed by me to Crane ; I built the house myself, and also several others adjoining; there were seven on 68th street and seven on 69th street; I had owned that property since 1869 ; I bought it of Thomas Murphy, William M. Tweed, Peter B. Sweeney, Richard B. Connolly, and Hugh Smith.

The above testimony beiog read over to witness, he wishes to state that he does not know of his own knowledge the first name of the Mr. Stiles spoken of by him.

A. I have seen him write it W. H. Stiles : he is the overseer of the road there.

JOHN C. THOMPSON.

Sworn and subscribed before me,
this 27th day of April, 1872,

EDMUND D. HALSEY,
Supreme Court Com'nr.

Examination of witnesses adjourned until ten o'clock Monday morning, April 29th, 1872, at the same place, when the examination was continued as follows :

Mrs. Mary Leonard, a witness called and sworn on part of defendant, deposes and says :

I am the wife of Amasa Leonard : we were married in 1854 : Mr. Leonard's residence is on his farm in Morris County, Mendham Township, I believe it is : he changed his residence in the Spring of 1869 : at that time we rented our house in New York, and stored our furniture there until we could build here : in January, 1870, I went to New York : my son was boarding in New York, and he had heard me say I would rather be in New York for a month or two, so, as I could not find any convenient place to board, we thought it best to take two or three rooms and keep house for a month or two : I went down in January and returned in the latter part of April : I cannot remember now whether I came up during that Winter or not : Mr. Leonard during that time was part of the time here and part of the time in New York : my daughter was here, and had charge of the house while I was absent : she generally keeps house in one place and I in the other : she stayed here that Winter ; since April, 1870, we have had Mr. and Mrs. Kaggen on the farm keeping the house, and our family are back and forth at the farm most of the time : during the Summer of 1870, we were here all Summer and until late in the Fall : we went to New York on the 8th of December, and at that time went into our own house in New York : since that time we have had possession of our own house in New York.

Q. You have said, Mrs. Leonard, that your daughter generally keeps house in one place and you in the other: since the Spring of 1871, who has had charge of the house in New York ?

A. If I am away from either place and she is home, she keeps house for me, and when I am home I keep house myself.

Q. Then when you are at the farm who keeps house there ?

A. I keep house when I am there, and when I

am not my housekeeper takes charge—that is, if my daughter is not there.

Q. And who has been your housekeeper at the farm since January, 1871 ?

A. Mrs. Kaggen, until March, 1872, (the middle or latter part) and since that time Mrs. Smith.

I always look after the house cleaning there ; I did this year some—all that has been done ; in the Spring of 1871, I saw to it, and attended to having it done ; last Summer (1871) I spent most of the time at the farm, at my own home ; I went to Virginia on the 19th of September, 1871, for the purpose of visiting some friends in Baltimore, Washington and Warrentown, Va.; we returned on the 21st of October ; Mr. Leonard came back with me ; he did not go down with me ; he came on the 7th of October, and met me at Baltimore, during the Fall of 1871 ; I heard a conversation between Mr. Leonard and Mr. Caleb H. Leek, at Leek's place ; it was after my return from the South ; we, Mr. Leonard and myself, stopped at Mr. Leek's place ; Mr. Leonard and I were in the buggy ; Mr. Leek was in his barn yard, and stepped over to the fence, and Mr. Leonard asked him if he had anything for him ; he said he had understood that there was a summons out for him, and asked Mr. Leek if he had it ; he said he thought Mills Loree, or some other man he mentioned, might have it ; he also said he would not serve a summons for Mr. Blanchard, unless he was paid in advance for it ; he never mentioned his having been up to the farm at all, or of his having had one ; that was all, I believe, which was said.

Q. Was anything said about a post-office box in that conversation ?

A. Yes, sir ; Mr. Leonard told him if he had a summons or any notice to serve on him, if he would leave it at his post-office box (300) he would receive it there, as he was frequently back and forth, and attend to it ; it was stated that the Post-office box was here in Morristown ; as near as I can remember, this conversation was in the middle or lat-

ter part of November ; it was in November ; we were coming from home, the farm to Morristown, at the time of the conversation ; we have always had the name [the Mountain Home] for the farm since we owned it ; we address our letters, "Mountain Home ;" I say always ; perhaps five or six months elapsed first, before we gave it this name : the house at the mountain home was furnished by us when we bought the place : we moved our urniture out from New York [most of our furniture, I mean] ; we have bought some few things here : none of that furniture has been taken back to New York : the piano and melodeon at the mountain home belong to my husband—at least he bought them : they are sort of a family affair : they were brought both from our house in New York : the piano in the parlor of our house in New York belongs to Mr. Leonard : it was put there sometime early last Fall, I think a day or two before Thanksgiving : it is a new one : before it was bought we had one of Mrs. Stephens, who desired us to keep it till she moved : the piano here at the farm is a very good one, of Carman & Fancher make, I think : it has been called a very fine tone : in the Fall of 1870, we took down to New York, fruits, vegetables, a small rocking chair which I had brought up in 1869, and which belonged to a set in New York, and was a very easy sewing chair, and my sewing machine : this was all the furniture we took back : no articles of furniture have been taken down since, except an extension table which was taken down last Fall : this table belonged to my oak dining-room set which was in New York : we always, whenever we went down to New York in the Fall, took down our fruit, vegetables, clothing [Summer and Winter brought from New York for fear of the house being broken into in New York] and table linen and some bedding : this has been our habit for several years : there was no difference in the character or amount of what we took down in the Falls of 1869 and 1870, from what we had taken down previously : I always left bed-

ding and bed clothing sufficient for four or five beds: the clothing taken down in the Fall of 1870 was most of it brought here in the Spring of 1869.

Q. And the clothing taken down in the Fall of 1871, when was that brought here?

[Objected to because it does not appear that any was taken down.]

A. It was brought here in the Spring, or late in the Spring of 1871: when I came up in June, I think it was: the clothing was taken down on Saturday, before I went South: I took then my own clothing, my husband's clothing, and, perhaps, some of my daughter's: that was summer clothing which I then took down.

Q. And the Winter clothing of your family, where was that packed and kept last Summer?

(Objected to as leading.)

A. Part of it was here—most of it; the woolen goods were here, and I always send most all of my blankets here in the Spring; I have between two and three dozen of them, and I cannot pack them very well in New York, so as to keep them away from the moths.

In the Fall of 1870, we took four pictures to New York—the photographs of myself, Mr. Leonard, and of our son and daughter; Mr. Leonard's and mine were taken in Peoria, Illinois, I think in July, 1870; our son's and daughter's were taken in New York, soon after, on Broadway; I cannot remember the artist; they were brought up here that Summer, after they were packed and framed in New York.

In the Fall of 1870, Mr. Stout did not render us any assistance in packing; Mr. Leonard and myself, with the assistance of Mr. Kaggen and the boys, did the packing; there was no packing done in the parlor; Mr. Stout was never asked by me to

help pack ; I never asked any one except those in our own employ ; he was there while we were packing ; he came in the afternoon, and was there from an hour and a half to two hours ; I cannot tell exactly, but should think about an hour and a half ; he and Mr. Leonard went into the parlor to talk, and I cannot tell what was said there, but he left our house about sundown ; he was not engaged at anything while at our house that I know of ; I think there was no guest staying at our house at the time ; this was the 23rd of December, I think, when he was there ; we went down on the morning of the 24th ; that was the time we moved the things down; I went down that afternoon ; I had been up two or three days before packing these things, probably three or four days.

During the Summer of 1871, I had my chambermaid from New York ; she remained nine weeks with me, and went back to New York about the time I went down, which was the 15th or 16th of September ; I had no other servants there except those that were there all the time ; our house in New York was shut up for a few days only last Summer, it was in July ; my family all came up into the country with us the Saturday before the 4th, and all remained until the following Friday except Mr. Stevens ; he went down the morning after the 4th ; he took his meals at a restaurant during that time, or at a friend's.

Charles Burnside was left an orphan about ten years ago ; his mother died about the last of April, and was buried the first week in May, ten years ago this coming May ; his father had then been dead four years ; he and his sister have been with us ever since ; we have taken them and done with them as our own children ; we have had them and consider them such ; Josie, as we call her —her name was Mary Josephine—was ten years in March, the year that her mother died ; Charley was six years in May of that year ; while I think of it, it is very near eleven years this April, since their mother died ; they were of no relation at all to either myself or Mr.

Leonard; their father was at one time my brother-in-law; he married my sister, who died and left no children; and these were his children by a second marriage; Charles Burnside has been at home on the farm during the past Winter; he has been there the most of the time since we have owned the place; since we have owned the mountain farm he has been going to school at the brick school house, and he is there now at school; in the Winter of 1870, when I went down, I took him with me to send him to school there, but he had not been there more than three weeks before I had to send for a doctor for him; he is not a strong boy at all, and is inclined to consumption, of which both of his parents died; in the country he keeps pretty well, but in New York he is miserable in health.

At present I have my youngest sister, Charlotte A. Moore, and Caroline Dressner, boarding with us; Miss Dressner is an old friend of ours; she had been for six years with a family named McCrae, who moved to Newburgh last April—about the middle of April; she then came to me and asked me to take her to board; she expected to be married, and did not want to go into a strange family; she is not married yet, and is with me yet; she has been a friend of mine, I think, some eight or nine years; my sister was boarding with a family, also friends, who broke up housekeeping unexpectedly; and my sister took her trunks direct to my house the day before I went down in September last; she asked me if I could accommodate her, and I took her at her request; she is a teacher in New York; my father is dead, and my mother lives with me in the country.

We have Mr. and Mrs. Stephens, boarders, since the 9th of December, 1870: Miss Florence Stephens, their daughter, and Mrs. Hansel, their niece, [a widow]: Mrs. Hansel has been living with Mr. and Mrs. Stephens since she was a little girl; in the Fall of 1870, in the last part of November, I was in New York; I thought if I could get a place to board for myself, husband and daughter, I would

do so for the Winter months ; not finding a place to suit me, I made up my mind to remain here ; I called on Mrs. Stephens before I left the city, and speaking of getting a place to board, she asked me how I would like to take the place off their hands and take them to board for the Winter ; I told her I would talk to Mr. Leonard about it, and make up my mind and let her know in a few days ; then I talked with him ; he thought we would be very much crowded, but if I thought I could get along, to do so.

[All this testimony objected to as irrelevant and as a waste of time.]

I then told them I would take them from the first of December, if they thought they could get along ; they commenced packing their things, and got things settled as much as they could, until the 8th of December, when my daughter and I went down ; Mr. Leonard remained here ; on the evening of the 9th of December, they took their first meal with me, and continued with me until the middle or third week in July, when Mrs. Stephens and daughter went to Saratoga, and they returned on the 18th of September ; in that time Mr. Stephens and Mrs. Hansel were away about two weeks ; they stayed from the 18th of September to the 21st of October, when they found a place which suited them ; in March, 1871, Mr. Stephens came to us and asked us if we would not accommodate them a little longer ; we were preparing to go into the country, early in the Spring ; and we told them we would try to accommodate them ; at that time his wife expected to get away on the first of June ; they have none of them been with me since the 21st of October, unless visiting occasionally.

Mr. Stout came to our house for some time and took dinner at our invitation, and we were willing that he should continue to do so ; when Mr. Stout spoke to Mr. Leonard and said he would prefer to

pay for his meals, as there was no good restaurant in the neighborhood, and he would feel freer to come, Mr. Leonard told him if it would make him feel more comfortable to pay for his meals, he could do so ; he finally agreed to pay twenty-five cents for each meal ; I kept no account of them ; Mr. Stout kept account himself, and sent me ten dollars at one time, and in his note said that for fear he had not counted right he made it six meals over ; we settled by his account, whatever it was.

Examination here adjourned for dinner, and then resumed as follows :

Mr. Stout frequently stayed all night at our house in New York, and then our house being so full, my daughter was obliged to turn out of her room to accommodate him ; we had been acquainted slightly with the Stephens family several years before we made this arrangement with them in the Fall of 1870 ; the manner in which they came to be in our family was talked of before Mr. and Mrs. Stout both.

Q. Did you ever say to Mr. Stout that you did not like to live in the country, and was very sorry that you had ever bought the farm, or any words to that effect ?

A. No, sir ; I am extravagantly fond of the country for eight or nine months of the year, and during two or three months in the Winter, when the going is so bad, I would rather be in New York ; we have talked of building in Morristown and on the farm ; I would prefer to build on the farm, and Mr. Leonard had one or two drawings made last Summer or Spring ; I had selected my spot ; Mr. Kaggen and myself walked out back of the house in the corn field, and selected the place where I wished to build ; that was last Spring, just after corn came up ; I think it was in May ; we had talked of it the year before ; we had been undecided whether to build on the mountain or here in Morristown ; I preferred the mountain on account of the gossip of the town.

Q. In the Fall of 1870, or the succeeding Winter, did you tell Mrs. Stout that you were glad to get back home to New York, and that you meant to stay there ?

A. I don't remember saying that ; I think Mrs. Stout asked me why we went down, and I explained to her the reason why we went down, and about our taking Mr. Stephens' family with us ; I was present when Mr. Leonard sent Elmer Stout to pay his (Leonard's) tax to Jerome L. Stout ; I cannot tell who else was there ; Mr. Leonard handed Elmer an envelope, and asked him to take it to Mr. Stout, and ask him to pay his taxes for him ; I think there was no conversation there between Mr. Leonard and Elmer as to the residence or non-residence of Mr. Leonard ; I don't remember of anything being said at all about it ; Elmer Stout left in a very short time, probably fifteen or twenty minutes after Mr. Leonard handed him the envelope, and left the room in a few minutes after receiving the envelope.

Q. Did you hear, before the election in 1870, that Mr. Leonard was going to vote for Mr. Stout ?

A. Yes, sir ; I heard him and Mr. Kaggen talk of it at the table.

(Objected to as hearsay.)

I heard them say they would do what they could to get Mr. Stout elected ; this was a short time before election—a few days, it might have been a week before ; I did not oppose the purchase by Mr. Leonard of the Walduck place ; I was very sorry he did not get it ; he did not get it because Mr. Walduck asked him more than he thought it was worth ; he offered a thousand dollars more than he intended, because he knew I would be disappointed in his not getting it ; that is about six miles from Morristown, on the main road between here and Mendham.

(An indenture, purporting to be dated November

5, 1870, from the managers of the Association for the Benefit of Colored Orphans, to Mrs. Amasa Leonard, being shown witness.)

Q. When was the writing inserted in that paper, and where was it executed ?

A. It was in the Fall of 1870, November 5th, 1870. It was executed in New York City ; the subscribing witness, O. K. Hotchkinson, is one of the managers of the institution, and lives there ; it is at Carmansville, 152d Street, New York, I think.

(This indenture, offered in evidence by Mr. Mills, and marked by me "Exhibit L." on part of defendant. It was objected to as irrelevant.)

The paper was drawn in New York, at the institution ; that is my signature to it ; Mr. Leonard at the time was at his factory in New York ; this boy named in the paper, remained here in the country until I went to New York, in December, 1870 ; he stayed with us till early in the next Spring ; the cemetery lot was bought for a burial place for the family ; at that time Mr. Leonard thought he would bury his brother, who is buried in Greenwood, there ; Mr. Stout was at the farm three or four times when he (Mr. Leonard) was sick, five years ago this coming Summer ; he was there, and traded some sheep for him ; I believe Mr. Leonard was not able to get out the first time ; he was there twice, and then, I think, he was there again when he was out gun ning he brought a rabbit and one or two birds, but whether all at the same time, or in two different times, I cannot say ; he asked Mr. Leonard, at the time of the Fair here in Morristown, to go down with him ; he said he would come over with his carriage, and take us both down ; we went down to the Fair ground with Mr. Stout ; he brought us back home again, and they stayed all night with us—Mr. and Mrs. Stout and the two little girls ; they went home about ten o'clock the next morning ; that is the only time Mr. Leonard ever went out riding with him.

Cross-Examined :

I cannot tell you the exact size of the photographs, mentioned by me, in inches, but they were about two feet long—I think they were half life size ; they were not colored ; they are now hanging in my parlor in New York ; they have not been back to the farm since I took them down in December, 1870 ; I have not had the photographs of Josie Burnside and her brother taken in the same way, hanging up there ; the sewing chair has not been back to the farm since I took it away in December, 1870 ; nor the sewing machine ; I think we have had the piano, which is at the farm, about nine or ten years ; Mr. Leonard's son is twenty-seven or twenty-eight this July coming ; he was educated in New York city ; he went to one of the public schools at 47th Street, I think, and then graduated there, and went from the highest class there to a college, or something of the kind, in 12th Street ; my daughter was educated until she was thirteen or fourteen at 47th Street public school, and then at the Wesleyan Female College, at Wilmington, Delaware ; she was at the latter place, I think, four years ; she never learned any trade ; she never had any need to learn a trade ; we attend, usually, the Methodist church in New York ; I go to the 53d Street church most of the time—occasionally go to 53 Street church and 44th Street Mission Church ; when we are here, we attend church at Morristown, sometimes at Mendham, and occasionally at the Grove ; I very seldom go to church without my husband—I once in a while do.

Josie Burnside is with me in New York ; she went down in the Winter of 1871, a year ago now ; I think it was soon after New Year's, in January, some time ; she did not spend her Winter here in Morristown ; that is, all the Winter ; I don't think she was here until April 1st ; she went up to the mountain home to sew for Mrs. Kaggen a little while : it might have been February that she went down : I don't think it was as late as April :

Charles Burnside goes to school part of the time in the Summer time; he has not stayed away from school all Summer for the last two Summers.

Q. At what time and when, during the last two years, has he gone to school between April and October?

A. I cannot tell exactly the time, but I think in April and May; he generally stays home in corn planting time, and in harvest.

This Charley Burnside generally calls me Aunt Mary, and Mr. Leonard Uncle Amasa; I cannot remember binding up Mr. Stout's finger when it was cut or wounded; there may be circumstances which would bring it to my mind.

Q. Do you recollect Mr. Stout tearing the inside of the first joint of the second finger of his left hand on a nail on the inside of a barrel in which fruit jars were being packed in the dining room, and of the blood dropping off of his fingers on the jars?

A. I do not recollect anything of that kind.

Q. And do you recollect now of your wrapping up his finger?

A. I do not—nothing of the kind.

This colored Orphan Asylum send their children to the country when they bind them out; they generally refuse to bind them out, unless they are going to the country; I applied for this colored boy, and told them I was going to take him into the country, and they asked me where; I told them we resided in Morris County, and that our railroad station was Morristown; that we lived some five miles away from there, but I had forgotten the township, whether Mendham or Randolph, and that I was going to take the boy there; I did bring the boy here; I kept him here until December 8th, or a few days after, when we moved our things down, or when our family came down; he may have come down the next week with Mr. Leonard; I cannot say; he stayed with me until that Winter sometime; I cannot tell exactly when he did go away; he had gotten spoiled; I suppose by being

humored too much in our family, and we could not get along with him; in the Summer of 1870 I cannot tell what business my husband was doing at the factory; I do not know it to be a fact, that there was not much doing at the factory for a year before we moved down in 1870; the rooms in which I kept house in the Winter of 1869-1870, were on the corner of Eighth Avenue and Fifty-second street; my husband did not pay the rent; my son took the rooms, and paid the rent; he took them, I think, the 3d or 4th of January, and kept them until the last week in April, when I came back here.

The chambermaid, who was out here nine weeks, was my regular chambermaid in New York; she lived with me before she came out here, and afterwards, and until a few days ago; she was out here before Miss and Mrs. Stephens went to Saratoga; the nine weeks she was here were not altogether; she came out first in the last of June, at the same time I did first, and stayed here I cannot tell how long; she was out altogether nine weeks, going back but once for a week or ten days, I think; it was in the latter part of June that I came out for the first time, and from that time until the 15th of September, was back in New York I think, twice, probably two or three days at a time; I don't remember being down oftener than that; I was up here canning fruit; most of the time I was canning fruit; I took that fruit, or part of it, back to New York; there is plenty of it at the farm yet for any friends who might come; my cook was out here for a week last Summer; from the Saturday before the 4th, until the Friday after; during the rest of the Summer she was at the house in New York.

Re-direct examination:

I have been in the habit of canning fruit here since we have owned the farm; I generally put up from one hundred and fifty to two hundred cans; I am always in the habit of taking canned fruit down to New York in the Fall.

Q. Why did you stay in New York so late last Spring?

(Objected to as not re-direct examination.)

A. On account of having Mr. Stephens' family with me; I wanted to accommodate them.

Q. Had you been at the farm that Spring before you came out in June?

(Same objection.)

A. Yes, sir; I cannot say how often through the Winter we generally come up—all through the Winter—sometimes twice a week, and averaging about once a week, and in the Spring, until I came up, it was about the same—once or twice a week; when I came out in this way, I came out with Mr. Leonard.

This black boy was taken from us back to the institution; we—Mr. Leonard and I—were out riding, and stopped there, and told them we could not get along with him, and they sent a policeman and took him back; he was taken back at our request; he cried bitterly at going.

Q. In speaking of the size of the pictures as you have, what do you refer to—the size of the pictures themselves, or of the frames?

A. I meant the pictures and frames together; they might be a little larger; the size I gave is as near as I could carry them in my eye.

At the time Mr. Leonard's son and daughter's pictures were taken in New York Charley Burnside was out here, and Josie, I think, was here in Morristown, learning her trade.

Mrs. Moore, my mother, is now at home, at the Mountain home; she has been with me since the first of August last, I think, with the exception of two or three weeks last Fall, when she was visiting in New York; she has her bedroom by herself.

Second Cross-Examination :

Before last August Mrs. Moore had been with my sister, Mrs. McClae, at Harlem ; I have two sisters married, and she makes her home with us three, sometimes one and sometimes another ; I cannot say how long she had been with Mrs. McClae when she came to me last August ; my daughter, Miss Lizzie Leonard, has received a very fine musical education, both vocal and instrumental ; I cannot say how many years she has taken lessons ; she took them all the time she was at Wilmington and for some years before ; my son, Mr. Caleb Leonard, has taken lessons, and is a splendid musician ; he is not much of a singer ; he has a fine voice, but does not care for vocal singing ; he is a fine organist, pianist and violinist ; he does not spend much of his time at the farm ; he is a traveling agent for a house in Baltimore.

Second Re-direct Examination :

The Burnsides have shown no taste for music ; efforts have been made to get them to learn music ; my daughter has tried to learn them, and also Mr. Lewis Benjamin with Charley ; a violin was provided for Charley.

MRS. MARY LEONARD.

Sworn and subscribed before me, }
this 29th day of April, 1872. }

EDMUND D. HALSEY,
Supreme Court Comm'nr.

Mr. Amasa Leonard, the defendant, being re-sworn, deposes and says :

It was my intention, when I bought the cemetery lot in Morristown, to remove my brother from Greenwood Cemetery, where he lay in a vault at the time, but it became so late in the season before we could do it, that the ordinances in New York

would not permit us to do it ; we could not get a permit to do it ; I therefore bought a grave, as he was the only member of his family likely to need one, and buried him at Greenwood ; I could not say when I bought this grave ; it was in the Summer of 1869, I think.

In the Fall of 1870 I told Mr. Stout I was going to vote for him ; the first time I recollect speaking to him about it was on the Sunday succeeding the 22nd of October ; from that day to the day of election we had several interviews on the subject ; at each of those interviews I assured him of my determination to vote for him, and to do all I could to help him in his election for Sheriff ; on the Sunday spoken of our interview was at his house in Mendham ; the election was the principal topic of conversation ; Mr. Stout was very much excited because of the Rev. Mr. Stoutenburg publishing a letter of his ; that is how I fix the date ; the letter was published in the *Jerseyman* of October 22nd, 1870.

Q. After that interview on the Sunday in October you have spoken of, how frequently before the election did you converse with Mr. Stout about election, and in those conversations, if any, was the subject of your voting mentioned, and if so, what was said ?

A. I don't know as I can definitely fix more than two occasions, and the date of those conversations I cannot give, as I have nothing to refresh my memory with ; the first one was near my house, in front of the barn, on which occasion I promised Mr. Stout that I would come over, and let Kaggen come over, who was considerable of a politician in Mendham Township, bring my horses and carriage, so that they might be used in bringing such voters up as might otherwise be unable to get there ; and try and induce Mr. Rheinthaler to vote for him ; the other occasion I am not sure, but think it was the day before election ; I saw Mr. Stout in Morristown ; he was immediately in front of the Iron Bank Building, talking with some gentlemen ; I

think I was on my way to New York ; he left the company he was in and came to me and urged me to be on hand on the day of election ; I assured him that I would ; I believe those are the only interviews I can recollect, although in every interview I had with him about that time the election was the subject of conversation.

I don't remember that I can say anything particular which was said on those occasions with regard to voting for him, except to be sure and vote for him and do what I could for him ; on the day I met him at Morristown, he seemed to think the shafts of the enemy were directed at him, and that the burden and heat of the day was on him ; among the rest Mr. Pitney was shooting at him pretty hard.

Examination of witnesses adjourned until Thursday, May 2nd, 1872, at the same place, when and where it was resumed as follows :

On election day I went over to the polls at Mendham from my house on the mountain, with David McKaggen and Charles Rheinthaler, in my carriage together ; as near as I can now recollect, it was about ten o'clock when we left the house ; we arrived at Mendham probably at eleven o'clock, and voted, I think, within the first fifteen minutes after we got there—all three of us voting about the same time ; at that time I was fully entitled to a vote at that place ; I had no fear on my mind of being challenged by any one ; we voted shortly after getting there, for the reason that I wanted to secure Mr. Rheinthaler's vote for Mr. Stout ; he being a Republican, I was afraid to wait long else some of the Republicans might get hold of him, and persuade him to vote otherwise ; Mr. Rheinthaler was a legal voter, as far as I had any knowledge, either before or since ; the reason given to Mr. Rheinthaler for voting so soon after we got there was that he

might get home again by noon time, and go to work, as he was at work for me at that time; I did not cause him to lose any time on account of his voting.

Q. The plaintiff, in his testimony in this case, makes this statement: "About eleven o'clock in the forenoon there was a man voted who, Mr. Leonard informed me, had no right to vote; that he had heard so; this man was brought in by the opposite party; Mr. Leonard remarked to me, 'If that is the loose way you allow voting here, if I thought I would not be challenged, I would vote and balance it off;' I told him if he desired to do so, I thought I could make arrangements whereby he would not be challenged;" state the facts about the matters referred to in this quotation that I have made from Mr. Stout's testimony.

A. I never heard of any proposition; I never made any proposition to vote illegally, or ever engaged in procuring an illegal vote, either directly or indirectly, at Mendham polls, or any other part of the country, to the best of my knowledge and belief, since I have been an inhabitant of this world, and there was no proposition made to me, or in my hearing, to make any arrangement whereby I could vote.

Q. Your answer is general in its character, and I will ask the master to read over the question again to you?

(Question then repeated.)

A. There was no arrangement made with me, nor did I know, up to the time of my voting, of any particular one voting illegally or otherwise; and there was no such conversation between Mr. Stout and myself, and I had no idea, up to the time this trial commenced, that anybody entertained an idea that I voted illegally, there or anywhere else; I make this statement without any reservation of mind at all.

Q. Before you voted that day, did you have any conversation with the plaintiff about any one's voting illegally, or any one having voted who had no right to vote?

A. I did not.

Q. Or with any one else, besides Mr. Stout, did you have such conversation before you voted ?

A. I did not.

Q. Did you know at that time, or at any other time, of Mr. Stout's calling out Dr. Stiger, or any one else, in order to make an arrangement for your voting, or to get him out of the way while you voted ?

A. I did not.

Q. Before you voted that day did you have any talk with Mr. Stout or any body else, about your vote being challenged or being in danger of being challenged, or anything of the kind ?

A. No, sir, I did not.

Q. Did you have any idea or suspicion that day, that there was any thought or probability of any challenge to your vote from any quarter ?

A. I did not ; on the contrary, I had been solicited to vote there repeatedly from year to year, and I knew that both political parties regarded me as a voter.

There was no secrecy used by me in depositing my vote ; I voted as every American citizen should vote, without fear or favor ; my impression is, with regard to the dinner hour, that we went from the polls to Mr. Stout's house in his carriage, and my recollection of it is that Mr. Stout's son, Mr. Stout and myself, went in company ; I am not positive ; I am governed more in my ideas there by Mr. Stout's known politeness, for I do not think he would have allowed me to walk around in the mud to his house when he had his carriage at the polls ; I have no recollection of any special conversation with Mr. Stout in regard to voting, on our way to dinner ; that is, more than would naturally occur on election day ; I don't remember any conversation with regard to my voting at all ; after we reached

Mr. Stout's house, and got into the house, Mrs. Stout came forward, and after the usual salutations when friends meet, as near as I can recollect, and my mind was brought to it by Mrs. Stout's testimony, Mrs. Stout asked me if I had voted: I replied that I had: Mr. Stout, who was near by in the same room, heard the question, and after I had answered "yes," said "yes, he got in very nicely," and laughed, which I suppose Mrs. Stout understood to be a joke: I think she then made the remark "don't you think you have done wrong?" to which I replied, "I don't think I done wrong—I voted to correct a wrong:" in her remark I suppose she alluded to the very many stories and tales which had been gotten up about Mr. Stout, and over which I knew she felt very sore, and I suppose she meant by her question "don't you think you have done wrong?" have you any doubt in your mind about these stories; and hence I answered as I did, that I did not think I had done wrong, and that I had voted to correct a wrong which I thought had been really done to Mr. Stout at the time.

I have no recollection of any question being raised at any time at the table about my vote being legal, and I had no doubt in my own mind: Mr. Stout had written to me two years before as to my voting there, and requesting me to vote.

Q. Was anything said at the table about your having voted to even another man's vote, who had voted illegally, or anything to that purport or effect?

A. I have no recollection of any such conversation.

Q. Who was present at the table besides Mrs. Stout's family?

A. Elias Briant, I believe, was the only one.

Mr. Briant talking of things which had occurred in his younger days, the fight he had at the polls, &c.: I don't recollect of any particular fights he spoke of more than his general electioneering experience: I think I may have told how things were done in New York sometimes—how things were

done around the polls: and I think, also, I told of what I had heard had been done at Mendham polls, but of which I knew nothing myself positively, and that was in reference to a man voting there in the Spring election of that year, or of 1869: I did not say that my voting place was in New York, or that I had no more right to vote there than Oakey Hall: I neither said nor intimated that I had got my vote in slyly: I don't think there was anything said about Mr. Bowen's voting at the dinner table, but there was a man named Thomas Boarden, who had worked for me in the Spring, and who came from Massachusetts, and was then living with his wife at Mendham: Mr. Stout said he heard that Phœnix was going to run him in, and that as Kaggen and myself were the only ones who could challenge or contest his vote properly, and Mr. Stout requested that we would keep a look out for him, I told Kaggen when I saw him when I went back to the polls, and we stayed there all day, until the polls closed, watching for Thos. Borden, that man; in the evening or late in the day, Mr. Stout requested Kaggen to go down to Dr. Fairchild's, and try to induce Bowen to come up and vote for him.

(All this objected to as irrelevant.)

Borden did not vote, as I learned of; in the afternoon of that day, I think after three o'clock, I was standing on the tavern stoop, fronting on the road, when Mr. Riley came up to me very abruptly, and with anybody else I would have thought very impudently, and said to me, "Who are you? I have seen you around here all day, and don't know who you are." I replied to him that my name was Leonard, and that I lived over on the mountain; and he said, "Oh, yes, I know you now;" and noticing that I had a masonic charm on, the conversation turned on the subject of Masonry; he told me of his connection with a lodge; invited me over to see the lodge-room, and we had a ram-

bling conversation; but the subject of voting, or of candidates, or the election, I have no recollection of anything of the kind being mentioned; I know it was in the afternoon, because it was getting very unpleasant on the stoop by reason of the damp weather, and it was still more unpleasant in the bar-room by reason of the tobacco smoke, and I was very glad to go over and look at the lodge-room with Mr. Riley for these reasons; I did not tell Riley that I was not a voter then, for I had voted then, and I don't think I would have lied on myself then.

Q. You have stated in your first examination in what way you paid a poll tax in 1871, and that it was allowed to you by Mr. J. C. Thompson in your settlement with him; when was the settlement made, which way was the balance, and how was that balance paid?

(Objected to as not rebutting; there has been no evidence produced by plaintiff in this matter since the witness was on the stand before.).

A. It was allowed to Mr. Thompson in settlement; the date of settlement I cannot give, except by inference; I think the settlement took place in December, at which time I gave him in settlement two notes; the first one was paid in April for $395.45, paid April 15th, which Mr. Thompson passed to Messrs. Atno, Pierson & Co.; deposited by them in the National Iron Bank at Morristown, and paid by the Sixth National Bank of New York in my account; the other note is due on the 16th of May for $867.08; that is not due yet, and therefore I cannot give the history of it; $61.49 was allowed to Mr. Thompson in that settlement for taxes; it was paid by my check, dated December 19th, 1871, on Sixth National Bank of New York, for $96.07 to order of "David Woodruff, Esq., (Col.)"

(Witness here produced said check, and it was offered in evidence, marked by me "Exhibit M." on part of defendant.)

Mr. Thompson's taxes were $73.06, less $11.57 road tax, making $62.49; my taxes were $39.56, and the road tax $5.98, which was stricken out, leaving a balance of $33.58 for me to pay; I made a memorandum on the back of this tax bill when I sent it over, which is here now; the two sums make up the amount of the check; in that memorandum I did not make any mention of the poll tax, because, I suppose, that the question would never come up except between Mr. Thompson and myself.

(The tax bill, referred to by witness, is here presented, offered in evidence, and marked by me "Exhibit N," on part of defendant; the name David Woodruff on back of the check and at bottom of tax bill are admitted by Mr. Pitney to be in his, Woodruff's, handwriting.)

Examination here adjourned for dinner, and then resumed as follows:

The check was sent by me from my house, by David Kaggen, to Woodruff.

In Fall of 1870 I paid my tax by check to order of Collector; I have it with me (Exhibit E); I have sent it over to Mendham, to Mr. Stout, and requested him to pay my tax with it; I sent it by Mr. Elmer Stout to Mr. Jerome L. Stout; I sent it to Mr. Jerome L. Stout as a friend, he living in Mendham where the Collector would be; it was then the 22d, and the time was then out for paying taxes; I enclosed it in a letter to Mr. Stout, and in that letter I told him what I wanted him to do.

(Counsel for defendant here requests the plaintiff to produce that letter, in compliance with written

notice so to do, served upon the plaintiff April 27, 1872, to which plaintiff makes no reply.)

(Counsel for defendant offers in evidence notice dated April 27th, 1872, endorsed "service admitted, April 27, 1872, Pitney & Youngblood," which I have marked "Exhibit O," on part of defendant.)

(Counsel for defendant, addressing the plaintiff, says: "will you produce that letter referred to in the notice here shown to you (last Exhibit,) to which plaintiff makes no reply.)

Q. Have you any copy of that letter?

A. I have no copy of it; it was written at the mountain house.

I had no conversation with Mr. Stout prior to sending that letter in front of Voorhees' store, in reference to the tax lists; I had no conversation with him in any place, prior to sending the check in regard to the tax lists being returned; I had no opportunity; I did not there, or in any other place, that Fall, compare my tax bills with the duplicate, or assist him in doing it.

Q. Mr. Stout, in his testimony, says, "I notice that there was no poll tax on it (referring to Leonard's tax bill,) and knowing he had voted, I asked him if this bill had been rendered to him before or after election? I told him I supposed the Collector would have given him a new bill when I saw him vote, as that was customary for the Collector to do at the polls." Did Mr. Stout say that, or anything to that purport or effect, and if so, when, where, and what was it?

A. On the 23rd of December, 1870, when Mr. Stout called at my house to see me at the farm, we went into the parlor as soon as he came, almost, and his tax bill was part of the conversation; the tax bill was $86.38; the check that I sent to him was $77.14; and the road tax was $9.24, which I

had worked out, according to my view of it ; but there had only been $9 returned as worked out, which left a deficiency of twenty-four cents, which Mr. Stout or Elmer was kind enough to advance, to make up the deficiency ; I also observed on the bill, when it was returned to me, a memorandum as to the poll tax ; and Mr. Stout remarked, as near as I can recollect, that the Collector should have charged it on the bill, but as it was returned and paid for now, it made no difference ; this was the day after it was paid by the check, and I supposed that had Mr. Stout any very conscientious scruples as to the poll tax, he would have advanced the dollar too.

Prior to this 23rd of December, I don't think I had seen Mr. Stout for a week ; I don't remember anything being said in that conversation as to the Collector being in the room when I voted ; I recollect seeing the Collector that day and getting him to correct Mr. Ruddel's tax bill ; I did not say to Mr. Stout that I did not care to be liable for poll tax in Mendham Township, as I did not expect to vote there again until he ran for Sheriff again, or anything like that ; the conversation on the 23d of December is the only one I have any knowledge of in which I had any talk with Mr. Stout with reference to the tax bill ; check dated December 22d, 1870, for $77.14, was drawn at my house in Morris County ; that is the one I sent by Elmer Stout to Jerome L. Stout ; it was in the morning, probably nine o'clock ; I came up from New York on the 21st of December, to the best of my knowledge and belief ; I generally come up on the express train, which leaves New York at 4.10 P. M. ; I was in New York on the 21st and came up that day, I think, on that train, that being the train I usually take ; Elmer Stout at that time was working for me ; I did not meet Mr. Stout here in Morristown on the 21st when I came up, or anywhere else ; I have no recollection of meeting him on the 21st ; I have no recollection of any conversation with Elmer Stout when I sent him with the check, except to tell him

that there was a check for my taxes to give to his uncle, and gave him the money for Rheinthaller's taxes ; there was nothing said by Elmer Stout or myself as to the poll tax ; I did not tell him my residence was in New York, and that I paid poll tax there, for I always regarded him as a boy only, and one that I could not allow any familiarities with, and I know I said nothing of a poll tax in New York, for I know I never heard of any such thing there ; I am not aware that there is such a thing as poll tax either in the City or State of New York ; I never paid any or heard of any since my residence in New York ; there was nothing said in that conversation as to my residence ; I told him—Elmer—to go to Mendham at that time, as I would have told any other boy to do an errand.

I have no recollection of any assessors asking me as to my residence since 1869 ; when in 1869 Mr. Sheriff Anderson went around making assessments, that year Mr. Anderson took dinner with me, and I believe we had a conversation on the subject of assessments ; there was no conversation with him as to my residence ; it may have been 1870 when Sheriff Anderson was Assessor ; that conversation had relative to my real and personal property, and also as to the real and personal property of John and George Ruddle.

The duplicate of the year before, I think, was presented, but cannot say certainly ; I sold off some of my land to John and Geo. Ruddle since the last assessment.

I recollect making some presents to Mr. Stout's children—a pair of geese and a pair of ducks ; I believe we took them over to Mendham ; I don't recollect now ; I have no recollection of any speech on the occasion, or even a short address.

The children were pleased with the geese that they had seen at my house, and so I took them over to them ; I did not insult him by saying I presumed he would not take money for his services to me ; I never kept any debtor or creditor account between the families in favors ; I think, however, that if

I should do so, at the rate of ten cents a favor, I would be several dollars ahead; during the canvass in the Fall of 1870, I had no conversation with Stout, in which I proposed to Stout to enter into business with me in New York, or in which I told Stout he had better throw up his nomination, and go into business with me; I did not, in any way, propose to him to throw up his nomination, or have anything to do with his getting it; Mr. Stout was at my house in 1870, on Thanksgiving Day; he spent part of the day there, and took dinner, and at that time he talked about going into business in New Haven, in the whip business; I think Stout first broached the subject of going into business with me in the middle of December, 1870, for the first time that Winter; it may have been earlier in December, but I think it was on the 23rd day of December; that was the principal business he had with me, in reference to his going into business, and I think that was the first conversation when it took any positive or definite shape; there had been propositions some years before, this was the first in 1870; I think it was between three and four o'clock when Mr. Stout got there on the 23rd of December; I don't think he stayed more than two hours, and probably not more than an hour and a half; he talked with me in the parlor while hh was there; he was not there but once that day; I went down to New York the next day, the 24th; he did not assist me or my family in packing fruits or furniture while he was there; he did not pack the first thing; I think when Mr. Stout came in I was in the dining room packing canned fruits in barrels; I immediately left the work, and went into the parlor with Mr. Stout; I talked there with him some time, and after talking with him some time, not exceeding, I think, an hour and a half all told, he started to go home; I asked him to send me his spring wagon to take my canned fruit down; I had nothing but a hard wagon there; he told me I should have it with pleasure if I would send over for it; Kaggen went over and got it that night; we

used it next day, and returned it the following week ; I sent Kaggen for it to Mr. Stout's house at Mendham ; he got home with it quite late in the night, well along towards eleven o'clock.

The four photographs I sent to New York, I cannot give the measure of ; the pictures of myself and wife cost $350 apiece, without the frame ; my son paid for the others ; we had never had them in the New York house ; we took them down so that our friends might judge of our family, and I believe the first compliment I had was from Mr. Stout ; he said it resembled Ben Butler.

I received a letter from Mr. A. W. Cutler, with reference to damages due Mr. Blanchard ; I had three letters from him on that subject ; first dated August 31st, 1871, received by me at Morristown same day ; called to see Mr. Cutler that day ; the next is dated September 11th, 1871, and was received within a day or so (I have no memorandum of it) at Morristown ; I answered it from New York, from the office of Leonard & Stout ; on the 19th of September I received another letter from Mr. Cutler which did not require any answer.

These three letters are here offered in evidence and marked by me "Exhibits P. Q. and R." on part of defendant.

(These letters objected to by Mr. Pitney, as irrelevant.)

I had a conversation with Mr. Cutler at his office in Morristown, after a summons was issued ; I think it was on the 11th of November, 1871 ; I am not positive as to the date, but that is near the date ; I told him I understood that he had a summons issued in the Blanchard case, and that I was in New York considerable of my time, that being late in the season—and that if he would furnish me with a copy of his state of demand, I would meet him voluntarily before the Magistrate or Squire ;

he said his letter gave me the amount, which was all that was necessary ; I told him that his two letters had stated different amounts, and that I thought it necessary that I should have a state of demand, and that if he would furnish me such, I would meet him on the following Tuesday at two o'clock ; some one came in the office at that moment, and called him off, and I left him ; he did not furnish me a state of demand, and I did not come ; I came from the farm that day, and had been up for a day or so, I cannot tell how long, and had come down for some things ; after leaving Mr. Cutler's office about two or three o'clock, I went back to the farm ; I did not attempt to convey to Mr. Cutler any impression that a summons could not be served on me here, or intended to do so ; I merely wanted to save a constable the trouble of going up there and not finding me ; I did not say my residence was not here ; I think I said I was a considerable part of my time in New York. Kaggen had told me that Mills Loree had been up and had a summons for me in the Blanchard case ; I cannot fix the date of this, but shortly after I was in Morristown, and I saw a man named Owens who lives close by Mills Loree, at Brookside ; I told him to say to Mills Loree that I was up for a couple of days, if he wished to see me for anything he could do so ; the same day as I was going home, I saw Mills Loree at Jonathan Smith's gathering walnuts ; I asked him if he had a summons for me ; he said he had not then, but had had one and had returned it ; he said he thought Leek had it ; that was the end of that matter ; in a very short time after that, I saw Mr. Leek at his house as myself and wife were passing in a buggy ; I stopped and asked him if he had anything against me, alluding to a summons ; he said he had not ; that Blanchard had wanted him to take a summons against me, but he would not unless he was paid beforehand ; I told him that if he should have anything against he, that if he left it at my box in Morristown P. O., (giving him the number 300), I

would attend to it and save him any further trouble ; this was previous to my going to see Mr. Cutler ; officer Moore I was not acquainted with, and consequently did not go to see him ; Mr. Leek served me with the summons the day he gave me the tax bill for my lot in Morristown, and he would not have seen me then if I had not stopped him ; I think this was opposite Beadner's store in Morristown, into which we went to get the tax bill ; he had his hands full of tax bills at the time I stopped him ; at the trial, before Esquire Easton, of this case, the subject of my residence was not spoken of by me or my counsel in my presence ; nor was the subject of residence raised ; I was sworn as a witness to show the whereabouts of Mrs. Leonard on the day Blanchard swore he served a notice on her, at my house; the suit was in the afternoon, at two o'clock, I think ; it was night before we got through ; there were two or three cases before it ; I came from the farm that day, and went back there that night.

When we (myself and wife) returned from Virginia, Mr. Stout told me that there had been several inquiries at his house to know when I was coming up ; I told him I should go up in a few days and give them all the attention that was necessary, every one who wanted to see me : as for my saying I was going to keep out of the way, or give them all the trouble I could, I said no such thing : on the contrary, when I came up I did all I could to find the summons, and not finding the summons, I went to the attorney : and that was a small matter, one which it would not pay me to keep out of the way of.

I did not tell Stout that if my wife had consented to live in the County I would have bought Walduck's house : on the contrary, myself and wife went to Mr. Walduck's house in Mendham, by appointment, stayed there all night, and next day took an inventory of all the personal property he had on the place, reserving some few things he had for himself : also as to his real estate, which he proposed to sell : he wanted $30,000 for the real and

personal property : I estimated the personal property, and offered him $23,000 for both : I afterwards offered him $24,000, and he came down to $29,000, and we separated : and this whole thing I have told to Mr. Stout more than once.

I have not told Mr. Stout at any time since 1869 that my residence was in New York : the partnership agreement was dated 18th of January, 1871, and was made in New York : it dates or operates from January 2d, 1871 : the date, 18th of January, is just before the seals : it was executed in New York and drawn in duplicate by me : (it is "Exhibit B," on part of plaintiff :) Mr. Stout has one copy and I have the other : I believe I drew the main features of it from another agreement drawn by Bainbridge Smith : all my business contracts were drawn in New York : I hail from New York as a business man ; I believe I have universally described myself as Amasa or A. Leonard of New York in business papers,

(Exhibit being deed from Amasa Leonard and wife to Mrs. Anna Thompson, being shown witness.)

I drew this deed, I believe, while at the farm : I did not have the copy of the deed from Osborn to me at the time I drew it : I drew this deed from myself, as Amasa Leonard of New York, as was my universal custom, and in this case I did not deviate from it, as I was under the impression that I was so described in the Osborn deed : I only had a memorandum of the record of that deed with me : in referring to the Osborn deed, I find that I am described in it as Amasa Leonard, of the Township of Mendham, in the County of Morris, and State of New Jersey.

Q. If you had had that deed by you when you drew the Thompson deed, how would you have described yourself?

(Objected to as generally incompetent.)

A. I should have described myself as described

in the deed, to save trouble of identification hereafter.

I have looked over my deeds to see how I am described in them; in some I am described in one way, and some in another.

(Objected to by Mr. Pitney.)

Mortgage—Amasa Leonard and wife, to Ebenezer B. Osborne, dated 30th day of November, 1865, being shown (witness) he says:

In that deed I am described as of the Township of Mendham, as I am also in a deed from Rachel Roff to me, dated December 30th, 1869, V. 7, 289, as also in deed from Enoch Roff to me, dated December 30th, 1869, and recorded in T. 7, page 9, &c.; the Enoch Roff deed was drawn, I think, by Mr. Forsyth.

The two deeds, one from Rachel Roff to Leonard, and the other from Osborne and wife to Leonard, and the mortgage from Leonard and wife to Osborne, above referred to, are offered in evidence, and marked "Exhibits S, T, U," on part of defendant.

I am slightly acquainted with Walter Bain; I remember his riding up to see me with Mr. Stout in the summer, or early in the Fall; I had never seen him to speak to him before, that I remember of; Mr. Stout came up to see me on business; I had some little conversation with him, but nothing special on any subject; this occurred on the road; he did not go into my house at all; I talked with him but a very few minutes; Mr. Stout came up to see me on business; it was while the firm of Leonard & Stout was in operation; and when we got through with our business, I had a few minutes talk with Mr. Bain, but on no special subject; I did not tell him I did not live there, for we were living there; my wife was there, and I was there; I don't remember that anything was said as to where we lived; I might have told him that I lived in New York, because it was known to every one that we

did live there, and kept house there; I cannot recollect as anything special was said there; I did not tell him I had only come up there to spend a day or two at a time to recuperate; I have no recollection of making use of the words at all.

After election day, 1870, or during Mr. Stout's partnership with me, I have no recollection of the subject of my voting for him ever being referred to by us; I recollect riding up to my house with Pierson Freeman and Mr. Stout, January 16, 1872; I don't remember much about the conversation; Mr. Freeman was joking, and has spoken to me a dozen times or more about my living out here, and saying I should get some old Bourbon out; I do not use Bourbon; I never promised to give him any at my house in New York; he might come there a hundred times and not find any; he knew my habit in that respect, and has joked me often about it; I don't think he wanted any when he asked for it; it was done in joke entirely.

I take here at Morristown the following papers regularly: the Banner, published at Morristown; the Maryland Journal, published at Tonsontown, Maryland, both weeklies; The Maryland Farmer, a monthly; these come to me regularly now, and have come to me for four or five years; I have taken the Agriculturist, published at New York, a monthly, and the Rural New Yorker, a weekly, published in New York, formerly of Rochester; The Woman's Health Journal, published at Danville, Livingston County, New York: all of these came to me through the Post-office at Morristown, addressed to me, box 300.

This address I took from the Maryland Journal, received by me, April 29, 1872.

A. LEONARD,
Morristown, N. J., box, 300.

Order Dated Morristown, January 11, 1871, in

writing addressed to Silas D. Cory, and signed by Amasa Leonard, offered as an "Exhibit V," and marked by me "Exhibit V," on part of defendant.

(Objected to as generally incompetent.)

It is in my handwriting, except the endorsement on the back, and was given to me by Day & Muchmore of this town on the day it bears date.

I think we were not up here for ten days after my return from Virginia; that is, I was not; I think my wife was; business had accumulated while I was gone, and I stayed in New York to look after that.

Examination adjourned until Friday, 3d of May, 1872, when it was resumed at 10 o'clock in the morning at the same place.

I was not registered, and did not vote in New York City in the year 1869; I have not voted or been registered in New York City, to the best of my knowledge and belief, since 1868.

(Objected as already examined about.)

On election day, 1870, at Mr. Stout's house after dinner, or first while we were at dinner, a man who works at the Phœnix House, I think his name is John Kate, but am not sure, came to Mr. Stout's house; I did not hear any conversation between Mr. Stout and him, or between Kate and the boys, but from the conversation between Mr. Stout and the boys, I learned this man wanted fifteen dollars for his vote; as we were going away, Mr. Stout warned the boys not to say anything, when they got back to the polls, about this man being at his house, or if they did, Mr. Phœnix would make him vote the other way; that was all the warning to the boys I heard or know of; there was nothing said by Mr. Stout at the time to the boys about my having voted, or about my voting; I left the house with Mr. Stout and his son.

I think in the letter which I wrote to Mr. Stout on December 22d, 1870, I informed him that we should go down on the 24th, and if he desired to see he could do so by coming over; I did not know and did not hear anything of Mr. Stout's cutting his hand when at my house on the 23d; the first I heard of it was when the question was asked Mrs. Leonard the other day.

Cross-examined by Mr. Pitney:

Q. Are you taxed as a resident or non-resident in New York City?

A. I am taxed as a resident there, and I do not know of any non-resident tax; the taxes are all alike there; that is, we are taxed on the real and personal property which is there, without reference to residence or non-residence.

Q. Do you not know that there is a difference in the treatment of tax-payers in New York between residents and non-residents; that non-residents are under disadvantage in the matter of taxation?

A. I do not.

Q. Where are the envelopes which covered the letters received from Cutler?

A. My universal practice is on receiving a letter to tear the envelope up; I don't suppose that there is once in a thousand times I do not do that; I therefore cannot tell where these are.

The dates of the notes given to Thompson in settlement I cannot give; the first note was paid April 15, and the other is due on the 15th of May; you can ascertain the dates I suppose at the Iron Bank.

Q. When preparing yourself to testify on this subject, why did you not bring the paid note and your books of accounts, receipted bills, and other documentary evidence of the time and manner of settling with Mr. Thompson?

A. Because it never occurred to me that they would be needed.

Q. Did you not know, and were you not advised by your counsel that documentary evidence and contemporaneous writings are the proper and legal

evidence of disputed matters, and that the best and only legal evidence of a settlement between merchants are the entries on their books, or their receipted bills which pass between them?

A. I did not; and I did not know that any matter between Mr. Thompson and myself was disputed.

Q. Cannot you now state from memory very nearly the date of the two notes given to Thompson; please to state it as near as you can?

A. To the best of my knowledge and belief the notes were given on the 12th of January, one at four months, and one at three; but that is entirely from memory.

I rendered a bill, I believe, to Mr. Thompson; I don't think I charged Mr. Thompson with this tax bill on my books of account; I don't know as there is anything of it anywhere on my books.

Q. At or about what time, with reference to the date of the notes, was this arrangement made with Thompson about this poll tax?

A. I think the arrangement with Thompson was about the 16th of December, and the notes were dated in January, so that would be a month before.

It was made before I had paid the tax.

I had an appraisement of sheep damage, made by freeholders of Mendham Township; Mr. Stout swore them in one instance; I do not recollect the form of appraisement, whether the sheep are described as being killed in the Township of Mendham.

Q. Why did you send your residence at the bottom of the order on the County Collector?

A. Because I supposed he would want to know where I lived.

Q. Why did you suppose he wanted to know where you lived?

A. He would want some means of indentification.

Q. Don't you know perfectly well that it was necessary or was the practice to keep the sheep damage done in each Township by itself; and did you not sign your name in that way to call the at-

tention of the collector to the appraised bills of damage which belonged to Mendham Township?

A. I did not; I did not suppose any custom had been formed in the matter, as I am informed that that was the first and only year in which he had to pay sheep damage.

I saw the man John Kate at Mr. Stout's house; and was told then that he was the porter at the Phœnix House; I saw him as he passed the dining room window, and think he went into the kitchen; I think Mr. Stout's son was with him.

I don't remember any one else being with him.

Re-direct Examination:

Mr. Thompson was to have taken the title of his farm on or about the first day of June; and the reason I made no account against him in my books was, because I kept a loose account in my books; and then it was not in my regular mercantile or manufacturing business.

At the time the agreement of dissolution was drawn by Mr. Ballantine, nothing was said about my residence, by Ballantine or any one else; we only had about fifteen minutes to draw it.

Second Cross-examination:

The agreement of dissolution was drawn at Morristown, at the Surrogate's office.

AMASA LEONARD.

Sworn and subscribed before me, this 3d day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

The indorsement of the name of "Day & Muchmore" on the back of "Exhibit V," is admitted by the plaintiff to be genuine.

Defendant rests.

(The plaintiff offers in evidence a certified copy of deed, John Bates to Amasa Leonard, dated August 14th, 1868, which I have marked "Exhibit G," on part of plaintiff.)

Jerome L. Stout, the plaintiff, being re-sworn on his oath, says:

I have in my possession the Democratic canvas books for Mendham Township for the years 1868, 1869 and 1870; since then I have not lived in Mendham Township.

(A manuscript book being shown to witness.)

Q. Is there any list of voters in that book?

A. This book comprises the check register of Mendham Township for 1868, and the Democratic canvass for the same year in the back part of it, in the handwriting of Richard T. Bowman, the town clerk, a Democrat, signed by himself and the registers.

Said book is offered in evidence, and marked by me "Exhibit H," on part of plaintiff.

(Its admission objected to as incompetent.)

Another manuscript book being shown witness, he says: That is the Democratic canvass for 1869 in the handwriting of Richard T. Bowman; I assisted with several others, in making it up.

Said book is offered in evidence, and marked by me, "Exhibit I," on part of plaintiff.

(Its admission objected to as incompetent.)

Another manuscript book being shown witness,

he says: This is the book sent us as the State canvass by the State central committee, Democratic; I do not know in whose handwriting the ink entries are; it is for 1870.

This book offered in evidence, and marked by me, "Exhibit K," on part of plaintiff.

(Its admission objected to as incompetent and irrelevant.)

The pencil writing in this book is my son's, and was made at the polls at the Fall election in 1870; the lead-pencil list is the list of voters as they voted, taken by my son as they voted.

Q. Opposite some of the names in ink is the letter C; what does that mean?

(Objected to, because the witness has stated that he does not know by whom the handwriting in ink was made, and also because irrelevant.)

A. Opposite some of those names in ink in parenthesis, is the word "col'd," abbreviation of colored.

Q. What makes you think this is the canvass book of 1870?

A. I know it to be from the fact that we used it at the polls in 1870, and that that is the first year that the colored people voted.

Another manuscript book being shown witness, he says: This is the Democratic canvass book for the Fall of 1870, for Mendham Township; there were six to a dozen leading Democrats present when it was made; it is part of it in my own handwriting, and the balance in the handwriting of Mr. Jonathan Pitney.

This book is offered in evidence, and marked by me "Exhibit L," on part of plaintiff.

(Its admission is objected to as incompetent.)

My handwriting runs up to and includes the letter Q.

Q. What was done with this after it was made?

A. It has been in my possession ever since—we were guided by it through the election; it was the only one which was made that year; the letter "C," in parenthesis in this book, indicates the colored voters.

The list of taxes unpaid was returned to me by the collector, Sam'l Anderson, on the evening of December 20th, 1870.

Q. Was any business transacted between you and Anderson at the time of the return of the tax lists; if so, what was it?

A. I paid the taxes for my wards, and my own taxes, that they should not appear on the Record as being unpaid—I have the receipts.

These are they which I now produce.

The receipt to them is in the handwriting of Samuel Anderson, the collector.

These tax bills are offered in evidence, and marked by me "Exhibits M, N, O, P," on part of plaintiff.

I made an entry on my day-book of these tax payments; this is the book which I hold, and the entry is made on page 321.

This book is here offered in evidence, and marked by me "Exhibit Q," on part of plaintiff.

(Its admission objected to as incompetent.)

Q. How soon after that 20th did you see Mr. Leonard?

A. I think it was the next day; there was no letter sent to me by Mr. Leonard with the check to pay his taxes; the check came to me in an envelope

with the tax bills, and there was not a line or scrap with them; I kept the check and money in my pocket until I settled with Mr. Anderson, the collector, on the 26th; the handwriting of the receipt to "Exhibit D," on part of defendant (Mr. Leonard's tax bill, 1870), is in my handwriting; this bill is receipted in the same manner that I receipted all bills while the taxes were in my hands; the rate of road tax was $1.40 per $1,000 for the year 1870; there was a road tax levied on the polls; if a man had not property to assess, he was taxed $1.40; of this 40 cents was road tax.

I cannot give the exact date when Mr. Leonard asked me for my wagon.

Q. Was it the day you were there packing?

A. It was about a week previous.

I recollect the time, but not the date; I was not at home when the wagon was taken away from my house; I was at my father-in-law's, and stayed all night there; at the time Mr. Leonard asked for my wagon he also stated that they were going to pack up their fruits the next week, and was fearful that he could not pack them to carry them in safety; I replied that I guaranteed that I could do it; he suggested that I had been for a long time in the wholesale grocery business; he wished I would come up and assist him, and I told him I would; on the day appointed I went up immediately after dinner, and arrived there about two o'clock; it might possibly have been half an hour later; when I got there they were just carrying the cans from the cellar; I mean by "they," Elmer Stout and Charley Burnside; David Kaggen was in the barn cutting hay; Mr. Leonard had my horse put out in the stable; after everything was got ready, Mr. Kaggen carried in some cut hay in barrels, and I then and there assisted in packing several barrels of fruit cans, after taking off both my under and over coats, in doing which I caught the inside of the second finger of my left hand on a nail; Mrs. Leonard came immediately, and was kind enough to do it up very nicely in a rag; the blood oozing

through the rag left marks on several cans, of which remark was made; it is utterly impossible for human nature to be any more positive of anything in the past than I am of that; I remained there that afternoon; some supper was gotten ready, or a lunch, for Mr. Kaggen, and he sat down, ate it, and then started for Mendham for my wagon, riding one horse and leading another; the supper was then prepared for the family, of which I partook, and had a good meal; after which Mr. Leonard and I talked in parlor for about an hour, or perhaps an hour and a half, and then Elmer Stout was requested to get my horse, and did so, taking a lantern; Mr. Leonard walked to the door and warned him to be very careful with the light; I then left and went to my father-in-law's, and stayed all night, and remained there till ten o'clock the next day; I was there, and saw Mr. and Mrs. Leonard pass by, and spoke to them.

Examination adjourned for dinner.

After the adjournment for dinner, to suit convenience of counsel and witnesses, the examination of Mr. Stout was temporarily suspended for two days—afternoon of May 3 and May 4, during which the testimony next following this, page to page , was taken.

May 6th, 1872.—*Direct examination of Mr. Stout resumed as follows:*

Leonard's tax bill of 1870 being shown witness (Exhibit D).

A. The figuring generally is in my handwriting; some of it is Mr. Leonard's, I should think; the pencil figures, I should think, were Mr. Leonard's; all of my figuring which is on the bill was put there

on the day I received it from Elmer Stout, and of course before I sent it back to Mr. Leonard.

Q. What part was James Cole taking in the election when you ran for Sheriff?

(Objected to as irrelevant.)

A. He had always been a Democrat, but had become offended at me, and was working against me all he could all day; I sent several men to see him to request him to desist, and when I was walking down to dinner with Mr. Leonard I requested Mr. Leonard to see him and request him to stop crossing me off; I did this because I supposed Mr. Leonard would probably have more influence with him.

(All this testimony objected to.)

Q. Do you know of your own knowledge whether he did see Mr. Cole?

A. I know he saw him, but was not near enough to hear them talk; Mr. Leonard told me he had seen him, and that Mr. Cole was very bitter against me.

Q. If you recollect the conversation spoken of by James F. Ballentine, state it.

(Objected to as incompetent and irrelevant.)

A. I recollect very distinctly introducing Mr. Leonard to Mr. Ballentine on Taylor's stoop, and having quite an extended conversation; I should think for full half an hour; I don't recollect all that was said, but only the general topic of conversation; Mr. Ballentine and I were talking together about the prospects of my carrying Mendham Township; I was fearful that I would not; Mr. Ballentine said I must not be discouraged; he thought I would; he said he had just got Elias Bishop for me, and he had voted; and just at that

instant of his making that remark Mr. Leonard came up and the introduction was made; Mr. Ballentine said then "I have just been telling friend Stout he needn't be so blue; I have just got one vote he did not expect, and I think I can get more," to which Mr. Leonard remarked, "I have beat you, for I have got two he did not expect;" "who are they?" said Ballentine; said he, "my own and a Dutchman by the name of Rinedollar," and the two together tried to cheer me up as much as possible, and we soon parted.

Q. State directly your recollection, if you have any, of a quarrel between you and Mr. Cole on election day, 1870.

(Objected to as incompetent and irrelevant.)

A. I have a very vivid recollection of it; just before sundown Mr. Ballentine and Jerry Emmons, who had been after two voters—Mr. James Aldridge and his son, with my carriage, and about the time they arrived, Mr. Ballentine came in the poll room in a great hurry and told me Mr. Cole had Mr. Aldridge and was trying to get him to scratch my name off of his ticket; I went out immediately and found them at the end of the hotel, next to Robinson's store; I walked up to Mr. Aldridge and asked him to step aside; Mr. Cole stepped between us and prevented him, and we had a high quarrel; we called each other liars two or three times; he twitted me of getting in illegal votes, for which, he said, I ought to be sent to State Prison instead of as Sheriff to the Court House; he told me I had put in illegal votes that day, and I denied it; he said I had arranged to put them in even if I had not put them in myself; it was well known; that I needn't deny it, because he could prove it by the man himself, who told him so; I asked him who it was, and he said it was Mr. Leonard; at that juncture we had pretty high words; he shook his fist under my nose, and then Mr. Anderson came and carried me away by

main force; there was a large crowd, and among the crowd I saw Mr. Leonard and Mr. Kaggen both.

("Exhibit I," on part of plaintiff, being shown witness.)

Q. When did you first see this canvass book?

A. It was handed to me by Mr. Bowman, at Mr. Yawger's house in the Fall of 1870, when they made up the canvass.

Previous to that time, I had never had anything to do officially towards making out a canvass; I had been present when they were being made.

Adjourned for dinner.

The book "Exhibit I," is just as it has been since the night we made the canvass of 1870; the word and figures "Nov. 1869," were made in it that night —it looks like my handwriting, but I don't remember putting it there.

The book was handed in to the canvass committee by Mr. Bowman, as the canvass book of 1869; there being no date on it, it was then and there dated; I am not willing to swear positively that is the book of 1869, but I have never seen any other, and I believe it to be such—I have searched two days among Mendham politicians, to find another, since this question as to date.

Q. Do you know of the existence of any other Democratic canvass books for Mendham Township, for the years 1868, 1869 and 1870, except those here produced.

A. I have never seen any other; I never heard of any other, and cannot find any other.

I was present when Walter Baine and Mr. Leonard had the conversation of which Mr. Baine testified; without going into preliminaries, I recollect Mr. Baine remarking to Mr. Leonard that he should think it was a very lonesome place up there for

him to live in; he says "you have more courage than I have to live up here and do business in New York;" Mr. Leonard remarked that he did not live there—that he lived and made his home in New York; that he came up occasionally with his family to recuperate; there might have been, and was, I think, other remarks, but I do not remember them now sufficiently to state them.

I remember the conversation testified to by Mr. Freeman; we had quite an extended conversation going up about general matters, and when we got up on the hill in sight of Mr. Leonard's house, Mr. Freeman remarked that "that was the first house I have seen up this way, which looks like living in;" (all this testimony objected to as incompetent, irrelevant, and not proper at this stage of the case.) He asked whose house that was; Mr. Leonard said, "that is my farm house;" then Freeman said, "do you live here?" Mr. Leonard replied, "no, I live in New York—my farmer lives here;" Mr. Freeman said, "this looks like a very nice place—I should think you would live here." (This testimony also objected to because plaintiff cannot impeach his own witness). Mr. Leonard remarked that he bought it with that intention, but his wife did not like it there; Mr. Freeman then asked him why he did not come down to Morristown and build a house on his lot there; he said his wife and daughter preferred to reside in New York.

During the time we stood there in front of Mr. Leonard's house, just before we started to leave, Mr. Freeman and Mr. Leonard joked some about Bourbon whiskey.

Q. Did Mr. Leonard ever offer to sell to you his lot on Maple Avenue in Morristown, and if so, when, and the circumstances?

(Objected to as irrelevant.)

A. Yes, several times in February, 1871, he persuaded me very strongly to buy his Maple

Avenue lot, instead of purchasing here in Morristown; he offered it to me for ten thousand dollars; I told him that I did not want to put so much money in a lot; he told me that Major Dalrymple had talked of buying the same lot, and wanted half of it only; that he had no doubt if I bought it, Dalrymple would take half of it from me; I went to see Mr. Dalrymple, and had quite a protracted conversation with him on the subject; I told him Mr. Leonard's suggestion, and offered him his choice of one half the lot at five thousand dollars, and would take it in building material for my own house; he said it would cost him most too much, and as he owned a house, he would content himself with that for the present; I then reported to Mr. Leonard the result of my interview, and gave up buying his lot; then I purchased a new house, where I now live; Mr. Leonard helping me negotiate for it; there is no barn on it, and I wanted some building stone for heavy wall and foundation, and Mr. Leonard offered to sell me the pile on his lot at $1.25 per ton, remarking that he had given up building on the lot, and intended to sell the lot, and that he couldn't probably get any more for it with the stones on; he intended to sell them, saying there was about a hundred dollars' worth, as near as he could guess or remember what he paid for them; I then saw Mr. William Y. Sayre, the mason, and tried to contract with him to build the foundation of my barn, using the stone on the Leonard lot, and got his proposition in writing, including these stones on the Leonard lot, and from that I found that it would cost me more to use these stones than to get stones delivered from the country on my own lot, about a quarter of a dollar a ton; so I told Mr. Leonard, and did not take the stone.

Q. Do you recollect going up to Brooklyn pond on a pic-nic excursion with Mr. Leonard's family last summer?

A. I do recollect it; the party was made up at Mr. Leonard's house in New York City, at the dining-table, on Thursday or Friday, August 17th or 18th;

I wrote to Mr. Ingram two or three days previously; Mr. Leonard and I had arranged to go up a day or two before, but the party was finally made up at the dinner table, as stated; Mr. and Mrs. Leonard were both present; and on Saturday the 19th they all came up, Mr. and Mrs. Leonard, (Miss Leonard did not come,) Mrs. Moore, Miss Lotty Moore, (Mrs. Leonard's sister,) Mr. and Mrs. Northrup, (relatives of Mr. Leonard's people) were boarding at my house; Mr. and Mrs. Douglass, (father and mother of Mrs. Northrup, who live in Newark); Mrs. Douglass is a sister of Mrs. Leonard's mother; the Douglasses were previously notified and came up the same afternoon; Charles Burnside came down the same afternoon with Mr. Leonard's carriage; and Mr. Leonard took up himself and his wife, and Mrs. Moore and Mrs. Lotty Moore. (All this testimony objected to.) He sent Burnside on afoot, they having a number of baskets to carry, couldn't take him; I hooked up my carriage and took up Mr. and Mrs. Northrop, and Mr. and Mrs. Douglass; all went to Mr. Leonard's farm house; I came back myself, and the next day my wife and two daughters and myself went up; Mr. and Mrs. Leonard requested me to go to New York the next day and get Lizzie to come out to go to the pic-nic, and I went; Miss Leonard had notice of company coming from New Haven, and she could not leave; the company were coming to see her in New York; on Tuesday three two-horse loads of us went down to the pic-nic at Mr. Ingram's; we remained over night and came back on Wednesday; the next day, Thursday, Mr. and Mrs. Northrup and Mr. and Mrs. Douglass went to Baskingridge, and I stayed home here at Morristown; in the afternoon Mr. and Mrs. Leonard came down and stopped at our house on their way to New York, and had a talk about the pic-nic.

Q. When did you first hear about the Burnside children being adopted children?

(Objected to as irrelevant.)

A. On the day Mr. Leonard gave in his first evidence in this case.

Q. What was their relation to the family, as you observed it?

A. While in New York I have generally noticed them in white aprons as waiters, until after Josie went to learn a trade, since then I have not noticed her in that capacity; I recollect when Mr. Leonard discharged my nephew here, Elmer Stout, and the only reason for discharging him to me given, was, that Charlie Burnside was now large enough to drive and milk the cows, and to drive back and forth to the depot; that he could not afford to keep two boys for that purpose.

Q. Were the Burnside children treated in the family as their own children were treated?

A. The idea to me, being conversant with the matter, is very ridiculous.

They were treated cleverly as any servants would be treated by respectable people; I have seen Josie at the table with the rest of the family, but never Charles; I don't recollect ever seeing Josie at the table with the rest of the family, until after she had grown up and gone out for herself.

The bed and bedstead remained in the parlor last summer; I saw it standing there on Sunday, August 20th; I am sure of that.

I stated in my evidence in this case from my recollection that Mr. Robertson and Mr. Reynolds were judges of election that Fall, when I ran for sheriff; the fact that they were judges in the Spring of the same year led me to think so; my son Orrin Stout is permanently engaged in Washington, and his business is such that I could not get a vacation for him to come up to this trial, being chief-paymaster's clerk in the army; he was at the election in the Fall of 1870, when I ran for sheriff; he stood at the polls and took down the names just as they voted throughout the day, he did not go to dinner with me that day, neither did I see him outside of the poll room during the day; from the opening to the closing of the polls; he had nothing to do with

inducing any one to vote or paying any one any money.

There was not one word said at my house about John Cate in my presence or hearing, by myself, or anybody else; in the afternoon of election day, Josephus W. Sanders told me that about one o'clock he found John Cate and took him up to my house, and said he gave him something to drink and paid him something to vote, but my family had nothing to do with it, to my knowledge; there was no talk about it, to my knowledge, by any of my family; Mr. Leonard and Mr. Elias Briant were the only men in my house that day outside of my own family, to my knowledge.

Q Did you give any warning to the boys to say nothing about John Cate or any other man coming there to get money for voting, or anything of that kind?

A. I gave no warning to the boys about John Cate or any other man, neither did I hear or know of any such man being there under any such circumstance, until Sanders informed me, along in the afternoon that he had had him up there.

John Cate is the name the porter of the Phœnix House went by; his real name is John Hull.

Cross-examined:

My son Orrin was not at my house from the time the polls opened in the morning till they closed at evening; he might have been, but not to my knowledge; I did not see him, and am sure he was not there to dinner with the rest of the family; when I left from dinner I went direct to the polls; Orrin was there when the polls opened; I don't recollect whether he was there just the moment I got there; I got there about the time the polls opened; I should think it from three to five minutes' walk from my house to the polls; Josephus W. Sanders was one of the men who were working for me; I am the guardian of Elmer Stout; I have been his guardan some four, or five, or six years; I cannot recollect

exactly; he is of age now, and has been some one or two years.

Q. Why have you continued to be his guardian since he became of age?

A. Because he has not pressed me for settlement.

Q. Is that the only reason you have given for retaining his property in your hands?

(Objected to as irrelevant.)

A. No, sir, I think not.

Q. State the other reasons.

A. The only other reason is this; that as I recollect telling one person, Elmer is inclined to spend his money too fast.

Q. Is that the reason you have refused to give up his money to Elmer?

(Objected to as assuming what does not appear.)

A. I have never peremptorily refused to give up his money.

Q. You have declined to give it to him when asked, haven't you?

A. I have persuaded him not to spend his money so fast.

Q. Have you not also said he was not fit to take care of his money?

(Objected to as irrelevant.)

A. I do not now recollect of ever having said so, though I might possibly have done so.

In the Fall of 1870 I paid Elmer Stout's taxes in connection with those of other wards, and my own; I presume by check; I have not that check here.

Q. When was that check given?

(Objected to, for it does not appear that a check was given.)

A. I paid the taxes on the evening of the 20th, and charged over my ward taxes on the same day.

Q. Why have you not looked up that check and produced it here?

A. Being six miles from a bank, and handling plenty of money, I may have paid it in bills.

I have not looked for a check; if I have given a check I can easily find it by going home; I keep my accounts in the Iron Bank.

Q. Did you settle with Mr. Anderson for these taxes before the 26th of December, when you handed him Mr. Leonard's check?

A. I am positively sure I did before.

Q. What makes you positively sure?

A. I recollect the circumstance well; saying to Mr. Anderson, I will pay you my tax now, as I will not allow them to be returned unsettled in the hands of a Justice; and I then and there settled with him at my desk, December 20th, 1870.

Q. These taxes were then returned to you by the collector as unpaid taxes, were they?

A. On the evening of the 20th they were returned to me in the list of unpaid taxes, but the official return was not made out until after I had settled with him.

It was at my house that I told Mr. Leonard that he could have my spring-wagon, if I recollect rightly.

Q. And when was that with reference to the time you say you went there and did the packing?

A. It was some days before; I cannot say whether it was three or four days, or a week.

On the day of the packing, I think it was about half past two o'clock when I got there; it might possibly have been a little later; I had taken dinner before I came, at my house; I usually take dinner at half past twelve or one o'clock; that's my recollection of it; I might possibly have gone from here to my father-in-law's and taken dinner there; I am not sure; I often do so; I could not recollect what I had been doing that morning; I have no defi-

nite recollection of what took place that morning before dinner.

Q. Who hitched up your horse after dinner?

A. I think probably my son did; I have three boys there, and do not remember which one it was.

Q. Was this tax bill (Exhibit D), brought out at Mr. Leonard's house?

A. I have not the slightest recollection of any tax bill being spoken of or of seeing any that day.

Q. When were the figures and words at the bottom of the back of the tax bill in ink, put there?

A. I should think they were mine, and if so, were put there at the time the bill was paid, and at no other time.

As near as I know, they mean that the poll tax of a new voter is $1.40; one dollar poll, and 40 cents road.

Q. Why were they put there?

A. They were put there because I had previously told Mr. Leonard on the sidewalk in front of Voorhees Brothers' store, that I knew it was the collector's duty to add poll tax to a new voter, but did not then know whether it was my duty or not; and when the bill was paid, I put it on the bottom, as near as I can recollect; I think I put it there, and told Elmer to tell Mr. Leonard that if the collector demanded it, he would have to pay it still; that is my recollection of it.

Q. Had the Collector made any such demand, that you were aware of.

A. He had not, not in this instance.

Q. Was there anything in the Collector's return to indicate any such demand?

A. There was not; I only based a probability from the fact that it was customary for the Collector to add the poll tax on new voters.

Q. You thought the Collector should make such an addition in this case, did you not?

A. I knew it was his privilege and custom to do so.

I hardly can tell what I thought then about it.

Q. What word, if any, did you send to Mr. Leonard about it?

A. I think I told Elmer to tell him that if the Collector demanded it he would have to pay it.

Q. What other memorandum, if any, did you make of this poll tax than the one made on the back of this tax bill?

A. I don't recollect of making any other.

One reason why I sent word to Mr. Leonard was, collectors usually issue new bills at the polls and make memorandum without altering the duplicate, and I did not know but what he had done so in this case.

Q. Did not Mr. Leonard, at the time he sent this check for taxes, send you word that he was going to New York on Saturday, and ask you to come and see him?

A. I recollect no such word from any source; I don't recollect any word being sent at that time about going down; I went to his house on the 23d, because he had requested me to come there; he had invited me from three to six days previous; he and his wife were both at our house; it was the first time his wife had seen our little baby, who was born on the 9th of December.

Q. You say you requested Mr. Leonard to see Mr. Cole because he would probably have more influence with him than others; why did you think so?

A. Because then Mr. Leonard had not been an active politician in Mendham; I had no other reason particularly.

I think Mr. Leonard was acquainted with Mr. Cole.

Q. Do you know whether he had ever spoken to him in his life?

A. I cannot say positively that I do.

Q. Why, then, did you send a perfect stranger to Mr. Cole to talk with him about this delicate matter?

A. Because I knew Mr. Cole's prejudices were

very strong, and he always liked to be catered to by gentlemanly-looking strangers.

I cannot say who introduced Mr. Leonard to Mr. Cole; I introduced Mr. Leonard to Mr. Forbis Ballentine; I am not positive whether Mr. Ballentine said he had got one or two votes for me which I did not expect; I know he named Elias Bishop; he was talking about another who had promised him, but whether he meant that he had his promise or his vote I am not aware.

Q. When you had the row with Mr. Cole in the street on election day, what reply did you make to Cole when he told you it was Mr. Leonard; that he could prove that you had arranged for illegal votes?

A. I don't recollect the exact reply I made; the lie was given back and forth during the quarrel.

Q. You recollect the conversation down to that point; why can you not remember your reply?

A. It would be utterly impossible to remember it all; there was considerable of a hubbub there, and I was led out of the crowd.

Q. Can you not remember any part of it?

A. I don't recollect.

Q. Did you call him a liar in response to that assertion of his?

A. I called him a liar in response to the declaration that I had put in two illegal votes.

Q. Do you mean you called him a liar in response to the statement that you had arranged to put them in, if you had not done it?

A. I did not.

Q. What response did you make to that?

A. I do not recollect; about that time he was shaking his fist under my nose, and Sheriff Anderson led me away.

Cole was the most bitter Democratic opponent I had at the polls; he was very active against me; there was no other Democrats working openly against me; if they did they did it covertly; I do not know the fact; Cole was at work all day pretty lively against me, except when I had some friends

engaging his attention talking with him; we had not got into an actual fight when I was led away; there were no blows struck.

Mr. Leonard came up the morning that Mr. Freeman and I rode up to the farm at Ballentine's office from New York, to sign the duplicate of our dissolution agreement, and I told him I was going up to Walduck's sale; and he said if I would drive up that way he would go along as far as his farm; that is all I recollect about it now.

At the time Mr. Leonard and I were talking about the stone on his lot, he said he would sell them at $1.25 per ton, or he would lump them to me.

Q. Did he not also offer them to you if you would return a like amount to the lot?

A. I think there was something of the kind talked about, but it was in this way: that if I was dissatisfied with the weight of the stone as returned to him, that I could return the same amount by keeping an account of these, having them reweighed, and he could easily dispose of them any time he wished.

Examination adjourned until Saturday morning, May 11, 1872, at which time, after taking the testimony of George B. Raymond below given, the examination of Mr. Stout was resumed as follows by Mr. Pitney:

I have found the check with which I paid my taxes in 1870—it is this:

Check produced, and marked by me "Exhibit S," on part of plaintiff.

Since previous examination (yesterday), I went to New York; I went back to the old City Hall building, to the office of the Tax Commissioners, in Chambers Street, in New York; I saw Commis-

sioner King; I examined the books of registry of tax-payers there; the book was in the hands of book-keepers, under the control of Commissioner King, in the office; it was a large book, nearly three feet square, designated and marked, "Resident Tax-Payers;" the office also had a sign over it "Resident Tax-Payers;" I mean the office in which the book was found.

Q. Did you look for the name of Amasa Leonard, and if so, what was the result?

(Objected to as immaterial, what the witness looked for, and because the contents of any book there cannot be proven in this way. The book itself must be produced, or some legal evidence of its contents.)

A. I found the name of Amasa Leonard in that book, entered; I made a transcript of it, which I hold in my hand now.

(Witness refers to "Exhibit R," on part of plaintiff.)

The pencil writing is in my handwriting—is the one I made, and is truly made; it is Amasa Leonard on the original; the word "King" is not down on the book in New York—it is "K."

The part in ink was made last night in your (Pitney's) office; the book from which I took the record was for the year 1872; it was the last book; I did not look at the books for the previous year.

The transcript, "Exhibit R," was here offered in evidence on part of plaintiff, marked by me "Exhibit R," as above.

Its admission is objected to, because it is not legal evidence of the contents of the tax book; no evidence of the assessment made in New York against the defendant, and also because it appears from

the testimony of this witness that it is not a transcript from the tax book.

Q. During the adjournment of your examination, have you found any other registry of voters in Mendham Township; if so, is this it?

(Objected to.)

A. This is it—I found it among some old deeds and other old papers of no value, as folded; there was nothing on it by which to tell what it was.

Originally, it was the registry of voters of Mendham Township for the Fall of 1867, and used in the Spring of 1868 as a Democratic canvass, and also in the Fall of 1868 for the same purpose; there are additions made to it, some in my handwriting, and some in others' handwriting; I made the additions either in the Spring or Fall, and the others at the other time.

Q. Do you know whether that is the original registry, or a copy made for use?

(Objected to as irrelevant.)

A. As I have always understood it, it is a copy.

The list of voters was here offered in evidence and marked by me "Exhibit T," on part of plaintiff.

Cross-examined:

I suppose the book is a copy of the registry of voters made in the Fall of 1867, under the registry law of Mendham Township; I suppose this copy to have been made here at the Clerk's office in Morristown; it was sent to me from Morristown, by some one, I cannot say who.

Adjourned for dinner, May 11, 1872.

It was supposed to have been made the Fall of 1868; it was sent up for use then; it was sent up some time in 1868, and I cannot tell exactly when.

I don't recollect whether I copied off the names of the unpaid tax-payers, or whether Anderson did it in the Fall of 1870; I think it was either one or the other; I am not sure who did it; I knew it was done on the night of December 20th.

I made no representation to the keepers of the tax books when I went to see them yesterday, except that I wanted to see them; I had an attorney with me.

Re-direct examination:

The return of unpaid taxes in the Fall of 1870, was not completed until it was sworn to before me by the collector; it was my custom to help the collector make out his return, and if he had done it before then, I looked over it with him, and took his affidavit to it.

When I made the pencil marks on the back of "Exhibit R," I was in the Commissioner's office in New York with the book before me; I was behind the office desk.

JEROME L. STOUT.

Sworn and subscribed before me, this 11th day of May, 1872.

EDWARD D. HALSEY,
Supreme Court Commissioner.

It is admitted by both parties that the name of Amasa Leonard is not on the jury list of the Sheriff for Morris County, either of Sheriff James W. Briant or of Sheriff James Vanderveer.

Madison M. Connet, a witness called and sworn on the part of plaintiff, deposes and says:

I live at Brookside, and my business is milling; I have furnished Amasa Leonard with feed off and on for several months up to December last when he bought the last; I keep a running account with him.

Q. What arrangements, if any, were made between you and Mr. Leonard with regard to rendition of bills from you to him?

A. It was his request for me to send him bills the first of every month to New York; I sent the bills, pursuant to those instructions, on the first of every month to New York; sometimes it might have been a few days after the first.

Q. Did you receive any communication to you from Mr. Leonard in reply to those bills; and if so, where were they dated, and from whence were they sent to you?

A. I received two or three letters from him; they were sent from New York; I never received any from him dated anywhere else but New York; the payments in checks came from New York.

Cross-examined:

I should think I live about two miles from Mr. Leonard; my mill is not on the road from his house to Morristown; Mr. Leonard was not often at my mill; the address he gave me in New York was cor. of 59th Street and North River; I think there was one check he gave me on a Morristown bank, the rest were on a New York bank; the articles which he bought of me were feed and flour; Mr. Kaggen and the boys Mr. Leonard had up there, I do not know their names, came for the stuff; I knew them as members of Mr. Leonard's family, and charged the goods to him; Mr. Leonard commenced dealing with us in that way, I think, last Summer; he has dealt with us, off and on, for the last three years; in 1868 Mr. Leonard's account first commenced; it was last August, I think, that he requested us to send his bills to New York; before that they had not been sent to New York, as I remember; I do not know as Mr. Leonard gave me any reason for sending his bills to New York; the last he bought of me was on the 20th of December.

Re-direct examination:

Q. Wasn't it before last June that he requested you to send your accounts to New York?

A. I guess it was.

Q. Wasn't before May when he requested you to send your bills to New York?

(Objected to as leading.)

A. I don't think it was; I knew David Kaggen lived on his farm up there, and———

Q. That these two boys lived with Kaggen?

(Objected to as leading.)

A. I don't know whether they lived with Kaggen or Mr. Leonard; they came for goods for Mr. Leonard.

Q. Did Mr. Leonard tell you to let these boys have goods?

A. Mr. Leonard never told me particularly to let these boys have goods any more than that he said let his men have what they wanted.

MADISON M. CONNET.

Sworn and subscribed before me this 3d day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Com'nr.

Ephraim S. Day, a witness called and sworn on the part of plaintiff, deposes and says:

I reside at Brookside and am a drover by business—buying and selling cattle and sheep; butcher a little once in a while, but not as a business; I am a son of Henry Day, and was born and brought up in Mendham Township; I met Mr. Leonard last Fall at Bradshaw & Ketchum's mill, in the easterly part of Brookside; Mr. Leonard and I were talking about stock, its rise and fall; he was talking

about buying some cattle, and that he could not get near what they cost him; I don't recollect just what was said about it; I asked him if he had any stock to sell, or sheep skins; he said he had two or three lambs and a sheep skin or two, which he would sell; he said he would see Mr. Kaggen, and see what he said about it; I asked him if he would be home in a few days, or Mr. Kaggen should sell them; he said he shouldn't be there; he said that his home or residence—I don't remember whether he said residence, I don't exactly remember just what he said—but he said he would leave word with Mr. Kaggen; he said he came upon his farm once in a while to regulate things, pay off his men, &c.; I don't remember just what was said; that is all I know about it, I believe.

Q. Was anything said as to where his home was? You commenced to say but did not finish your sentence.

(Objected to as a leading, and as an improper question.)

A. I said that he told me his home and place of business was in New York; he would come out to the farm in the country once in a while to regulate things—to pay up his men, and see how things were getting along, or words to that effect.

Cross-examined:

I could not tell what time it was; it might have been in October or November; it was not in December; I cannot tell exactly when it was; he was buying some feed at Bradshaw & Ketchum's mill at the time; he bought all they had—three hundred, more or less, I cannot tell exactly the quantity; he wanted more; I don't think he contracted for a hundred bags; I think he used the word home in his conversation: he said his home and place of business were in New York; I cannot say positively.

Q. You cannot say positively whether they were the words he used or not?

A. I think that is what he told me, but I cannot say positively.

His talk was in the mill, near the machinery.

Re-direct examination.

Q. Was there any difficulty in hearing what he said?

A. Not a particle; the mill runs very quiet; you can easily hear all that is said there if you are any way near each other.

Q. Did he say anything in that conversation to lead you to suppose that he was living or making his home on the farm?

(Objected to as improper in this form and leading.)

A. I should think not; he left everything to Mr. Kaggen.

EPHRAIM S. DAY.

Sworn and subscribed before me this 3d day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Jeremiah S. Emmons, a witness called and sworn on part of plaintiff, deposes and says:

I live at Mendham; I am twenty-one years old, and my business is carting; I am a nephew of Mr. Stout; I lived in his family when he ran for sheriff; I recollect of his spring wagon being borrowed after that by Mr. Kaggen; it was about eight or nine o'clock at night when he got it; he borrowed it for Mr. Leonard; I was at Mr. Stout's that night; I rigged the wagon for Mr. Kaggen, or did the most

of it; the bows and cover were not on the wagon when he got there; I got the bows and cover out of the granary.

Q. Did you get both the cover and bows out of the granary, or was one of them in the house?

(Objected to as leading.)

A. I got the bows out of the granary, and the cover out of the house—

My Uncle Jerome was up to Mr. Grovier's that night—I mean at Mrs. Stout's father.

Cross-examined:

Mr. Leonard had the spring-wagon I think about four days, as near as I can remember—it might have been longer; in that time it went to New York; they said they were going to New York with it; when Mr. Kaggen came for it, he came to what we call the shed or kitchen door; he said he came after the wagon; the wagon was under the wagon house; I think I did not ask anybody about letting it go before I let him have it; I think he said he or Mr. Leonard had seen Mr. Stout, and he said he could have the wagon; that is the only way I knew that my uncle consented to his having the wagon; the pole straps were in the pole, I think—either in the pole or else in the wagon; the pole was in its place in the wagon; the hoops were in the granary; the upper part over the carriage house where we kept the grain; we went in the door, and go up stairs to get into the granary; Orrin Stout held the light; no one went with me; he was standing by the door when he held the light at the top of the stairs; he had a lantern; I got the cover in the house; the girl brought it to me; I don't know where she got it; I was standing by the door when I got it; Mr. Kaggen brought Mr. Leonard's horses with him; the harness was on the horses when they came; Mr. Kaggen and I hitched up the horses to

the wagon; no one came with Kaggen; there was no one with him that I remember; he was alone; Mr. Kaggen's son was not with him; I know Mr. Kaggen's son; Mr. Kaggen was there about half an hour before he drove the wagon away: I have not talked with my uncle at all about this: all he spoke was that he wanted me down here, and whether I remembered about Kaggen's taking the wagon; he asked me that one day he met me on the road two or three weeks ago, when he met me, between here and Mendham; that is all on that subject which passed between me and him at that time; that is the only time he spoke to me about it; no one else ever spoke to me about it; I am sure of that; I don't know when exactly Mr. Kaggen went home; it was between eight or nine when he came, and he stayed there about half an hour; my uncle went to his father-in-law's, at night; I suppose he was attending Court; I think, at the time, and went up from here; he had been attending Court here, during the day; I don't know what it was about; I believe he was a juryman; the Court was at the Court house; I don't know anything about what case was being tried that day; I don't remember how long he had been attending Court here at that time; I don't remember whether it was the beginning of the Term, or the first, or the last; Mr. Stout was in Morristown the day before, I believe; I believe he was going every day then; I cannot say how long he had been attending Court; he had been attending some before, I know; the night before Kaggen got the wagon I could not say whether he was at home or not; I could not say where he was the night before that; he must have been home some of these nights; I did not put it down where he was all these times; I know he was not home the night Kaggen got the wagon; I am sure Kaggen got the wagon to take to New York—at least he said so; he said he was going the next day or the day after; I could not tell the exact day of the week he came, but think it was towards the first of the week; that is as near as I can remember.

Q. Have you any reason for thinking that it was towards the first of the week?

A. No, sir.

Q. Why did you say then that it was towards the first of the week?

A. Because it runs in my mind that day, there is no particular circumstance that makes me think so; I am not sure whether my uncle was there that morning or not; he usually left about eight or nine o'clock; he left for Morristown while he was attending Court; he was not there at dinner that day, I am sure of that; because he was attending Court and did not come to dinner; I was there at dinner that day; his son, the working girl, and my sister were there besides me to dinner.

Re-direct-examination:

Q. Did your uncle sometimes, while attending Court, go out to stay all night at Mr. Grovier's?

(Objected to as already answered, and as leading.

A. Yes, sir.

Q. I talked with you about this matter a few minutes before you were sworn, out in the other room?

A. Yes, sir.

Q. You came down with a load, and came after a load to-day?

A. I did.

Q. Did anybody meet you and tell you to come up here, and if so, who?

A. No, sir.

Q. Why did you come up here?

A. My uncle told me he wanted me to come here; I had not seen him to-day, until I came here in the office.

Q. You got word from him in the course of the few days last, that he wanted you to come here?

A. I did; that I would be wanted here to-day.

Second Cross-examination:

Q. When did you get that word?

A. Tuesday, from my uncle.

He told me that I would be wanted here to-day; he was at Mendham at the time; it was not said what he wanted me for; nothing was said, except that he wanted me here to-day; of course I knew what it was for; I told you before that he had seen me two or three weeks ago about it; he did not tell me or give me any intimation as to what he wanted me here for when I saw him last; he did not tell me he wanted me as a witness, he said "I shall want you down there Friday on that trial;" this is the way he spoke; we were both in a hurry.

Second Re-direct examination:

I knew there had been a trial going on here for sometime past, between my uncle and Mr. Leonard.

JEREMIAH S. EMMONS.

Sworn and subscribed before me, this 3d day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Richard T. Bowman, a witness called and sworn on part of plaintiff, deposes and says:

I live in Mendham; I was Town Clerk six years of Mendham Township; my politics are Democratic; the first two years of my clerkship was in 1864 and 1865, and the last four years were in 1867, 1868, 1869 and 1870; during that time I assisted in making Democratic canvasses.

"Exhibit I," on part of platntiff, being shown, (witness) he says:

This is my handwriting; it is the canvass for 1869.

"Exhibit K," on part of plaintiff being shown, (witness) he says: This is county canvass, I believe, for Mendham Township; there is no date on it, but I believe it is for the Fall of 1870.

(This testimony all objected to.)

"Exhibit L," on part of plaintiff being shown (witness) he says: I was present when this canvass was made, but it is not my handwriting; the larger part of it is in my uncle's handwriting, Mr. Stout's; the balance of it Jonathan Pitney's; it is the Democratic election canvass for Mendham Township for the year 1870.

"Exhibit H," on part of plaintiff, being shown (witness) he says: This book contains the check register of Mendham Township, and the Democratic canvass for the year 1868 (the Spring) that is the check register; the canvass I cannot exactly remember, but it was the time when Sanders and Phœnix were running for the Legislature.

Q. Was there any other canvasses made by the Democratic party during the years in question, except these now shown you?

(Objected to because the witness cannot know what other canvasses were made by the Democratic party.

A. Not that I am aware of.

This last canvass is in my handwriting; I assisted in all the canvasses while I was clerk; I do not know as I missed any.

Q. According to your knowledge and recollection, was or was not Amasa Leonard counted as a voter in Mendham Township, previous to the day that he did actually vote?

(Objected to.)

A. His name was never canvassed, and was not put on the registry list, neither one to my certain knowledge.

Under the registry law we had to make three books, one filed with the county clerk, one in the Township effects, the other was called the check register.

Q. This certificate of John Reynolds, Benjamin H. Losey and C. P. Garrabrant in the back part of "Exhibit H," to what part of the book does it refer to, those who are indexed, or does it refer to that which you have called the Democratic canvass headed Sanders & Phœnix?

(Objected to as leading.)

A. It belongs to the registry part; the names that are indexed.

The Democratic canvass was put in after the certificate; I kept the poll list when Mr. Stout ran for Sheriff; I recollect Mr. Leonard voting that day.

Q. Was your attention called to it by any circumstances at the time, and if so, what were they?

A. Well, when I first saw him, I did not think he was a voter; I did not know what circumstances had happened to bring him there to vote.

Q. Were the Republican challengers present when he voted?

A. No, they had just stepped out.

I observed Mr. Stout's making a motion by the door, and then him and Mr. Leonard came in to the polls; he (Mr. Leonard) voted.

Q. Did you hear any talk about Mr. Leonard's having voted, or any question as to his right to vote, or any management to get his vote in, or anything of that kind, and if so, when and how soon after the election?

(Objected to as hearsay, and as not rebutting.)

A. I heard it said a good many times that Mr. Stout got a man to call Dr. Stiger out of the room so as to get in two illegal votes—Mr. Leonard and a German man, I believe, who used to work at his place; I heard it talked of at different times from that day of election up to within a short time.

(All this testimony objected to.)

Cross-examined:

I am a nephew of Mr. Stout; my mother was Mr. Stout's sister; I live in New Street, in the village of Mendham.

(The book marked "Exhibit H," for plaintiff, being shown witness.)

Q. That is an official record belonging to the Township of Mendham, is it not?

A. Yes, sir.

Q. How came you to insert in that book before the names of the registers, this canvass?

A. Because it wasn't the book to be filed but was the check register for one of the registers to check as they vote, and after that it amounts to nothing; the other two are filed—one with the Township's effects and the other with the County Clerk.

Q. Why did you use this book to put a canvass in?

A. I used it because it was convenient for me to do so; I know that there would be no other use for it after election, and I would have it here on the table by me to refer to during the day, as I had, also, a small list of doubtful names in the back part of the book, I think.

Q. Did you not know that it was improper for you, a Township clerk, to mutilate a Township list of voters in that way?

A. No, sir.

Q. In this book ("Exhibit H), what do the entries mean which are made with lead pencil, showing different amounts opposite the different names?

A. It looks like the account with the different voters, for the money paid them.

Q. In whose handwriting are they?

A. It ain't mine; I could not swear whose it is, but some of it looks like my uncle's (J. L. Stout's) handwriting.

Q. In whose handwriting are the words and figures; "I paid the above to Major Riley, October 31, '68"?

A. It is the same as the rest of it—my uncle's, J. L. Stout's.

I do not know when this pencil writing was put here; the canvass was made in 1870, when Sanders and Phœnix ran against one another; of course records will show better than memory when they ran, but it runs in my head that was the date.

("Exhibit I," for plaintiff, being shown witness.)

Q. Is there any date to that book that you put there?

A. No, sir; not in my own handwriting.

Q. Is there any date to it except the pencil marks, "Nov. 1869"?

A. No.

I couldn't say in whose handwriting that is.

It looks like several who write in that way; it looks some like Harry Day's, and some like uncle's; there are half a dozen who write just like that; I could mention dozens.

Q. You don't know when that was made except from this date "Nov., 1869"?

A. Not positive, only I know it is some time during my last four years' clerkship; I never helped to make a canvass before.

(Exhibit "K," for plaintiff, being shown witness.)

Q. Is there any date to that book?

A. No, not that I have seen.

I did not see it made, but am satisfied when it was made; I was not present when it was made; there is none of my writing in the book; I do not know in whose handwriting the names in ink are.

(Exhibit "L," on part of plaintiff, being shown witness.)

Q. Is there any of your writing in that book?

A. No, sir, I do not see any.

It was made when uncle ran for Sheriff in the Fall of 1870, because I was there at the meeting when it was made; I can swear that I saw that identical book written in; to the best of my knowledge my uncle wrote part of it, and he was called out; and Jonathan Pitney wrote the rest of it—and that is why I know the book; I had a sore finger myself that Fall, and could not write myself.

Q. Is there anything in the book itself to identify it, except that the first part is in your uncle's handwriting, and the last part in Pitney's?

A. Nothing more than I remember the fun and laugh we had over the letter C for the colored gentlemen, which we put there to distinguish them.

Q. Then one way of your identifying it is, that you find the letter C opposite the names of some colored men?

A. I said that was one way, because I recollect some saying that they had said they would not vote when the niggers voted.

Q. What do the pencil letters and figures on the 14th page mean?

A. I suppose they mean majorities, opposite Hill and Searing; but the rest I do not know anything about.

I could not say in whose handwriting it is in, or when it was put there; I mean the top letters; I never seen them before in my life; I believe I have stated all the means I have of identifying this book.

Q. You say you were present in the Fall of 1870, when a canvass was made and written down; where was that meeting?

A. It was, I think, in Mr. H. C. Pitney's house, where John F. Yawger lived; it would be impossible for me to tell who all were there; I can name some: John F. Yawger, Jerome L. Stout, J. Bry-

ant, Bowman, James Lawrence, Jonathan Pitney, I believe; there were more there, but I cannot think of them now—Jerry Emmons was there.

I attended the election as Clerk of the Board in the Fall of 1870; was there all day; I won't say at what time in the day when Mr. Leonard voted—whether forenoon or afternoon, but think it was in the forenoon.

10 ———

Examination of this witness here suspended May 3d, 1872, to take the testimony of Mary Ingram, John A. Clift, S. P. Cannon, W. D. Thompson, J. F. Ballentine and Elmer Stout, whose testimony, taken May 4th, next follows this.

May 6th, 1872.—Cross-examination of Richard
20 T. Bowman resumed, as follows:

I don't know as I can recollect just now who voted just before Mr. Leonard; if my memory serves me right, David Kaggen and Rheinthaller, a Dutchman, voted after him; there was nothing unusual in the way in which Mr. Leonard's name was announced or given in; it was announced by the judge of election in his usual tone of voice; I believe the vote was not challenged; I don't think it
30 was challenged.

Q. Don't you know whether it was or not?

A. I am almost certain it was not; the whole board of election were there when he voted; I won't say positive, but the members of the board were, Samuel Reynolds, Jonathan Pitney, and Peter Melick; I cannot tell who else was in the room, but there were very few; there were not fifty others in the room; I should think there were about seven, not more than that; I mean seven, including the board.

40 Q. You think then that seven, including the board, comprised all the persons in the room at the time he voted—including Leonard?

A. I don't think there was; there may have been one or two more; I won't be positive, but I know there was a very small number.

Q. Can you name any of those who were in the room besides the board of election and yourself at the time Mr. Leonard voted?

A. Mr. Leonard and my uncle, Mr. Stout; I don't recollect the names of any others.

Q. Then you think Mr. Leonard and Mr. Stout were the only other persons who were in the room at the time Mr. Leonard voted, besides the board of election and yourself?

A. I have not said so.

Q. I have not asked you what you said, but what you think.

Question repeated.

A. No, I do not think so.

Q. Who else do you think there were?

A. I think there one or two more than that number, but I cannot state who they were.

Exhibit C, on part of the defendant, being shown witness, he says:

This is the poll book of the election of 1870, and is in my handwriting.

Re-direct examination:

A. At the time the registry (Exhibit H, on part of plaintiff) was made April 13th, 1868; did you know that the registry law had been repealed April 9th, 1868?

A. Not that day; I found it out a day or two after the registers had set.

Q. After that did you consider the registry of any consequence?

A. No, sir.

I am a Justice of the Peace in Mendham Township now.

Q. Did you help make any Democratic canvasses prior to 1867?

A. I think I did, but am not positive.

Q. I mean any in your own handwriting?

A. I won't be positive that I did.

Cross-examination:

Q. What is the date of this registry?

A. The certificate of registry is dated April 9th, 1868, and it says April 13th, 1868, here, (pointing to a leaf in first part;) it was made on the 9th for the 13th—election day.

RICHARD T. BOWMAN.

Sworn and subscribed before me, this 6th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Examination of witnesses May 3d, 1872, during an intermission in Richard T. Bowman's testimony. May 4th, 1872.

Mrs. Mary Ingram, a witness called and sworn on part of plaintiff, deposes and says:

I live at Hopatcong Lake, Sussex County, New Jersey; my husband's name is John Ingraham; I have lived there twenty-three years; my husband is a farmer; I know Mr. Jerome L. Stout and his wife, and have been acquainted with them, I think, three or four years; it is three years since I first knew Mrs. Stout, and I knew him a year or two before; I am acquainted with Mr. and Mrs. Leonard; Mr. Stout brought them up there on a pic-nic, I mean a party came up there on a pic-nic excursion, fishing, and stopped at our place; the first time Mr. and Mrs. Leonard came was in the summer of 1870; there were other people along besides Mr. and Mrs. Leonard, and Mr. and Mrs. Stout; they

got there I think about twelve o'clock, and stayed there all night; the next morning they went home; Mrs. Leonard was not well in the afternoon while she was there; I think she went to the lake for a short time, and came in before the rest because not well; I had some talk with Mrs. Leonard when she came back.

Q. Was anything said by Mrs. Leonard as to where she lived, or her manner of living, or where her home was?

(Objected to as incompetent, and because Mrs. Leonard's attention was not called to any such conversation.)

A. She did tell me that she did not live out here on the farm, but that she lived in New York; she said she was only out here on her farm, and then she would go back again; I don't remember as she said anything at that time about her business or home in New York; she did not say how long she stayed on the farm; a few days or a week or so; she was talking about staying; she said she did not stay out here long, but lived in New York.

Q. Anything said as to the season of the year when she was in the habit of coming out?

A. No, sir; I don't think she said anything about that, that I remember of; it was in the Summer time, then, that she was at our house; I could not say whether it was July or August, or either of them; I could not tell the month; it was nice warm weather, I know.

This what I have been telling about is the first season she was at my house.

I recollect their coming again last summer; Mr. and Mrs. Leonard and Mr. Stout; Mrs. Stout was not long; they stayed there all night and next day till after dinner; she was telling me about her coming out there in so much of a hurry, and that her woman had to cook all night to get ready for her to come out.

Q. How long before she came upon the pic-nic did she come out from New York?

A. I think she said three or four days she had been up; I think it was Wednesday that they got to our house this last time.

Q. Did she say anything about owning a farm at that time?

(Objected to as irrelevant, and because Mrs. Leonard's attention while on the stand was called to no such conversation.)

A. No; she did not say anything about owning the farm; she said she had come out on the farm and had got the wife of the man who lived there to cook for her almost all night to get her ready to come up; she said they sat up pretty late; that they were up almost all night cooking; they brought their own provisions.

I talked some with Mr. Leonard in the afternoon, the last time they were there; the rest were on the lake, and he did not go; my husband went out with them.

Q. Did Mr. Leonard tell you anything about where he lived, or where he was engaged in business, or talk on that subject; if so, state it?

A. Yes, sir; we were talking about it; we were talking about his living in New York, and about his farm, and about his cows being gone, and he said that he stayed in New York the most in the Winter time, for it was pleasanter, he said, for him to be in New York in the Winter time, and he thought it was healthier for him to be out here in the Summer time; he lived in New York, I told you, the most in the Winter time; I believe that is all that he told me about living in New York; there was considerable of our talk together.

Q. Did Mr. and Mrs. Leonard invite you to call and see them, and if so, what place were you to call and see them?

A. I think Mrs. Leonard invited me down to see her; she said if I ever came into New York, I must

surely come and see them ; but I told her I did not suppose I would ever get there very soon.

Q. From all that was said at both visits, by Mr. and Mrs. Leonard on that subject, where did you understand that they lived and made their home ?

(Objected to as incompetent and irrelevant.)

A. I supposed from what they told me that they lived in New York ; that is the way I understood it.

Cross-examined :

Q. You understood that Mr. Leonard did business in New York, did you not ?

A. Yes.

I guess there were somewhere near a dozen in the party the last time they were there ; it appears to me that we counted them up, and made up twelve or thirteen, at least ; these were friends of Mr. and Mrs. Leonard from New York, as I understood it ; her sisters and mother and friends were there.

When Mr. and Mrs. Leonard came there the first time, they were perfect strangers to me ; I had never seen them before ; it was about twelve o'clock that day when they came, and this conversation with Mrs. Leonard was in the afternoon, somewhere along three or four o'clock—along towards night.

Q. The idea that you got, was, that Mrs. Leonard was up at the farm only occasionally, and only for a few days at a time ?

A. Yes sir ; that is what she told me.

I supposed she was living in New York at that time, and was keeping house there.

Re-direct examination .

Mrs. Leonard appeared to be a very nice, pleasant sort of a woman, and I liked her very much ; she was sociable to me ; I don't remember whether she laid down with her headache ; I got some

vinegar for her headache; and tried to cure her; my maiden name is Atno; William and Sherwood Atno are my father's brothers.

Second Cross-examination:

She seemed to complain quite hard of her headache.

Second Re-direct:

I stayed last night at my uncle Sherwood Atno's house.

Third Cross-examination:

I don't remember the name of the woman who she said cooked the victuals for her; she gave the name, but I have forgotten it; I understood that they cooked on the farm; I don't remember what she called the woman; she called her name over.

Third Re-direct examination:

Mr. Stout's folks brought some of the provisions; I do not know where Mrs. Leonard got all her provisions she said her woman had cooked for her.

MARY INGRAM.

Sworn and subscribed before me, this 4th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

John A. Clift, a witness called and sworn on part of plaintiff, deposes and says:

I am sexton of the Methodist church, and have been since a year ago last February; I have seen Amasa Leonard; I know that he has a pew in the church; I don't recollect of seeing him at church more than two or three times; he attends very seldom.

Cross-examination:

Mr. Parker was sexton the year before me; the church was dedicated in March, 1870, and I went in in February, 1871.

JOHN A. CLIFT.

Sworn and subscribed before me, this 4th day of March, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Solomon G. Camm, a witness called and sworn on part of plaintiff, deposes and says:

I will be twenty-seven years old on the tenth day of this month; I live at Randolph Township, New Jersey; I know Amasa Leonard; I lived near him, or within the vicinity, four years off and on.

Q. Did you hear any conversation between Mr. Leonard and Mr. William Henry Stiles about working on the road; and if so, state it?

A. I heard Mr. Stiles ask Mr. Leonard to give twenty-five dollars to put on this end of the district—from Mr. Leonard's house to this end of the district—and told Mr. Leonard that with it, with what tax there was, the road could be made quite passable; Mr. Leonard said he did not think he would get benefit enough from the road to pay him for the twenty-five dollars over and above the tax; Mr. Stiles told him that the roads were not passable there Spring and Fall, and with the tax he could not fix them so as they would be; Mr. Leonard said he did not care much about them Spring and Fall: that Summer was when he used them most, and then they were generally dry, so that he could go over them through the Summer season; that that was the most he cared about; that is about all that I recollect at that time.

Q. What road were they talking about from Mr. Leonard's to this end of the district?

A. The district runs both sides of Mr. Leonard's,

and they were speaking about this end, from Mr. Leonard's down to Mr. Grovier's—that is the road which leads from Mr. Leonard's to Morristown.

Q. Where was this conversation, and how did it occur?

A. It was above Mr. Grovier's, on the road right by a pair of bars which led into his upper lot; they were working on the road; I think he was building a temporary rail bridge at the time.

Q. Who was working on the road, and what was Mr. Leonard doing?

A. Mr. Grovier was on the road, and Tom Henry Huff, Henry Stiles and one of his boys—I am not certain which, whether Eugene or George; I am not positive whether there were more on the road there or not; Mr. Leonard came along in a wagon.

I am not sure whether it was 1869 or 1870 when this was; I worked on the road there two or three years, and I am not sure which it was; it was not last year; it is a rough road, and generally washes in heavy rains; it is very hard to keep in repair, it is so stony.

Q. Has the tax there, while you have known it, ever been sufficient to keep it in repair?

A. No, sir; they most generally work over the tax, and then it is not as good as it ought to be.

Cross-examination:

During the past year I have been living at Mr. Stout's father-in-law; I lived there up to this last Spring; I am not positive where I lived when this talk was had; I lived on the district two years, and I lived below the district, and while there worked out by day's work; so I cannot say whether I was living on the district at the time the talk was had or not; I lived on Mr. Garrabrant's farm from some time in July—it was in wheat harvest, I know, 1870; it was not in 1868 when this talk occurred, and I cannot tell whether it was in 1869 or 1870; I did not live in that neighborhood in 1868.

Re-direct examination:

Q. What is the reason you cannot tell where you lived when this talk was had?

A. Because I am in the habit of working by the day, and frequently I am hired by men on other districts to work on the road.

Q. If you knew what year it was that the talk occurred, could you then tell with whom you lived?

A. I could.

Sworn and subscribed before me, this 4th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

William D. Thompson, a witness called and sworn on part of plaintiff, deposes and says:

I am twenty-two years old last January; live in Mendham Village, and was born and brought up near there; I am acquainted with Mr. Stout; I know Mr. Leonard by sight, but have no particular acquaintance with him; I recollect the election day when Mr. Stout ran for Sheriff; I was at election that day, but did not have a vote yet; I saw Mr. Leonard there that day; when I first saw him he was standing on Mr. Phœnix store stoop; it was some time in the forenoon, I cannot tell exactly what time it was; I saw Major Riley there.

Q. Did you hear any talk between Major Riley and Mr. Leonard; and if so, what was it?

(Objected to.)

A. Maj. Riley stepped up to Mr. Leonard, and said, "Who are you?" he replied, "Mr. Leonard, off the mountain." "Off the mountain?" said Major Riley. "Yes," said Mr. Leonard, "I have a farm there." Mr. Riley asked him if he was a

voter there, and he said he was not; they went from there into the lodge-room, I suppose; they went into the door which leads into the lodge-room.

I saw James Cole there that day.

Q. Was he a Democrat or Republican generally?

A. I could not say, but think he was a Republican.

Q. Did you hear any conversation that day between Mr. James Cole, and Mr. Stout and Mr. Leonard, or any two of them; and if so, what was it, where was it, and when was it?

A. I saw Mr. Leonard and Mr. Cole talking; they were talking between Mr. Reynold's and Mr. Robinson's store; Mr. Cole was working against Mr. Stout pretty hard that day, and Mr. Leonard was working to try and get his name not crossed off so much; Mr. Leonard told him that as many as he got crossed off of Mr. Stout he would try and get as many back on again; Mr. Leonard told him that he had got two in already which Mr. Stout did not expect; Mr. Cole asked him who they were; his own and a Dutchman, he said; I think this talk was a little after dinner; I am not positive about the time, but think it was in the afternoon; I am quite sure of it; it was after the talk I had heard between Riley and Leonard.

Cross-examination:

I am butchering for a living this summer, for DeGroot & Bowman; Mr. Bowman is a nephew of Mr. Stout; he is brother to the one who was here yesterday; before that I followed teaming for two years; teaming from Mendham—carting from Mendham here, and from here up there; I lived in the town; before that I worked by the day for a year or two—a little over a year, may be two years; before that I went to school most all the time, and worked around a little; I went to school in the Winter, and worked in the Summer; on election day I was around town; I was not doing anything; I was walking around; I was walking around all

day ; I was doing nothing at all ; I got my dinner at my own place ; I did not drink any during the day, except a little cold water ; when I heard the talk on Phœnix's stoop, I was on the stoop leaning against the building ; Major Riley was there talking to me, and he stepped from me to Mr. Leonard ; I couldn't say exactly how long they stood there talking ; I and they stayed there some fifteen or twenty minutes ; I did not mark the time ; I went from there over across the street, not to any particular place ; there were some boys across the street talking, and I went over there ; I could not say how long ; I could not tell where I went to from there ; after hearing this talk on Phœnix's stoop, I went across the street and about town there, and then I went to my dinner ; I did not say anything to Mr. Stout about this conversation ; I never spoke to him about it until he spoke to me about it ; when he spoke to me about it, I then spoke to him ; that was three or four, or five weeks ago, I think ; we talked a little then about it ; I have talked with him once since about it ; it was Saturday, either one or two weeks ago, I am not certain which ; when he first spoke to me about it, it was at Mendham, by the hotel, on the street, I think, and am pretty sure ; Mr. Stout has paid me for my subpœna ; it was fifty cents, I suppose, that's what subpœnas generally are ; that is what he paid me ; nothing was said about the conversation, except on that Saturday ; I did not vote in the Fall of '70 ; I became twenty-one the 19th day of January, 1871, I think it was ; it was 1870 or 1871 ; I won't be certain ; I will be twenty-three next January ; James Cole is dead now ; he died sometime last season ; I forget whether it was last Summer or Fall ; the talk that I heard with Mr. Cole was on the sidewalk ; I don't know how it commenced ; Mr. Cole and Mr. Leonard were there, and folks traveling around ; there was two or three of us boys stood a little ways off from them ; we came up by them and stopped ; Mr. Leonard and Mr. Cole were standing ; I do not know how long they had been standing there

when I came up; I did not see them meet; I do not know whether they are old acquaintances or not; they were talking there; they might have stood there an hour talking there after I saw them, and may be not so long; during this time I stood there with the boys talking, may be fifteen or twenty minutes, and then went over and sat on the stoop; Mr. Robinson's stoop; I could not say whether any one joined Mr. Cole and Mr. Leonard while they were talking; they stood there on the sidewalk by the fence, all the time they were there; we stood within seven or eight feet of them, I should think; I was leaning back against the fence; I don't remember now who was there with me; there were three of us who went across there, but I do not know how long we all stood there; I mean there where we crossed over from the Post-office, coming from down the street; I could not tell exactly who those three were who crossed the street with me; I could not name any of them now; those three who crossed over with me did not stay there any time at all; they stood there against the fence a few minutes, and then went into the store; they did not stand with me against the fence, but passed on and stood by the fence by the store; they left me right where Mr. Leonard and Mr. Cole were standing; at least, we parted there; they went one way, and I the other, across to the fence, and leaned there; I had just crossed over from the Post office with them; they had come down the street ahead of me; I stopped there, because I wanted to.

Q. What reason, if any, did you have for stopping there against the fence?

A. No particular reason.

I was leaning against the fence, I told you, with my back against the fence; I did not speak to Mr. Cole or Mr. Leonard—neither of them spoke to me; they were talking about Mr. Stout's running when I first stopped against the fence; Cole was talking about crossing off Stout's name, and Leonard telling him not to do it; I have told you the

whole thing over once, but will tell you it over again if you want me to ; Mr. Leonard went to him, or was there, and asked him if he would not quit crossing Mr. Stout's name off; I think that was the first I heard.

Q. State all that you heard them say?

A. And he said, because he told him all he got crossed off, he would try and get as many more back again for Mr. Stout if he could ; he said he had already got two which he did not expect—his own and a Dutchman's ; I think that is all.

Q. You have stated that you stood there fifteen or twenty minutes ; was that all that was said between Mr. Leonard and Mr. Cole during that time?

A. That is about all that I heard ; they appeared to be talking all the time.

Adjourned for dinner.

Cross-examination resumed, May 4, 1872 :

When I left the fence near where Cole and Leonard were, I went over to Robinson's store ; Mr. Cole and Mr. Leonard were there the last I saw of them ; there were no high words between them ; I could not say how long I was at the store at a time ; I was there off and on a good many times during the day.

Re-direct examination :

I have had a talk with Major Riley about this matter ; I live right across the road from his shop.

(This testimony objected to by Mr Mills.)

Q. Did you see anything of Cole afterwards that night, or hear any conversation between him and Stout?

A. Yes; it was between Mr. Robinson's store and the hotel; I stood at the far end of the hotel stoop; I heard a great noise out there by the store —loud talk and people gathering in; I went there to see what was going on; Mr. Cole and Mr. Stout were having quite a spat about votes, and Mr. Cole threw it up to him two or three times that he had already got in votes which were illegal, and Mr. Stout told him he had not; Mr. Cole told him he had, and Mr. Stout asked him who they were, and Cole said Mr. Leonard and the Dutchman, and Mr. Stout said that he did not know anything about their voting; they kept on there till they created a great hubbub; and I believe after a while they got quieted down, and that was all there was about it.

(All the above testimony was objected to as hearsay and incompetent, the objection being made before it was given.)

I did not see anything of Mr. Leonard there while this hubbub was going on; there were a good many people around—quite a number of them.

Q. Were there any hard names called by Cole or Stout?

A. Yes, sir; they called one another liars—I believe once or twice; it is hard telling what my politics are; I did what I could that day for Mr. Stout.

Q. Have you and Mr. Bryant Bowman, your employer, talked any about this case?

A. He never said anything to me about it until yesterday morning; that was after I was subpœnæd.

Q. How came the matter to be spoken of between you then?

A. Well, yesterday morning I told him that I would have to go to Morristown on that trial, I presumed.

(Objected to as entirely incompetent.)

A. He wanted to know what trial, and I told him Leonard & Stout; he wanted to know what I knew about it, and I told him it was a little conversation which Mr. Leonard and Mr. Riley had, and which Mr. Cole and Mr. Leonard had; I did come here yesterday afternoon.

Cross-examination:

I have not talked with Mr. Stout since the adjournment this noon; I went in with Mr. Pitney directly after the adjournment into his office; Mr. Stout came in there; the matters relating to the trial were talked over there; I went there and took dinner with Mr. Stout; Mr. Stout and Mr. Cole did not swear when they used hard words; as I said, Cole called Stout a liar, and Mr. Stout called him a liar; this was about dark, not quite dark; the sun was going down fairly.

Re-direct Examination:

Q. When you came into my office at one o'clock to-day, I asked you if you had talked with Major Riley, didn't I?

A. Yes.

Q. Anything else?

(Objected to.)

A. Yes; the conversation was between you (Mr. Pitney) and me.

WM. D. THOMPSON.

Sworn and subscribed before me this 4th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Com'nr.

James F. Ballentine, a witness sworn on part of plaintiff, deposes and says:

I was fifty-four years old the 12th of March last; I live two miles beyond Mendham, on the road to Peapack, and was born and brought up there; I attended the election when Mr. Stout ran for Sheriff.

Q. Who were you for?

A. Mr. Stout.

I did something towards getting votes for him; I was introduced to Mr. Leonard there that day by Mr. Stout, at the end of Taylor's stoop, towards the shed, the west end; I think it was betwixt four and five o'clock; I had some conversation with Mr. Stout at first; I told him I had got a man by the name of Elias Bishop, and Mr. Leonard then came up.

(Anything said by Mr. Stout not in presence of Mr. Leonard objected to.)

A. Mr. Stout said he felt pretty blue; I told him I had got a couple for him which he (Mr. Stout) did not expect; Mr. Leonard then said that he (Leonard) had got a couple which he (Stout) did not expect; that was himself and a man named "Randollar;" Mr. Stout said he felt blue, because he was afraid he would be defeated, so many were crossing his name off; Mr. Leonard said his voting place was in New York; said he wanted to help Mr. Stout, and that Mr. Stout had been a good friend to him; that's as far as I know about that; then I went for a man named James Aldridge in Mr. Stout's carriage; I met them (Jas. Aldridge and his son Joseph) coming; I came on up to Mendham; James Aldridge got out, and, as soon as he got out of the wagon James Cole came and got him.

(All this testimony objected to.)

Q. Who was Cole working for?

(Objected to as irrelevant.)

A. For Mr. Vanderveer.

After Cole got James Aldridge away from me, I went in and fetched Mr. Stout out from the tavern I told him, and he went after Mr. Aldridge; Mr. Stout got out there, and Cole commenced to quarrel with him; this was between the tavern and the store where Mr. Robinson now is, in the street.

(All this testimony objected to.)

Cole threw up to Stout that he got two illegal votes; Stout asked him who they was; "Leonard and his Dutchman" Cole said; Stout asked him how he knew they were illegal votes, and he said he knew they had no business to vote there; they quarrelled some; William Anderson came, took Stout by the arm, and took him away.

Q. Any demonstration by Mr. Cole of violence?

A. Yes, sir; he rubbed his fists under Mr. Stout's nose; I did not see anything of Leonard there about that time; there were a good many people there besides Stout and I.

Cross-examined:

Elias Bishop had voted when I spoke to Mr. Stout about him; I could not tell how long after he voted this conversation occurred; I had no watch with me; I had never had seen Leonard before, and never have seen him since till to-day; when I first saw him to-day I did not recognize him, but asked who he was; I thought I kind of recognized him when I first saw him; when Cole and Stout were talking there, I could not say that Stout denied having got illegal votes; the crowd closed in so thick that I could hear them talking very loud, but could not hear what they said at the last.

Q. Did you hear Mr. Stout say anything when Cole charged him with getting those two illegal votes—did he not deny it?

A. I could not say—I could not say whether he did or did not deny it; he did say something.

Q. What did he say—did he tell Cole he was a liar?

JAMES F. BALLENTINE.

Sworn and subscribed before me, this 4th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Elmer Stout, a witness called and sworn on part of plaintiff, deposes and says:

I was at Mr. Leonard's the day they packed up to go to New York, a year ago last Fall; I recollect seeing my uncle, Jerome L. Stout, there; I did not help pack any fruit that day; I helped carry it out of the cellar for Mr. Stout and Mr. Leonard to pack; Charley Burnside helped carry it out; Mr. Stout and Mr. Leonard packed the fruit; it was packed in barrels with cut hay over it.

Q. Do you recollect of your uncle meeting with any accident?

A. Yes, sir, I do; he hurt his finger on a nail which was sticking up out of the barrel, so that it bled quite some.

Q. Did any one wrap it up?

A. Mrs. Leonard wrapped it up.

Q. Do you recollect what time your uncle went away that night, whether it was before or after dark?

A. It was after dark, and after eight o'clock; I hooked up his horse for him when he went away; Mr. Leonard told me to.

Q. How do you recollect it was after dark?

A. Because after I went out, Mr. Leonard came to the door and cautioned me to be very careful of the light which I took with me to get the horse.

It was after supper; my uncle went towards Morristown to his father-in-law's.

Q. Did he say where he was going?

A. Yes, he said he was going to his father-in-law's.

Cross-examined:

I was not a witness for my uncle on the trial with Burroughs; Emma Thompson was living with Mr. Leonard at the time; her name now is Emma Burnet; I took a lantern out to the barn; I don't think any one went out with me; I am not positive; my uncle's horse was unhitched from the wagon, and I think unharnessed, for I think I put the harness on and put her to the buggy.

The packing was done, I think, in the dining room, the next room to the kitchen; Mrs. Leonard was around there with them; I don't remember whether anybody assisted them in packing, but I don't think they did; I think the finger was tied up in the dining room; it was hurt there; Mr. Stout came there I think in the forenoon; I cannot be positive what time in the forenoon; I think he took dinner there; I was there at dinner; he took tea there; I could not say how long before dinner he came there, but think it was some time.

ELMER STOUT.

Sworn and subscribed before me, this 4th day of May, 1872,

EDMUND D. HALSEY,
Supreme Court Commissioner.

Examination of witnesses, May 11, 1872, pursuant to adjournment, Mr. Stout's testimony being postponed to examine the witness below named.

George B. Raymond, a witness called and sworn on part of plaintiff, deposes and says:

I am living at Morristown now; I am engaged in business in New York with the Tax Commissioners office, at 32 Chambers Street, at the old Court building; I have been in that business with the Tax Commissioners full three years; the Commissioners kept books of registry of the tax payers of New York City; the residents and non-residents are kept separately; we have one set of books for the residents, and one for the non-residents.

Q. Are you familiar with the workings of personal taxation in New York City?

A. I am with regard to taxes on personal property, not on real estate, and I am some on real estate.

Q. Has a person taxed as a resident in the City of New York any advantage over one taxed as a non-resident—if so, please to state how?

A. Yes, he has in one respect; a resident can deduct his indebtedness, a non-resident is liable to be taxed on all the money in his business; that is all my answer.

Q. If a non-resident borrows money to interest in business in New York, is he entitled to a deduction for the debt incurred in borrowing money?

A. I think that depends on where the money is borrowed or owned; in all cases a resident is entitled to deduct his debts.

Q. The practical result of the construction of the law is what?

(Objected to, as the law may be variously construed.)

A. The resident has this advantage, that he can deduct his indebtedness from the amount of his personal taxable property; a non-resident is liable to be taxed on all property in his business.

Every tax-payer is rated in one or the other of these two classes, as a resident or non-resident.

Q. State what are the items found on the registry of tax-payers, opposite each man's name?

A. A resident is taxed by his name, business address, at his residence, and at his place of business, and the ward he lives in; the amount of his personal property.

Q. If a resident applies to have his tax abated, where does he apply?

A. He applies to one of the commissioners of taxes and assessments in our office—if any abatement is made, an entry is made of it on the books; the date of the abatement would also be entered;

the name of the commissioner by whom the abatement was made; the original assessment would be marked out, and the new one made on another column left on the book for corrections.

If an entry were found on the book on the registry of tax-payers, in the tax commissioner's office in New York City, like that written on the paper now shown you, what would it mean—(a paper shown witness which I have marked "Exhibit R," on part of plaintiff.)

(Objected to as irrelevant.)

It would mean that that man was assessed on our tax books for two thousand dollars.

Q. What would be the meaning of the erasure of the three thousand?

A. That parties had been assessed at $3000, and a correction had been made to $2000.

Q. What would "April 30th, 1872," mean?

A. That the correction had been made on that date.

Q. And the words "Comr." mean?

A. That the correction was made by commissioner King.

The book is ruled off in columns for these different items, for name, business, place of business, residence, ward, amount taxed, correct amount taxed, remarks.

Cross-examined:

The rate of taxation is the same to all—residents and non-residents.

Q. And the practice is, in the case of any one doing business in New York, to deduct from the amount of his personal property his indebtedness, is it not?

A. That depends upon where he lives; if he lives in the city or State, and pays taxes in the State, you can deduct it.

Q. Suppose he does not live in the State, and his

indebtedness in the State of New York, is it not the practice to deduct it?

A. I don't think I can answer that question; I think you can deduct indebtedness to persons living in the State; I am not familiar enough with the law to answer positively.

Q. In that case it would make no difference in regard to deducting indebtedness, whether a man was a resident or non-resident?

A. No.

Q. This right of deducting indebtedness, which you have spoken of, is the only advantage, so far as you are aware, which a resident of the City of New York has over a non-resident, is it not?

A. That is all as far as I know.

Q. In stating the practice as to the deduction of indebtedness allowed to those who do business in New York, you have given your understanding of the working of the law in the city without pretending to state the word of the law itself, or what its actual requirements are—have you not?

A. I have.

My business only relates to the books of the office; my duties are clerical, and do not lead me to study the law itself.

Q. If a man had a dwelling place in New York City, in which he resided during any part of the year, the number of that dwelling house would be put down in the tax-book as his residence, whether he had a residence elsewhere or not, would it not?

(Objected to for want of knowledge in the witness.)

A. It would, unless he had it corrected.

Q. There is no other mention on the tax-book of residence except this reference to the dwelling house, which the tax-payers may have?

A. Some persons are taxed at their place of business as their residence, in which case they live there, and are taxed there all under one head; that is, where the dwelling house and place of business are in the same building.

Q. Question repeated?
A. No.

Re-direct examination:

Q. The last questions put to you, you understand, refer to those who are taxed as residents, and recorded on the books of resident tax payers?

(Objected to as leading.)

A. Yes.

Q. If a man is on the books of resident tax payers, do you put down his residence in the State of Connecticut or New Jersey, or any other foreign State?

A. No.

Q. If a tax payer is registered as a non-resident on the non-resident's books, is he put down as residing in New York City?

(Objected to because it already appears that there is no reference to the residence, except to the number of the tax payer's dwelling house.)

A. No.

Second cross-examination:

Q. If a man has his business place in the city of New York, and owns and lives in a dwelling house there during a part of the year, and has a dwelling house in another State, where he lives the remainder of the year, where would he be placed on the tax books; on the books of resident tax payers, or on the books of non-resident tax payers?

A. That would take me some time to answer it; he would probably be assessed as a resident and be placed on the resident book; but if he claimed that he was a non-resident, paying his taxes out of the city, he would be transferred to the non-resident book.

Q. In the case that I have spoken of, in which a man has two dwelling places, is any enquiry made at the time the assessment is made, where the tax payers legal domicile is?

A. Not of him until he corrects his tax.

Q. And if no such correction is claimed, no change is made, I suppose?

A. No, sir.

It is not the practice, in the city of New York to value real estate at its full value.

Second re-direct examination :

Q. Where a man has two places, a city house and a country house in another State, he is taxed as a resident or non-resident, at his option according as he claims to be resident or non-resident, is he not?

(Objected to as leading, and as being already answered.)

A. Yes.

Q. Do you generally change a man from one class to the other without a request on his part so to be changed?

A. We do when we know positively that he has changed.

Q. These books containing lists of tax payers which you speak of, are they required to be kept by law?

A. They are; the whole official organization at the office is kept pursuant to law.

GEORGE B. RAYMOND.

Sworn and subscribed before me, this 11th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Mrs. Martha G. Stout, a witness called and sworn on part of plaintiff, deposes and says:

I recollect when Mr. Leonard sent for my husband's spring wagon to take his goods to New York; my husband was not home that night; my son Orrin was home that night; he (Orrin) came and asked me if he should let the wagon go; he said that his father had told Mr. Leonard that he could have it, and told me Mr. Kaggen had come for it, (All conversation between Mrs. Stout and her son objected to.) I told him to let him have it; I was sick at that time and unable to leave my room; my girl got the cover and gave it to my son, and he took it out; shortly after that I heard Mr. Kaggen leave; it was after dark.

Q. Did you ever understand that this boy Burnside was an adopted son of Mr. Leonard?

(Objected to as entirely immaterial what Mrs. Stout's understanding was.)

A. I never heard any person say so.

Q. How was he treated and clothed in the family, according to your observation?

(Objected to as irrelevant.)

A. He seemed to be treated like any boy would be who lived with them to help them; I should never have thought by his clothing that he could be an adopted son; I have seen him look pretty rough, both up at the farm and down here in Morristown when he came after them, taking them to and from the depot; in the Summer time he was generally barefoot.

Q. How were his clothing as to being patched, and so on?

A. I have seen them patched, and I have seen them when I thought patches would improve them.

Q. When you have been there, what have you seen him doing about the house?

A. I have seen him about with the other boy doing chores, cutting and bringing wood, and helping about the barn.

Q. State anything else you have observed in the treatment of the boy indicating whether he was treated as son or servant?

A. He always ate at the second table when I was there with the servants, and occupied the same sleeping room as the other boy; he slept, I understood, with Elmer, when he was there; I do not know how it was when he was not there.

Q. Did you ever see anything in the treatment of the boy by Mr. and Mrs. Leonard to indicate that they had adopted him?

(Objected to as utterly immaterial.)

A. I never supposed that they had adopted him. I never saw anything to lead me to think so; they always called him Charley Burnside; I never heard him called Charley Leonard.

I saw a bed and bedstead in the parlor at the farm last Summer; the Sabbath afternoon that Mr. Stout and our two little daughters, Johnny Crammer and myself called up there; it was the Sabbath before they went on the pic-nic excursion; Mr. and Mrs. Leonard came up from New York the day before—on Saturday.

Cross-examined:

Q. Will you swear that Mr. and Mrs. Leonard came up from New York on the Saturday before the Sunday you were up there, that you have just spoken of.

A. I feel very positive that they did; I remember that they were there at our house Saturday night, and that Mr. and Mrs. Northrup were desirous of going up with them, and they were unable to take them on account of the heavy load.

Q. Do you say that you think that Charles Burnside was treated as a servant, because he slept in the same room with your husband's nephew?

A. Yes, sir; because I think they considered my husband's nephew a servant; he was there to work for them.

Q. You have seen your husband's clothes when patches would improve them, have you not?

A. He usually does not wear them long enough to have them need patching, but still patches would not have hurt them if they had been needed; I don't think his (Burnside's,) clothes was as good as there own son's would have been; that is the reason I spoke of it.

Q. Is it uncommon for men and boys, when on a farm, to look pretty rough?

A. At times I suppose it is not.

Q. Did you see Kaggen the night he came for the spring wagon?

A. I did not; I couldn't tell just how long I had been sick at that time; I had shortly before that given birth to a child, who was born on December 9th; Miss Matilda Condict was my nurse at the time; my husband was away occasionally at night at that time; I knew where he was, or supposed I knew, and was not exercised about it.

Re-direct:

He stayed all that night at my father's; he generally told me when he went away whether he would be back or not; he told me when he went away that day, that he probably might stay all night at my father's, so that I needn't be disappointed if he stayed all night; he told me when he went away that he was going to Mr. Leonard's, and I suppose he went there.

Q. What kind of clothes does the boy Burnside wear on Sundays when he is dressed up?

A. I never saw very much difference; he always looked rather plain; I usually saw him Sabbath days when I was there, or when I was passing with the other boy.

Q. How did Burnside's dress compare with Caleb Leonard's dress?

A. Mr. Caleb Leonard was always dressed very nicely—he looked like very much of a gentleman.

Cross-examined:

Q. Mr. Caleb Leonard is a young man, some twenty-eight years old, is he not?

A. I cannot tell how old he is—he is a married man.

I have heard that he was organist in a church in New York, and that he lives there; I cannot remember whether it was just before dinner or after when Mr. Stout left our house the day Kaggen came for the wagon; it was somewhere in the middle of the day; I don't know as he said he was going directly to Mr. Leonard's, but he gave me to understand that he was going there before he got back; he mentioned no other place, except that he might go to my father's.

MARTHA G. STOUT.

Sworn and subscribed before me, this 11th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

John C. Cramer, a witness called and sworn on part of plaintiff, deposes and says:

I am in my fifteenth year, and have lived with Mr, Stout a little over a year; I recollect going up to Mr. Leonard's last Summer with Mr. and Mrs. Stout; it was on the 20th day of August last—because I went to New York with Mr. Stout on the 19th; the first time I was ever in New York; we got a horse and brought it out, and drove it a little that night, and the next day, hooked up, and went up to Mr. Leonard's; we left New York the day before at twelve o'clock, and got here at 1:23 P. M.; Mr. Douglass and his wife, and Mr. and Mrs. Northrup, were at Mr. Stout's that night; Mr. and Mrs. Leonard, Miss Moore and Lottie Moore came there in a carriage; I saw Charley Burnside that day here alone with a carriage, and saw him come up from the depot with them towards night; it was after I saw him alone that I saw him come up from the depot with them.

(All this testimony objected to, as being entirely immaterial, and consuming time unnecessarily.)

It was Mr. Leonard's carriage that Charley Burnside had; the same that I afterwards saw the rest in.

Cross-examined:

I was fourteen years old last January—I was not a witness for Mr. Stout before.

Q. Have you never been sworn as a witness on behalf of Mr. Stout in any other case but this?

A. I was never a witness for Mr. Stout in any trial.

Q. Were you a witness in the suit brought by Mr. Stout against Lewis Burroughs?

A. I was a witness for Mr. Burroughs.

Q. You were sworn as a witness in the case, were you not?

A. Mr. Burroughs' lawyer, Mr. Bell—I was a witness for him—called me on; I forget exactly when it was, but it was this last Winter or Spring; Spring, I think; February or March; the trial was before Esquire Bird, at his office.

Q. You swore in that case, that you sold the wagon which had been testified to by the witnesses in the case to Mr. Stout?

A. Yes, sir.

Q. Where did you get that wagon?

(Objected to as immaterial.)

A. I don't recollect exactly who it was I got it of now.

Q. How long had you had it at the time of that trial?

A. It wasn't mine, then.

Q. Can you tell now how much you paid for it?

(Objected to as immaterial and irrelevant.)

A. I don't recollect now how much I paid for it.

Q. How long did you own it?

A. A month or so.

Q. Were you a witness for Mr. Stout in a suit between Mr. Leek and him?

A. I was—I forget exactly when that was; it was some time ago, though.

Re-direct:

I went to Mr. Jenkins to tender some money for Mr. Stout, and I was sworn to prove that; I did not recollect that when I was first asked; I thought he meant Mr. Burroughs and that trial.

Cross-examined:

Q. Why did you think I meant the Burrough's trial, when I had not spoken of it at all?

A. You were asking me if I had been a witness or not, and I thought you meant that.

JOHN C. CRAMER.

Sworn and subscribed before me, this 11th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Examination of witnesses on part of defendant, Tuesday afternoon, May 14th, 1872, before Edmund D. Halsey, Supreme Court Commissioner, at Mr. Mills' office, in Morristown, N. J.

Mr. John H. Hull, a witness called and sworn on part of defendant, deposes and says:

I live at Mendham, at the Phœnix House, a boarding-house; I have been there now going on now going on six years; I was at Mendham at the Fall election, when Mr. Stout was running for Sheriff; I was at the house of J. L. Stout there that

day, and they were all taking dinner; who all were there I could not say, for I didn't go inside; I got something there.

Q. Did you get any whiskey there?

A. Of course I got a drink of whiskey there; Mr. Stout did not give it to me; it was his son, Orrin Stout.

Q. Did you get any money there?

A. I got money from somebody, and I suppose the man is not here who gave it to me; am I forced to state who gave it to me?

(Mr. Mills tells him he is not obliged to tell, and witness replies "then I will not tell.")

(Mr. Pitney had previously told the witness, in reply to a question that he was not bound to tell anything which would disgrace or affect himself, that he was obliged to tell what affected other people, and now reiterates that Mr. Stout has no objection to telling all he knows.)

(The testimony all objected to as irrelevant.)

Q. Please state who gave you the money?

A. Orrin Stout gave me the money, round by the door, on the steps; and that is all I have got to say.

Q. What was the money given to you for?

A. I did not ask, and nobody told me.

Q. Can you state the amount?

A. Fifteen dollars.

Cross-examined:

I was pretty tight that day, but I knew what was about; I know more when I am tight than I do when I am sober; Mr. Sanders was not up there with me; I was all alone by myself; I have not said Mr. Sanders was with me; I have had two glasses to drink to-day; if there is anything in my head now it will soon get out; it was at Mr. Stout's back door; I did not see Mr. Leonard and I did

not see Mr. Stout, but I heard the rattling of dishes and knew what they were doing ; I knocked at the door, and Orrin came out; I could not tell who went to the polls with me ; I wouldn't pretend to tell ; there might be a dozen.

Q. Did not some particular person meet you somewhere that afternoon, after you saw Orrin Stout at his father's, and go with you to the polls while you voted ?

A. I cannot tell who it was if there did ; it is beyond my recollection now ; I ———

his
JOHN H. (X) HULL.
mark.

Sworn and subscribed before me, }
this 14th day of May, 1872. }

EDMUND D. HALSEY,
Supreme Court Commissioner.

Ezra T. Baldwin, a witness called and sworn on the part of defendant, deposes and says :

I live at Mendham, and am acquainted with Samuel Anderson ; he was Collector in the Fall of 1870 ; I assisted in making out a list of persons who had not paid their taxes in the Fall of 1870 ; it was at Mr. Anderson's house, and at his request —I mean Mr. Samuel Anderson ; he came for me, and stated the object of his coming, which was to help him make out the return list ; I presume this was after the time for the payment of taxes had expired ; we commenced, I think, between eight and nine o'clock in the morning to do the writing ; he (Mr. Anderson) called off the names, and I wrote them down in this book ; he called them off from the duplicate ; this is the list I made.

Witness here produced a manuscript book which I have marked "Exhibit W," on part of defendant, and the same was offered in evidence.

The tax payers' names and the figures set opposite to them are in my handwriting, and were made at that time; I recollect two persons coming in while we were making out the list, and paying their taxes; Charles Cochran and Abiah Aldridge were the men; they paid the taxes to Mr. Samuel Anderson; I know the last witness, (Hull); John Cate is what they generally call him about Mendham.

Cross-examined:

I don't think there was anybody besides those two who came in to pay their taxes, while I was there; I was there some two hours, perhaps two hours and a half; I got home before dinner, I know; we both looked at the names in the duplicate, but I did everything under his orders; Mr. Anderson did not hold the duplicate in his hand all the time, for he was figuring on a slate part of the time; I helped him at the figuring part of the time.

Re-direct:

We were at a desk; the book I was writing on rested on the lid of the desk, which was open to write on; I was sitting down; Mr. Anderson was sitting by the side of me, within a foot or two.

EZRA T. BALDWIN.

Sworn and subscribed before me, this 14th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Mr. Samuel Anderson, a witness called and sworn on part of defendant, deposes and says:

There was a man who assisted me in making out my list of uncollected taxes in the Fall (December) 1870; it was Mr. Ezra T. Baldwin, who assisted me at my request; it was done at my house; it was

in the forenoon; the return was made to the Justice of the Peace on the 21st day of December, I think; it was the same day on which Mr. Baldwin assisted me in making out my return.

(Affidavit in front part of book, "Exhibit W," on part of defendant, being shown witness.)

I think that affidavit was made the same day that Baldwin and I made the list; the body of the affidavit was in Mr. Stout's handwriting, and the jurat and his signature; the warrant after the names, is in Mr. Stout's handwriting; I recollect two persons paying their taxes while I and Mr. Baldwin were at the return; they were Charles Cochran and Abiah Aldridge.

Cross-examined:

I intended to make out this return to Mr. Stout before I did make it; I don't recollect having any talk with him beforehand about that; I don't think I told him that I would bring the list of unpaid taxes to him, until I did bring it; I don't think he ever had spoken to me about bringing it to him; I don't remember his telling me not to make a return of his taxes; it was paid before; I could not say when Mr. Stout's tax was paid; I did not charge my mind with it; I see the bills here, and they are dated the 20th; I could not tell you where I was when Mr. Stout paid me his tax; the last day I sat for receiving taxes, was at my house.

SAMUEL ANDERSON.

Sworn and subscribed before me, }
this 14th day of May, 1872. }

EDMUND D. HALSEY,
Supreme Court Commissioner.

David Smith, a witness called and sworn on part of defendant, deposes and says:

I am now living on Mr. Leonard's farm in Mendham Township, and went there on the first day of April last; I should say March 21st last; in December, 1870, I was living at Mr. Stout's on his farm at Mendham; the farm house where I lived, I don't think was quite a mile from where Mr. Stout then lived, though it might have been; my son William is here; I recollect his going for some steers for Mr. Stout in December, 1870, up to Mr. Ingram's; it was on the 24th day of December, 1870; I saw Mr. J. L. Stout that day; he was at my place in the afternoon; I did not see him before the afternoon; it was a very cold day, and he said he had fixed up William to go along in a coat and mittens, so as to be comfortable and warm; he had fixed him up in his own place in the morning, before he started to go up to Mr. Ingram's after the cattle; I could not tell what time it was he started, for I was not there; William left my house to go, just before daylight.

Cross-examined:

Q. How do you fix that to be the 24th of December?

A. That was the day, I think.

Q. What makes you think so?

A. It was the day before Christmas.

Q. What makes you think it was the day before Christmas?

A. Well, it was on Saturday, the 24th day of December, and I suppose that was the day before Christmas.

William went from home on foot; I cannot say how he went from Mr. Stout's; he came back to my place alone; I couldn't say when he got back; it must have been pretty near night, and it may have been night; he did not bring the steers with him; he went after a spotted steer and a brown steer; Mr. Stout had taken them up there to Mr. Ingram's to pasture, in the Spring; I don't know as I charge the work to Mr. Stout; he generally expected him to do something, and sometimes he made him a

present once in a while; I don't recollect charging this to him; William did not work for Mr. Stout by the day or month, except occasionally, when he wanted him for a day; he occasionally wanted him to do notions; he was willing to do what he wanted him to do.

Q. Did you make any account of it against Mr. Stout?

A. I do not understand you.

I did not write down in my book any charge against Mr. Stout for work for William; I saw Mr. Stout that afternoon down at the farm—I suppose from one to three o'clock—between those hours—of the 24th of December; I did not see him again that day; William was not at my house when Mr. Stout was there; I could not tell whether Mr. Stout saw William that afternoon; he did not see him at my place.

I was on Mr. Stout's farm a little over two years; I never was there myself, but they said the steers were lost, so that they could not find them that day; I heard that one of them was found, and the other I know was found and brought home; I could not tell exactly where they were found; it was sometime after that, though; they went after the steers twice, they said; they went once after all the cattle, and got all but the two steers, which were lost; then they went after the two steers, and did not get either; then they went a third time, and got one; it was the second time, when they did not get either, that my son went; that second time was the day before Christmas; I don't remember just what I was doing the day before Christmas; I had a good many notions to do; I worked by the year for Mr. Stout; I don't think I was working for myself, cutting wood, the day my son went for the steers.

Re-direct examination:

Mr. Mills here asks of the plaintiff "Exhibit Q," on part of plaintiff, which had previously been put in evidence by plaintiff, and plaintiff by his

counsel refuses to show it to him (that is, Mr. Mills), saying that he (Mr. Mills) is not entitled to his account book for the purpose of the examination of this witness.

Q. Did anything happen at your house, or at the house of any of your neighbors that day; and if so, what was it?

A. Mr. Day died on that morning; I think his first name was Calvin; he lived across the way from me; but a few yards apart.

2d Cross-examintion:

My boy did not go with them every time they went for these cattle; he only went the once.

DAVID SMITH.

Sworn and subscribed before me, this 14th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

William Day Smith, a witness called and sworn on part of defendant, deposes and says:

I am a son of David Smith; I am fourteen years old the 9th of May (the present month); my father lived on Mr. Stout's farm in the Fall of 1870; I went for some steers for Mr. Stout in the Fall of 1870; it was on the 24th of December, 1870; I know it was that day, because it was the day before Christmas; Mr. Calvin Day died that day; I started just before daylight; I stayed home all night, and started from home just before daylight; I went from there to Mr. Stout's house in Mendham; I saw there Mr. Stout, Jerry Emmons and his son, Orrin; I talked with Mr. Stout; he asked me if I wouldn't set along, and have some breakfast, and I told him no; he asked me whether I was ready to go up to Mr. Ingram's; I told him yes; while I was at Mr. Stout's, I helped them hook up

the horses; that is all I did that I remember; I helped them catch a couple of chickens there; I went up to Mr. Ingram's; Mr. Stout gave me a coat and a pair of mittens before I started, which I put on; Orrin (his son), and Jerry Emmons went with me; we went in a double-seated wagon of Mr. Stout's, with two horses; we got back just before night; I had had my breakfast before I stared.

Cross-examined:

I did not go to Mr. Stout's that night, and did not see Mr. Stout again that night; my father was up before I went away that morning; he did not go up to Mr. Stout's; on my way home I got out of the wagon at the cross roads at Mr. Taylor's hotel, and walked home towards Morristown this way, and Orris and Jerry Emmons drove on towards Mr. Stout's house; Mr. Stout's farm is this side of Mendham; I worked quite considerable for Mr. Stout, a good many days.

Q. How much did you charge him a day?

A. He set his own price—fifty cents—I am sure of that; he paid me up what he owed me.

That is what he paid me all Summer; during the Summer he paid me sometimes seventy-five cents.

Q. What did he pay you in the Fall of 1870; how much per day?

A. Fifty cents—sometimes seventy-five—he paid me sometimes less than fifty—forty, and sometimes thirty.

Q. Who kept an account of the number of days you worked?

A. Mr. Stout; we settled by his account.

Q. Did he keep his account of the number of days which you worked correctly?

A. No, sir.

Q. How, then, did you settle?

A. He paid me what he thought he owed me. I don't remember how often we settled.

Q. If he did not keep the account correctly, as you say, how did you get at the right amount?

A. Sometimes I would keep the account of the days I worked; I remembered it; I did not write it down anywhere; he did not settle with me for going after these cattle, as I remember; he never paid me anything for it, as I know of; he did not pay me any money after that time that I remember of; I did not work any for him the next year.

Q, When was it that he paid you the last money?

A. A few days before the Fourth of July, 1871; he paid me then fifty cents; that was for cutting some weeds down around his oats; he paid me at the same time I cut them.

I don't remember when next before that he paid me any money; he did not give me any the day we went to Mr. Ingram's at Brooklyn Pond for the lost cattle; I did not see him after I got back from Brooklyn Pond that night; Mr. Stout generally paid me, and not my father, for my work; I saw, up at Mr. Ingram's, Mr. Ingram and his two boys; I don't remember their names; I saw Mrs. Ingram; we got there about noon; we stayed there about an hour and a half or two hours; we went out looking for the cattle; Mr. Ingram, Jerry Emmons, and Mr. Stout's son went with me looking for them; we went quite a ways; we did not find the cattle, or any signs of them; we did hear something of the steers from Mr. Ingram; he said they had been around; they went after the steers that Fall about three times; I don't remember who went the first time; I heard about it at the time, and the cattle were brought down to the farm—that is, the twelve head; I heard at that time that two were missing; I went up with the boys to get the other two.

Q. How soon was it after the twelve head came home that you went after the two missing ones?

A. About a month, I believe.

I think it was about a month, because I kept account of the weeks; I don't remember whether or not the twelve head were over at Mr. Crockron's.

Q. How long after you went after the two did you get the one back?

A. I don't remember.

Q. Was that the first that the steers had been heard of when you went up after them?

A. No, sir; they had been heard of three or four days before we went up.

Q. None of Mr. Stout's folks had been up in the mean time?

A. Not as I remember.

Jerry Emmons and John Haley went and brought home the one steer; that was a few weeks after we went up.

Q. About how many weeks after?

A. I should judge nearly a month.

The steer that was found and brought home was sold by Mr. Stout at his vendue; I believe the first vendue; I was there and seen it sold; that is the reason why I think it was the first vendue; I was at both vendues; the steer they brought home was a brown steer.

Re-direct Examination:

My father fed the brown steer that Winter after he was brought home; he was kept at Mr. Stout's farm; the sale at which he was sold was at the farm.

Q. Do you know whether he was sold at the first sale or the second sale?

A. I think he was sold at the first sale; I don't recollect who bought him; I don't recollect how long my father fed him after he was brought home; the first sale was in December.

Cross-examination:

Mr. Stout did not pay me any money on the 24th of December, the day I went after the steers.

WILLIAM D. SMITH.

Sworn and subscribed before me, this 14th day of November, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

David Smith, being recalled by defendant, says;

The brown steer was sold in March at the second sale.

Mr. Stout gave me fifty cents on the twenty-fourth of December, 1870.

Cross-examined:

That was all he gave me that day; I have no account of it; I asked him for it; that is the way I know it.

Q. Whereabouts did Mr. Stout pay you the fifty cents?

A. Somewhere near the wagon house, as near as I can recollect; that was the day my boy went after the steers; it was not a dollar he paid me, I am sure of it.

Here adjourned until to-morrow, May 15th, 1872, at which time examination resumed as follows:

Mr. Stout had paid me money before that—I could not tell you in what sums; Mr. Stout paid me money; sometimes I would ask him for fifty cents, and occasionally a dollar; I was sixty-nine years old on the fourteenth day of July last.

Q. Did you keep any account in writing with Mr. Stout?

(Objected to as immaterial.)

A. I did not.

I suppose Mr. Stout kept an account.

I did not look over his account; I never looked over it; I never got anybody else to look over it for me; he showed me books of account, in which he had account with me; I did not make any settlement with him; he draw'd up a piece of writing which I signed; I do not know what it was; he never paid me as much as five dollars at once; he has paid me as much as two dollars at once.

Q. How often did he pay you as much as two dollars at once?

A. I could not tell.

Q. Did you fall in debt to Mr. Stout, or he to you, on your settlement?

(Objected to as immaterial and irrelevant.)

A. He said to him.

Re-direct examination:

I was there in the yard drawing out manure; he came in the yard with some papers and a little store book; he says to me, "I am surprised," walking backwards and forwards, under the hovel where I was at work; he said to me "you owe me so much money;" he pulled out a little store-book which came from Mr. Robinson's, where I done my trading; he says to me "here's five dollars at one time;" I told him I never had had it; he says to me "then Mr. Robinson has charged me with it, and given you credit for it; I goes right on with my load of manure, and stops at Mr. Robinson's store; said I, "Mr. Garrabrant, there is a charge here against me for five dollars, and I never had it; now, I want you to look on your book;" he went right on and looked, and could find no such charge against me on his book as that was on Mr. Stout's book; I was not satisfied with this, and I went in a few days after, and I said, "Mr. Robinson I want you to look on your book that is charged against Mr. Stout on my account;" he looked and said there was no such a charge on their book; Stout said I owed him so much money—that is, when I was drawing out manure in his yard, he took me unawares; he brought out the papers, and said if I didn't give him the horse to secure that he would throw me out of doors that very afternoon; I studied a while about it, but I had no way to do unless I let him take the horse, so that another man could not take him away from me; that he should stay on

the farm, and if he wasn't used, he could run there on the farm and do nothing; I was to have the horse just the same, only he wanted if anybody tried to get him he would have some writing to show; that is the way I came to sign the paper; I think the paper was read over to me, but I do not know what was in it because I was in trouble.

I would not have signed that paper if I had not been forced to do do it, but I was forced to do it; I had either to do that, or be thrown out of doors, and it was then the last of March.

Cross-examined:

It was in the last week of March that this was, and my time would have been out on the first of April; I worked for Mr. Stout one year, from the first day of April, 1870, to the first day of April, 1871; I suppose the first day of April, 1871, was the last work I did for Mr. Stout.

Re-direct:

I remained after the first day of April, 1871, on the same farm and remained there until the 21st day of this last March; I worked on the farm; Jerry Emmons was there with me; he is a nephew of Mr. Stout; he took the place on shares, and he hired me to stay there and work.

Cross-examination:

Jerry Emmons hired me; I rented my house of him, I suppose; I paid him the rent.

Q. Do you not know that Jerry Emmons rented the farm some weeks before your time was out?

A. I did not know it.

I had heard so; I knew Jerry Emmons had bought things at Mr. Stout's vendue, in Detember, 1870; it was farming utensils he bought; he said he intended to work that farm the next year; Jerry and

Mr. Stout both told me I was to stay there the next year.

DAVID SMITH.

Sworn and subscribed before me, this 15th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Com'nr.

Jonathan Pitney, a witness called and sworn on part of defendant, deposes and says:

I live at Mendham, and was Judge of Election there in the Fall election of 1870, and acted as such then and there; I recollect that Mr. Amasa Leonard voted there then; I was present, acting as Judge, then.

There was nothing peculiar about his voting, or about the way in which his vote was announced.

Q. Did you or not at the time he voted, consider him as a legal voter in Mendham Township, and think him so to be?

(Objected to by Mr. Pitney, as incompetent and irrelevant and immaterial, and the subject of investigation objected to as not rebutting; the same kind of evidence having been given by Mr. Leonard on his main case.)

A. I did.

I don't know whether Mr. Stout spoke to me about his (Leonard's) voting before the election or not; I do not recollect that he did.

Q. Did Mr. Stout speak to you about Mr. Leonard's voting, or did you hear any conversation by Mr. Stout about Mr. Leonard's voting before the day of election?

A. I could not swear to the time at all, whether before election day or not; it might have been while we were making the canvass, or some night in the store, or the morning previous to election; I do not recollect about the time; he said Mr. Leonard was coming to vote for him.

Cross-examined:

Q. What did you mean by saying that you did not recollect Mr. Stout's speaking to you before he voted or before election—did you mean what you said?

A. I did not recollect whether he spoke to me or to some one else in my company.

Q. Was not this what Mr. Stout said, "that Mr. Leonard had promised to come down and work for him on election day?

A. Mr. Leonard said he would come and vote for him.

Q. Did you assist in making out the canvass that Fall?

A. I think not; I am not positive—oh! I did not understand the question; I was present and assisted in making it out; I thought you asked me if I assisted in writing it.

Q. Who did write it?

A. I think Richard T. Bowman.

I have seen Mr. Stout write in a canvass; that was at John Yawger's house, I think; I think that was not the Fall he ran for Sheriff; there were some circumstances brought to my mind at that time, which makes me think so; it was the first intimation that I had that Mr. Stout was going to run for Sheriff, at the canvass—that is, the one at Robinson's house; I think I said once that I could not recollect who wrote that canvass, but that I thought Richard T. Bowman; I don't think we made out two canvasses in the Fall Mr. Stout ran; I do not recollect doing so; I don't know what Fall it was when I helped make out the canvass at John Yawger's house; I think the colored men first voted in the Fall of 1870; I don't know now.

Q. Was the question of putting Mr. Leonard on the canvass as a Democrat voter discussed at this meeting of canvassers?

A. I don't recollect whether it was or not.

Q. Why was he not put on the canvass?

A. Because it was thought, I think, that he would not come and vote.

Q. Was it the practice in making out canvasses to leave a man off the canvass when it was uncertain whether or not he would come to vote?

A. I think it was; we wanted to get our party strength exactly, and no more.

Q. Is Alfred Thomas a colord voter or white voter in Mendham Township?

A. He is said to be a legal voter—he is black; he votes there.

John Miller and Walter Miller are colored voters; the name of Alfred Thomas in "Exhibit L," on part of plaintiff, is in my handwriting; I think I have seen the book before; I don't think that that is all the book; it is a canvass of Mendham Township; I could not say for what year; there were some voters in the the Fall of 1870, who are not here.

Q. How much of your handwriting is in this book?

A. It commences at "J. J. Roy," I think; the rest, from there on, is in my handwriting.

Q. Are not the footings in figures on every page of that book in your writing?

A. I think the figures are; the number of voters, I mean.

Q. See if you see the names of any other colored voters on there besides Alfred Thomas?

A. There are two here—Charley Van Doren and Isaac Van Doren, and York Myers, Walter Miller and John Miller; I haven't looked all the way through particularly.

I judge, from the looks of the book, that those names were put there when the book was written; I could not tell you when the book was written; I cannot tell what year the book was written; I have no means of ascertaining by reading the book through; there are some persons names on the book who lived here in 1870; but I cannot tell but what they lived here previously.

I do not know now what year we first canvassed the colored voters; I think it was in 1870, but I do not know for certain.

Q. How is it that you can swear that the canvass

of 1870 was made at Robinson's house in Mendham village, and in the handwriting of Richard T. Bowman, as you suppose, but cannot tell us what year this canvass, partly in your own handwriting, was made?

A. The circumstance of Mr. Stout getting the nomination for Sheriff called that to my mind, and nothing else.

Q. What was it you heard about Mr. Stout's being nominated for Sheriff at the meeting to make up a canvass at Robinson's house in the Fall of 1870?

A. I don't know but what I might say that I heard anything; it was what I saw; Mr. Stout presented a paper to Sheriff Anderson across the table after the canvass was made, and stated that he had been assured by leading men, that he could get the delegates from those townships; Mr. Robinson picked up the paper, and he and I read it together.

Q. How long was that before the convention?

A. I could not tell you; it was not very long.

I think it was not a meeting of prominent Democrats to consider the nominations for that Fall; I don't know whether the convention was held on the 3d day of October or not.

Q. If the convention was held on the 3d day of October, then the canvass was made after the convention, was it not?

A. I don't recollect anything particular about the time; there was nothing to call my attention to it at the time.

Q. Did you ever make a canvass more than four weeks before election?

A. I cannot recollect positively, but I think we did one Fall; it was for the County to make a canvass to send to Morristown.

Q. Was the canvass made at Marius Robinson's sent to Morristown?

A. I do not know.

Q. Was it not usual to make a canvass after the nominations were made?

A. No, sir, not always.

Q. Was it not a Saturday night when the meeting took place at Marius Robinson's?

A. I think it was.

Q. Before the convention met on Monday?

A. I think it was previous to the convention meeting, but I am not sure of it; my impression is that it was, but I am not sure of it; the meeting at Robinson's house was before the convention which nominated Stout, I am sure.

Q. Did you not meet at John Yawger's house the next Saturday night to make up this canvass which has just been shown you?

A. I think not.

I never saw Abraham Bockoven at a canvass in my recollection.

Q. Have you any doubt that the canvass just shown you ("Exhibit L") was made for use at an election when the colored people voted?

A. I don't doubt that it was made at that time.

Q. If the colored people had a right to vote first at the Fall Election of 1870, wasn't that canvass made in the Fall of 1870?

A. I couldn't say; they had a right to vote the Spring before they voted in the Fall, whatever year that was.

Q. In whose handwriting are the words "Stout Em," in pencil, in that book?

A. I do not know; I think it is not in my handwriting.

Q. When did Elmer Stout first vote?

A. I think it was in the Fall of 1870.

Q. Did you make out a canvass book in the Spring of 1870 in Mendham?

A. I don't think we did; I think our habit is, when we have the old book, to correct it for the Spring election.

Q. That canvass ("Exhibit L") was not made up in the Spring of 1870, was it?

A. I am not certain.

Q. Please mention any time when you wrote out

a political canvass in the Spring of the year—I mean by you, the party?

A. My impression is that we did the Spring the negroes voted, and that is the only one.

Q. When was that canvass made, and where?

A. At John Yawger's house.

Q. At what time?

A. I don't recollect the time; I know it rained that night; it was in the Spring of 1870; I don't recollect who wrote it out; Mr. Stout was there, Mr. Richard T. Bowman, and myself.

Q. Did you or Mr. Stout write in the book?

A. I don't recollect.

I think the negroes did vote in the Spring of 1870; I was not Judge at that time.

Q. Do you feel quite sure that yourself, Richard T. Bowman, and Mr. Stout met at John Yawger's in the Spring of 1870 to make out a canvass of voters?

A. I am.

That was before town meeting.

Q. Do you feel as sure of that as of anything else you swore to?

A. Yes, sir.

I lived in the Southwestern part of the Township; I live in the village of Mendham now; I have been at Mr. Leonard's farm; it was last Summer; I had seen him before he voted; I could not tell how often.

Q. You say all of the book, "Exhibit L," is not is not there; what part is missing?

A. I thought some part was missing; I thought there were not so many names in the letter "A" as there were in the Township; I could not say how many there are; one who voted in the Fall was George Apgar, whose name is not on there; he was not a voter in the Spring; he came out of Somerset County; I don't recollect anything more at present.

Q. "Exhibit K," on part of plaintiff, being shown witness, he is asked what is that?

A. It looks like a canvass of the Township, but

I don't think I ever saw it; I don't recognize it at all.

"Exhibit L" being shown witness.

Q. What are these words in pencil under letter E, of Hill, Searing, Stout, Rafferty, Arrowsmith?

A. They are the names of the men who ran on the ticket in the Fall of 1870.

I couldn't say whether these were the majorities they received that Fall; they might be; I do not recollect the majorities that Fall.

Re-direct:

Q. In whose handwriting are those names just referred to by Mr. Pitney, Rafferty, Hill, &c.; are they in yours; and if not in yours, in whose handwriting are they?

A. They are not in mine, and I do not know the handwriting, or when they were put there.

"Exhibit C" on part of defendant being shown witness.

Q. What is that?

A. It is the poll book for the Fall election of 1870.

Q. Look at that poll book, and see if you find in it any other names of those entitled to vote at the Fall election, and not entitled to vote at the Spring election of 1870?

A. I don't notice anything except the persons who came of age at the time; one of these is David Johnson, another was George W. Gray; that is all I notice.

Second cross-examination:

Gray makes his home at John Aleck's widow; he is a son-in-law of her; David Johnson is a son

of Lewis H. Johnson, and lives at Rahway; he came to his father's, and voted.

Q. How did the board of election satisfy themselves that Johnson and Gray were of age.

A. By Gray's affidavit and by the neighbors of Johnson's father; we questioned David Johnson and Augustus Ludlow, a neighbor; I don't think there was a challenge in Johnson's case; there was no question about it, except with myself; in Gray's case there was a challenge.

Q. Both voted Republican tickets, did they not?

A. Johnson did; Gray I am not certain about; I think James H. Day, town clerk, challenged him by the Republicans; I did not know either were voters until they came there; as far as I know, the other members of the board did not know they were voters till they came to vote; I consider myself better acquainted with the voters than other members of the board; I think neither Gray nor Johnson had been put down on the canvass that Fall.

The above testimony being read to witness, he desires to correct his testimony as written on the third and fourth lines of the third page of his testimony as follows: instead of reading "I think the colored men first voted in the Fall of 1870," he wishes to have it read as follows, and thinks he said, "I think the colored men first voted in the year 1870."

JONATHAN PITNEY.

Sworn and subscribed before me,
this 15th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Josephus W. Sanders, a witness called and sworn on part of defendant, deposes and says:

I live in Mendham Township, and attended the

election in the Fall of 1870; I know John Hull, or as he is commonly called, John Cate, who works at the Phœnix house; I saw him at J. L. Stout's house that day a little before two o'clock in the afternoon; it was after the board of elections adjourned for dinner, and before or about the time they met again; Orrin Stout, at the time I saw Cate at Mr. J. L. Stout's house, was there with me; I think Cate got some money there that day for voting; I couldn't say how much he received; I do not know of his getting a drink there; I did not give him any.

Cross-examined:

I went into Mr. Stout's house, into the dining-room; I went into the back door; I am not familiar with the house; I think it was just before the polls opened when I went up to the house, as near as I can remember; I went from the hotel where the polls were held, and got my dinner before I went; Mr. Stout's son, Orrin, went up with me; I went down by John Demun's & Messler's tin shop, by the Chester road; I believe there are three ways from the hotel to Mr. Stout's; one by Dr. Stiger's, one the way I went, and one across the fields; I think John Cate went up there before Orrin and I got there; I did not see Mr. John Stout there, as I recollect, nor Mr. Leonard; there was no one at the table when we got there; the table had been set; I had heard that Cate had gone up before Orrin and I went; I had no arrangement with Cate for him to go up there; I had talked with him, but had not spoken of his going up there; I couldn't remember that I handed any money to anybody up there; I did not see any money handed to Cate; I don't know but what I had money in my hands, or in my possession that day which afterwards went to Cate, but I do not think I gave it to him.

Q. Was it the same money you stated in your direct examination, which Cate got at Mr. Stout's house on election day, and which you supposed to have been handed to Cate?

A. I suppose it was.

Q. How long after you had it in your hands and possession was it that it got into Cate's hands?

A. I could not tell.

Q. Was it five minutes?

A. It might have been five minutes, and it might have been five hours.

I could not say the exact time when it passed out of my possession; it went out of my hands between one and two o'clock.

Q. It was pretty nearly two o'clock, wasn't it?

A. It was nearly two o'clock.

I could not say whether it was down town or at Mr. Stout's house, that it passed out of my hands; I saw Orrin Stout pick up a piece of bread or pie, or something, at Mr. Stout's house, to eat; he did not sit down to the table; Orrin Stout and I went back down town together; I should judge that Orrin and I were in the house about three minutes; I should not think it was any longer than that; we ran part of the way to the house and back; we went just as quick as we could, and got back; we had business to attend to down at the hotel; I think I spoke to Johnny Cate at Mr. Stout's house; I think he was sitting in a chair beside the door; I think he came down right after us; I think he got back nearly as soon as we did; I don't remember having sent word to Cate to go up to Mr. Stout's; I might have done so; Cate lived in my father's family a number of years; I think it was understood that I was the only one there who could handle Cate, as they say—that is, get his vote.

Q. He was supposed to be under the control of William Phœnix, a Republican,—working for his sister, I mean?

A. He was.

I received the money which I supposed went to Cate, at Mr. Robinson's store, the Democratic headquarters; I presume the money, or a part of it, used in election, was paid out there.

Re-direct:

Q. If the money which was paid to Cate at Stout's house was not paid by you, by whom was it paid?

(Objected to as not a *re-examination.*)

A. I could not say that I paid it.

Question repeated.

A. It must have been paid by Orrin Stout.

Second Cross-examination:

Q. From the appearance of the table at Mr. Stout's house on that day, had or had not the family finished their dinner before you got there?

A. I presume they had from the appearance of the table.

Q. Did you see Mrs. Stout there?

A. I don't remember seeing anybody but the girl in the kitchen; the dining room at Mr. Stout's house was in the basement, next to the kitchen.

Second Re-direct:

I couldn't say whether the kitchen has an outside door; I know I was in the dining room; I could not say whether I was in the kitchen; we may have walked into the kitchen from the dining room; it was a strange place; I had never been there but once or twice; I know which the room was which was usually used as a dining room; I had been at the door several times, and saw the table set; that is all I know about that.

Third Cross-examination:

The room I was in was not the kitchen; the table was set in it; it was what they called the dining-room; there was the appearance of having been people there eating; I might have gone into the din-

ing room from the kitchen, but I do not recollect about that; the table (dining table) was set in the middle of the room; it was a long table; an extension table, I presume; I could not say whether it had round ends; I think the cooking apparatus was not in that room.

JOSEPHUS W. SANDERS.

Sworn and subscribed before me, this 15th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Lewis Johnson Kaggen, a witness called and sworn on part of defendant, deposes and says:

I was twelve years old last Christmas, and I am a son of David M. Kaggen; I lived in the year 1870 at Mr. Leonard's; I went with my father to Mr. J. L. Stout's after a spring-wagon; I don't remember when it was; we got the wagon; the wagon was got to take things to New York in; Mr. Leonard's things, I mean; my father drove the wagon to New York; I do not know when he drove it to New York, as I was not home then; nobody but myself and my father went for the wagon; we went from Mr. Leonard's place in the night; we rode the horses over; he rode one and I rode the other; I went with him to Mr. Stout's; I saw there, Mr. Stout and Orrin, his son; I did not see anybody else; Mr. Stout was out there helping us to get the wagon ready, when we saw him; he went up in the granary and got the hoops and cover; after the horses were hooked up, we went down to the store at Mendham; he went in and got some things, and I stayed out in the wagon; from there we went to my uncle's, a mile this side of Mendham; Peter Huffman's; I remained at my uncle Peter Huffman's that night; I did not go home that night; I stayed there a week or two, I guess; my father, in the mean time, was in New York a while, and then he came home.

Cross-examined:

I cannot read much; I do not attend Sunday-school; I cannot write much; I did not talk this matter over with my father much before I came here; my father came down here with me to-day; Mr. Stout went up stairs after the hoops; I did not see anything of Mrs. Stout; I did not go in the house; I did not see anything of Annie Scanlon, the girl; Mr. Stout was not out of doors when we first got there, he was in the house; Orrin Stout was the first person we saw when we got there; I know Jerry Emmons when I see him; I don't remember whether my father went into the house or not; Mr. Stout came out of the house right away most after Orrin came out; Orrin Stout helped us to hitch up; the cover was brought from the wagon-house, up in the granary; I am sure of that; I was at home when I started with my father —at the house we lived in—that is, on the road from the house where Mr. Leonard lives, to Mendham.

Re-direct:

While they were getting up the team Mr. Stout asked me if the pole-straps were in the wagon, and I looked out and found them, and threw them out to him; there is no Sunday-school within a mile or two of Mr. Leonard's house; I can read some, but not much; I cannot write very well, either.

LEWIS J. KAGGEN.

Sworn and subscribed before me, this 15th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

David M. Kaggen, a witness recalled and re-sworn on part of defendant, deposes and says:

On the Saturday before the pic-nic to Brooklyn Pond last Summer, Miss Lottie Moore and Mr.

Leonard came up together to the mountain home in a buggy; I suppose they came from New York; Mr. Leonard went down on Friday morning, the day previous; Charles Burnside, I think, drove the buggy down; he came back with Mr. Leonard and Miss Lottie Moore in the buggy; Mr. Leonard sent him back to get some other parties who were coming up; before the Friday when Mr. Leonard went down I think Mr. and Mrs. Leonard had been at the farm all the week; I am not positive, but I think they had; Charley Burnside returned with the buggy, and had some gentleman with him; Northrup, I think his name was.

Q. Did you see Mr. Bain at Mr. Leonard's farm in the Summer or Fall of 1871, and if so, how long did he stay?

(Objected to, because this witness has been on the stand since Mr. Bain was sworn, and defendant has rested his case since Mr. Bain was sworn.)

A. I see a gentleman there with Mr. Stout, whom he introduced by that name; I don't think he got out of the carriage; I did not hear a great deal of conversation between him and Mr. Leonard; they were talking some about the country up there; I don't know as there was a great deal said; Mr. Bain said it was a pleasant place after you got there, but that it was a pretty hard road to get there; nothing else particularly was said that I remember; Mr. Stout got out of the buggy and had a few minutes' talk with Mr. Leonard, and then they went away.

My son Lewis was at Peter Huffman's when I drove the spring wagon to New York in the Fall of 1870; he went over with me after the spring-wagon that night from where I lived, at Mr. Leonard's place, to Mr. Stout's place in Mendham; I heard his (my son's) testimony given just now; I don't know as my recollection now, and when I was on the stand before, as to what occurred at Mr. Stout's house the night he went for the wagon, is at all dif-

ferent; I recollect seeing Mr. Stout there, and his asking me about the boy—whether he was my son or not, and so forth; the hoops and cover both came from the granary over the wagon-house, and the cover did not come from the house he lived in; I returned Mr. Stout's wagon to his place on Thursday, the 29th of December, I think—the day of his vendue, at the farm of Mr. Stout; Mr. Stout had a vendue there on the 29th; the night before I returned the wagon, Mr. and Mrs. Leonard went over to Mr. Stout's and stayed there all night; on the 23d of December, 1870, I got my supper in the house where I lived, in the Blackford House; it was between eleven and twelve o'clock at night, after I came from Mr. Stout's; I did not take any lunch or any other meal at Mr. Leonard's house that day before I started for the wagon.

I heard Mr. Leonard and Mr. Stout talking about a spring-wagon; I think Mr. Leonard said he would like to have one, and wanted to know where he could get one; Mr. Stout said that he had one that he could have by going over after it; but he didn't know but that they would drive it up to Brooklyn; but finally agreed to drive another wagon that he had before he left that afternoon; and finally said we could have the wagon by coming over after it; this was on the 23d of December, in the afternoon, when we packed the fruit; they were talking some of it in the dining-room, where they packed the fruit, and some about it on the stoop, just as Mr. Stout was going away; before that, we had made preparations to drive the big, or hard wagon, of Mr. Leonard's down.

I did not see or hear anything of Mr. Stout tearing his finger at Mr. Leonard's while packing fruit; Mr. Stout packed no fruit at Mr. Leonard's that afternoon; he packed nothing else there; I did not see him pack anything, and he did not have his over nor undercoat off, packing fruit.

I saw Mr. Stout when he left Mr. Leonard's house that day.

(Objected to as a mere repetition.)

It was not much odds of sundown ; I cannot tell exactly, but it was before dark, I am certain of that: it was some little time before I left ; I did not leave till seven o'clock, or about there.

Q. How were the Burnside children treated in Mr. Leonard's family?

(Objected to as not rebutting.)

A. I never see but what they were always treated very well ; I never see any difference in particular, between his daughter, Miss Lizzie, and Miss Josie Burnside ; they were always very well dressed and cared for ; there never was any great distinction ; they always ate at the table with the rest of us whenever I was there, except when there was a full table, and there was not room enough for all to set down ; but we seldom had a table so full as that ; they always had plenty to eat.

Elmer Stout was discharged, because he did not attend to his duty ; that is the only reason I know ; Mr. Leonard told me to discharge him, when he (Elmer) came back ; I told Elmer in the morning that Mr. Leonard did not require his services any more ; he went away at noon, and came back the next morning before he was discharged.

I was not present at any quarrel between Stout and Cole on election day.

Cross-examined:

It was a medium sized spring-wagon which I got from Mr. Stout ; I think it had three springs under it ; I am not positive ; I should think it would carry twelve or fifteen hundred ; it was made to carry eggs and such things to market in ; I do not know as they call that kind of a wagon a huckster's wagon, unless they use them for that purpose ; it was not intended as a carriage to carry passengers in ; it had iron axles, I think ; I believe it had a stationary break on the hind wheel.

The day Mr. Bain was at Mr. Leonard's we were working in the barn and had the barn doors open; I think they were laying a plank over head, making a sort of bay way; Mr. Stout did not introduce me to Mr. Bain; I had no conversation with Mr. Bain; I do not think I left the barn while he was there; I do not think Mr. Bain got out of the carriage; the carriage stood right in front of the big barn doors, and I heard some of the conversation between Mr. Bain and Mr. Leonard; I do not know as I heard it all; I cannot say whether I did or did not hear it all; I never went but once to Mr. Stout's after a wagon at night; I have been there more than once at night: I cannot tell you how often, probably four times—not oftener, I don't think, while I was living at Mr. Leonard's; I never got this spring-wagon but once from Mr. Stout, or any other wagon; I know Jerry Emmons, (Mr. Stout's nephew;) I did not see him the night we went after the wagon; I have no knowledge of seeing Annie Scanlon, the kitchen girl.

Q. After you moved up into Mr. Leonard's house in January, 1871, did you and your wife eat at the same table with Mr. and Mrs. Leonard, when they were at the farm?

A. Yes.

The Burnside children eat with me and my wife, and Mr. and Mrs. Leonard at the same table; it was our custom all to eat together; the Merryfield boy, too, and my children, with the exception when there wasn't room, my children waited sometimes.

I could not tell exactly when we went home election night; it was sometime after dark when we left Mendham, and it was ten or eleven o'clock, I think, when we got home; I am not positive whether the votes were all counted or not when we started; it was sometime after the polls closed when Mr. Leonard and I started; we may have stayed till after the votes were counted—I am not positive now.

D. M. KAGGEN.

Sworn and subscribed before me, this 15th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Examination adjourned until Friday, May 17, 1872, at which time it was resumed as follows:

Stephen E. Connet, a witness called and sworn on part of defendant, deposes and says:

I live at Brookside, Mendham Township, and am acquainted with Amasa Leonard; I know where his farm is, and the house in which he lives on the farm; I own a house not a great ways from him; I own a house which is next to the Blackford place, sold by Mr. Leonard to Thompson; we sometimes call it the Webb place, and sometimes the Stiles house; it used to belong to one John Stiles, and he sold it to Stephen Stiles' son, who sold it to John Webb; we generally call it the Webb place.

Q. Did not Amasa Leonard apply to you last Fall or Winter to rent of you that Webb house, and if so, did he apply verbally or by letter?

(Objected to as irrelevant, incompetent, and not rebutting.)

A. He wrote to me from New York, he was in New York; I hunted for that letter and cannot find it; it was around the house, and I saw it not two weeks ago, but it has got destroyed; I could not tell the date of it.

It was along in the Winter; I should think probably it was in January, but will not be positive whether before or after New Years.

Q. Please state what he said in that letter about renting your house? and what reasons he gave, if any, for wanting the house?

(Objected to as irrelevant, and as not rebutting.)

A. He wrote to me that he would like to have that Webb property for his hands to live in, for he said he wanted his own house; he wanted to occupy it himself, and that it was not large enough for two families.

Cross-examined:

I do not think that letter was written as late as March, though it might have been in February; I saw him afterwards and gave him the refusal of it; I told him on what conditions he could have it on; and set a time, and he did not come around, so that I let another man have it.

I recollect about his saying his house was too small for two families, without having my attention called to it by Mr. Leonard; I have seen the letter quite often, and once not more than a fortnight ago, I should think.

Re-direct examination:

There was something said about buying, I think, and we told him what conditions he could have it on to rent it, and he did not quite come up to that price, although when we parted he was to have a week or a fortnight, whatever the time was for him to make up his mind; he did not come around, and we leased it to Mr. Thompson; I think he made some proposals for it, but he did not come up to our mark.

On reading over the first part of deponent's testimony, he said "I did not mean to say whether Mr. Leonard lives there or not; I have not been there in a long time, and don't know whether he lives there or in New York."

Q. You have heard, I suppose, that the question of his legal residence was in dispute, and that you do not wish to express any opinion upon?

A. I do not.

I have not been there since David Kaggen lived

there; when we were up there, Mr. Leonard had come out from New York, and my impression is that he had come out from New York because he had sent word to us to come up and see him about the house; I did not see Mrs. Leonard there—she was in New York.

Cross-examined:

Q. When you went to see Mr. Leonard last Winter about renting this house, did you see anything to lead you to suppose that Mr. Leonard and his family were residing, and living, and making their home at their farm house on the farm?

A. No, I didn't suppose they lived there then.

Re-direct Examination:

The letter sent to me was dated and directed from New York; I do not recollect whether there was any lady in the room while we were there; I do recollect seeing an old lady there; I do not know what her name is; I was not introduced to her.

STEPHEN E. CONNET.

Sworn and subscribed before me, this 17th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Amasa Leonard, the defendant, being re-sworn, deposes and says:

I have heard Mr. Connet's testimony just given; the letter to Mr. Connet was written in the latter part of December, 1871, and the interview occcurred in January, early in January; I made Mr. Connet an offer for the property, and he made me an offer, and they differed, and we separated with the understanding that if he concluded to take my offer he would let me know by a given time; and if I con-

cluded to take his offer, I was to let him know. (All this testimony objected to as not rebutting, and as irrelevant.) My object was to provide a place for my farmer, so that I could have my own house to myself, and family, as we had no more room in the house than we wanted for ourselves; after we went down to New York, on the 24th of December, I think we came out on the evening of the 27th for the next time; on the evening of the 28th, or afternoon of the 28th, myself and wife went to Mr. Stout's house, and stayed there all night; Elmer Stout went with us, and drove the carriage; Mr. Stout was at home; we stayed there; my wife stayed at the house all day, and I stayed at the farm, at the sale, the greater part of the day; Kaggen brought back the spring-wagon on the morning of the 29th.

When Mr. Stout was at my house on the twenty-third of December, we had intended, up to that time, of taking the fruits to New York in the hard wagon; he spoke of his spring-wagon and of wanting to use it the next day to go to the Lake after cattle, but finally concluded he could use his sundown wagon, and let us have his spring-wagon; that was the first time it was mentioned about the spring-wagon.

Mr. Stout showed me a book just previous to the Fall election in 1870, in which he said every voter in the Township was on; it was at the interview at my house on the farm, already testified to; in that book Charles Rhinedollar or Rheinthaller's name and my own were written.

I never had any acquaintance with James Cole, of Mendham Township, and never spoke to him in my life; I knew him by sight, but I do not remember of seeing him on election day—Mr. Stout did not request me to speak to him with regard to influencing him not to work against him or for any other purpose—I had no conversation with him at all that day.

On the morning of election, Rev. Mr. Fairchild came to see me at the polls, or at the tavern—I was

standing on the stoop—in reference to a suit which John F. Bowen had brought against me; after I was through with that business with him, he invited me up to his house to examine his property, as he thought of leaving the charge he was then at, and thought I might find a purchaser in New York for him; I went with him to his house, and from there to Mr. Stout's house in his (Dr. Fairchild's) carriage; Dr. Fairchild took me around; this has been brought to my mind since my last testimony; I was there at Mr. Stout's house but once that day.

I have no recollection of meeting Forbis Ballentine at all that day, and I think if I had done so, I would have recollected it from its being the same name as the Surrogate's, which was prominent; I should not have felt particularly honored with the introduction if I had seen him; Mrs. Leonard and myself were at the farm the week before the pic-nic; I went to New York the Friday morning previous to the pic-nic, and returned on Saturday afternoon with Charlotte Moore, my wife's sister; Charles Burnside met us at the depot with a buggy and one horse, and there I learned that there were some friends at Mr. Stout's who wanted to see us; I told Charley Burnside to walk on while we stopped at Mr. Stout's; we caught up with him, and took him up with us after stopping there; he came down with the buggy, because there was no one expected up but myself; myself and wife, and a portion of the family had been staying at the farm from June; sometimes going down to New York for a day, and returning; Mr. Stout brought up these friends the same afternoon to my house in his carriage.

Q. Please look at letter signed Jerome L. Stout, dated New York, July 11th, 1871, addressed to Mrs. Leonard—in whose handwriting is that letter, and by whom, and when was it received?

A. That is in the handwriting of Jerome L. Stout, and was received by my wife on the day of the date of it, July 11th, 1871.

This letter was offered in evidence, and marked by me "Exhibit X," on part of defendant.

A letter dated New York, July 11th, 1871, signed Mary Leonard, being paper produced here by plaintiff, on notice given by defendant, being shown witness, he says:

"It is in the handwriting of my wife."

This letter was then offered in evidence, and marked by me "Exhibit Y," on part of defendant.

Receipt dated January 24th, 1872, for ten dollars, signed Amasa Leonard, being paper produced here by plaintiff, on notice from defendant, being shown witness, he says:

It is in my handwriting, and given to Jerome L. Stout, and the balance of $6.25 is the balance for meals which he took at my house during that year, since July 10th; this was made up from his own account; I never kept any account of it at all.

The receipt was offered in evidence, and marked by me "Exhibit Z," on part of defendant.

The $1.25 for shipping horse, including keep, means that that was the pay that I received for keeping his horse from the first of January up to that time, and feeding him.

Mr. Stout made a proposition to me to buy the Maple Avenue lot, if I would take his house at Mendham, as he was anxious to provide a place of residence at Morristown—and after he bought the house he lives in now, he was anxious to have stone to build his barn with—and I told him that he could have the stone on the lot at $1.25 per ton, as I had plenty more on the farm which I could bring down when the roads permitted, or he could take what he wanted of them, weigh them, and pay for them at that rate, or return the same weight in stone again to the same place.

I recollect having a conversation with Ephraim S. Day, of Brookside; it was on the 30th day of December, 1871; Mr. Day wanted to buy of me some sheep and sheep skins which I had, and was anxious to know what day I would be at the farm that he might see me; I told him it was not necessary that I should be there, he could deal with Kaggen, and he knew as well as I did what that meant; it meant simply, that if he wanted any sheep, he could go there and bargain with Kaggen, pay his money as agreed, and get whatever he bought, for we had had some little trouble with Day before about getting money from him, after he had got things without paying for them; I thought that was as polite a way as I could tell him, that he would not be trusted; the question of my home or place of residence was not raised at all.

Charles Burnside and Josie Burnside have been always treated as children; they have been treated equally as well as my own children; they were taken when Charles was a very small child, and could not talk plain; Josephine was larger and older, but not old enough to work of any account; they had no property to support them; they were not taken as wards; circumstances seemed to throw them upon us, and we accepted the trust in the fear of God, and we believe we have done our duty to them, fully as well as man and woman could do; they have always come to the same table as us, except when there was too much company, and when we had to have two tables; my own daughter has repeatedly in the last year given her place to Mr. Stout, and taken her place at the second table for Mr. Stout to take a twenty-five cent meal; I would say distinctly, that they (the Burnside children) never had white aprons on, and waited at the table as servants.

I recollect the conversation had with William H. Stiles; Mr. Stiles and Mr. Thompson came up to my house at the farm together that morning; it was proposed to raise some money to make the road good on the district; the exact amount I am

not positive of, but in the course of conversation Mr. Thompson asked Mr. Stiles how much his road tax would be, and Mr. Stiles replied that he could not tell unless he knew how much he was worth; I replied to Mr. Stiles myself, that Mr. Thompson was a non-resident, and only paid on the amount which was situated there; Mr. Stiles laughed, and said, "I suppose he is like you are, then, a resident of New York when you are here, and a resident of New Jersey when you are in New York," alluding to a conversation we had had some years previously in reference to non-residency; and there was not a word said about my residence at that time; Mr. Stiles knew that I voted in the Township, in the Fall of 1870.

I was taken sick at the mountain home in 1867, on the 18th day of July; I had been feeling unwell for some days before, but on that day I went to New York for the purpose of taking a warm bath; my wife went with me because the house in New York was shut up, and I did not get back here until—well on in October, having been taken down there; Mr. Stout was very kind to me after I returned; he did come up and selected some sheep, and took me once to the Fair at Morristown, and that is the only time he ever took me out riding; but with all his kindness, I should never have thought of paying him by voting illegally for him; I never voted illegally in my life.

We came up to the farm—that is, we closed the house in New York—that year in July.

I am taxed for two thousand dollars personal property in New York as a resident; in 1869, I think it was, I mentioned the matter at the tax-office of my being a non-resident, and they then declined to change me to the non-resident book because I was then (it was in April) still living in New York; I have not spoken of the matter since, until since Mr. Raymond testified here; I then went to see Mr. King, commissioner of taxes, and he said it was right that I should be taxed as a resident of New York, as I was housekeeping

there (Mr. King's declarations objected to) and he said he had explained it to the parties who had come there to examine the books; when I testified, on the 15th of March, I think it was, as to my personal property, I believe I testified to about $15,000; since then I have converted $13,500 into real estate; I mention this to make myself right; that change was made on the 29th day of March; a tax bill is rendered in New York to tax payers; it is not rendered until Fall; they are not confirmed until September; I was assessed for $3,000; I went down and saw Mr. King, and told him that I ought not to pay but $2,000; I went on the 30th of April; I was not sworn, there was not an oath administered; he wrote it down on his book, and that was all there was of it; if I had been sworn, I shoud have made it less; my indebtedness was taken out in making up my valuation of personal property.

Q. Do you know of any advantage you could have if your name was entered in the list of non-resident tax payers, over what you now have?

A. In my individual case I do not know of any difference it would make, either for or against; I took no action to make myself either a resident or non-resident; I was placed there by the tax commissioners.

Mr. Stout told me that Elmer Stout was very unreliable, and that he was not competent to take care of his own money, and that he had applied, or had thought of applying to the Court in the matter; it was in 1871 when he told me; it was after our partnership commenced.

The deed to J. & G. Ruddell was executed in New York, before a commissioner for New Jersey; it was drawn in New York.

Mrs. Stout's sister and her husband were the friends alluded to by Mr. Stout in his testimony as having come from New Haven; they had previously been up at the farm, and were invited to stop at our house in New York on their way back from New Haven, and visit my daughter; my daughter had been bridesmaid for her when she was married.

Cross-examined:

I keep horses and a carriage in New York; I keep two horses and a buggy; I use one for business and the other for pleasure; one of them is a pretty fine horse; I have most always had a horse there of some kind or another; I use them both for pleasure when I have a mind to; I have had the one I spoke of since January; I had one horse before that; have always had a horse there, and sometimes half a dozen work horses; I kept a horse previous to last January which I could drive or work, or anything else; Mr. Stout owned the working horse while Stout & Leonard were together part of the time, and part of the time there was no horse of any kind.

The real property of which I spoke (for which I paid the $13,500) is taxed in New York, and I will have to pay tax on it if I own it when the tax is confirmed; I have never brought the pleasure horse I now own into the country; all my other horses have been out here at one time or another.

The occasion I spoke of was the only time I caused the boy Burnside to walk home, and he did not walk home then; he only walked until we caught up to him.

Q. Did John Cramer, Mr. Stout's boy, ever meet you at the depot with your horse and buggy?

A. I think that John Cramer was there the Saturday before the pic-nic, and Charley Burnside was there, too; I have no recollection of any other time.

Q. Did not John Cramer on one occasion drive your horse and buggy to the depot from Mr. Stout's house, and meet you and your wife at the depot, and did not you and your wife ride with John Cramer from the depot to Mr. Stout's house on one occasion?

A I don't recollect any such circumstance.

Q. And had you not previously sent out word by Mr. Stout, if Charley Burnside came down with your horse and buggy on the occasion referred to, to send him on home on foot, leaving the carriage at Mr. Stout's for your use when you came out?

A. I have no recollection of any such thing, and don't think any such thing occurred.

Q. Did you ever apply to the assessor in Mendham Township, in Morris County, for any reduction on account of indebtedness?

A. I cannot say positively, but I think I have; I think I did not apply to Mr. Anderson for such reduction; I cannot say to whom I applied; I am not positive of having applied, but I think I did.

I arrived at Mr. Stout's house between one and two o'clock on election day, 1870; it was the dinner hour; Mr. Stout did not ride with me in Mr. Fairchild's carriage; I am not positive as to whether he was there when I got there or arrived afterwards; my impression is that Mr. Stout was there first; it was not long after we got there that we sat down to dinner; Elias Briant was there when I got there and took dinner there; I think he had been lying down; I think I went in the front basement door, the dining room, but I am not positive with regard to that.

Q. Did not Mr. Stout step into the door with you?

A. I do not recollect about that, but as I said, my impression is he was there first.

AMASA LEONARD.

Sworn and subscribed before me, this 17th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Mrs. Mary Leonard, being re-sworn on part of defendant, deposes and says:

The Burnside children have always been treated in our family as children, and like our own children; they have never been treated as servants, and have always eaten with us, except occasionally, when we had considerable company; and I have always kept one or two servants since I have had

the children, so that they were not obliged to be servants to the rest of the family; they were treated by visitors and friends as members of our family; they were in the parlor when we had company, and in with our family at all times; they were orphan children, and seemed to be cast on the family; they had no property, and there was no reason of that kind for our taking them; we have always clothed them, and fed them, and paid their doctor's bills; we have always taken the whole charge of them since their mother died, and never have received one cent from anybody, relative or friend, for taking care of them; they never had a white apron on to wait on the table for friends, or our own family, or any one else in the capacity of a servant.

We came up on the evening of the 27th, or the morning of the 28th of December, 1870; first, after going down just before Christmas; I think it was the evening of the 27th; we stayed the night of the 28th at Mr. Stout's, and I slept in what they call their bedroom; I recollect it was as hard a bed as I ever slept on.

The pic-nic in the Summer of 1871, was on Tuesday, the 22d of August, I think; the previous week we spent at home on the farm; on Saturday the 29th, previous to the pic-nic, we were at home; I was not here in Morristown on Saturday at all; I was here on Friday the day before; I had come from the farm; I had driven Mr. Leonard that morning to the depot with a horse and buggy, and from the depot I went around to Mr. Stout's house, to call on my cousin who was boarding there—that was Mrs. Northrup; I wanted her to go up home with me that morning; she said she was very tired; they had been the evening before at Caldwell, and had ridden further than she intended, and her husband thought she had better not go; she did not go; her and her husband drove off in a buggy that Friday afternoon and returned the same night to Morristown; before that time, my mother came up on the first of August, and on Thursday afternoon previous to this Friday; my mother and I drove down

with our buggy, and took tea and spent the evening at Mr. Stout's; that is the way I learned of their going to Caldwell; she did not return until after we had left there.

MRS. MARY LEONARD.

Sworn and subscribed before me, this 17th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Miss Charlotte Moore, a witness called and sworn on part of defendant, deposes and says:

I am a sister of Mrs. Leonard; I was out at Mr. Leonard's farm twice last Summer; I was out first in June, and stayed a little time, then returned to the city to make a short visit to Saratoga, then returned again and stayed until my school commenced; I was obliged to return to the city in consequence of that; my school commenced on the 7th of September, and I returned to New York the Saturday before, which was the 5th; the date of my coming out was, I think, the 19th of August; it was on Saturday; I don't remember the date of the pic-nic, but it was the week after my coming out.

I came up the last time last Summer with my brother-in-law, Mr. Amasa Leonard, alone from New York; Charley Burnside met us at the depot with a one-seated buggy wagon, with one horse; we drove from the station to Mr. Stout's residence, and saw my aunt and the cousins who were stopping there; I also saw Mr. Stout; we had a few minutes' conversation, (with my relatives, not with Mr. Stout), and made arrangements about their coming up to mountain home; we then started for home, met Charley on the way, and took him in with us; it was this side of the school house where we met him; I should have said overtook him; my mother has been with my brother-in-law this past Winter.

The Burnside children have always been treated as equals since they have been in the family; they have always had all that the rest of the family had; they never have acted in the capacity of servants, never; they have attended the same school that I am teaching in New York; they have always shared equally and evenly with the rest of the family; always been in the parlor when there was company, and treated as equals, always; when I was here last summer, at the times I have named, Mr. and Mrs. Leonard were always here; in fact, we see very little of them in New York at all.

Cross-examined:

I left Saratoga the day I came up with my brother-in-law; I came down from Saratoga in the night boat, and came up with him the same day; I am positive of it; I am a teacher in 47th Street school, between 8th and 9th Avenues; Ward school No. 17; my position in school is general assistant in the primary department.

CHARLOTTE A. MOORE.

Sworn and subscribed before me, this 17th day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Examination adjourned until Tuesday, May 21st, 1872.

Examination of witnesses continued May 21st, 1872, pursuant to adjournment.

William Thompson, a witness recalled and re-sworn on part of plaintiff, deposes and says:

I was at Major Riley's shop when I heard of the death of Calvin Day; Major Riley and my father-in-law (James De Groot) were there; I lived near

there in the same house with my father-in-law; it was in the forenoon when I heard of it; Will Smith told me; Will Smith is David Smith's son, and they lived in Mr. Stout's house on the farm.

Q. Was that the morning of the day Calvin Day died?

A. Yes, sir.

I could not tell exactly now the day of the week, but it was somewhere along to the last of the week; Friday or Saturday, I think; it must have been the day he died, because it was the first I heard of it.

Cross-examined:

Calvin Day died the last of the week.

Q. Do you know what day Calvin Day died on?

A. It was either on Friday or Saturday, I think.

WILLIAM D. THOMPSON.

Sworn and subscribed before me, this 21st day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

James J. De Groot, a witness called and sworn on part of plaintiff, deposes and says:

I live in Mendham, and am about fifty years of age; will be fifty September 25th, if I live to see it; I recollect hearing of Calvin Day's death for the first time; I was in Major Riley's shop at the time; my son-in-law, William Thompson, was there; I live in the house close by, and was helping the Major put on some tire that day; I heard of his death somewhere between eleven and twelve o'clock in the day, I think it was that I heard of it; I think it was Mr. Smith's boy, (the same which William Thompson has just testified about), who told me; I believe they call the boy William; the boy lived down on Mr. Stout's farm with his father; Mr. Stout's house is right across the way from Calvin Day's house.

Q. Was that the first time you heard that Calvin Day was dead?

A. Yes.

Q. How soon before, before you had heard this, did you understand that he had died?

(Objected to as vague and indefinite.)

A. Well, it hadn't been a great while before, I guess, for he came right up from home, and said Mr. Day was dead.

I heard frequently of his death from other parties; in the afternoon, and during the day, I heard other people talking about it.

I have been acquainted with Mr. Leonard some two or three years; I do not recollect now when it was I first saw him exactly; I was acquainted with him before Mr. Stout ran for Sheriff.

I saw Mr. Leonard the evening of election day, when Mr. Stout ran for Sheriff; it was on the tavern stoop, while they were counting the votes, and shortly after the polls closed.

(This testimony objected to as not rebutting, and improper at this stage of the case.)

I saw Mr. Leonard there, and as I passed along by him I passed the time of day with him; I asked him if he had come down to election that day, and he said he had; he had come down to help Mr. Stout, he said; Mr. Stout was running then for Sheriff; I asked him if he was a voter, and he kind of hunched up his shoulders and said no, not exactly, but he had come down to help him what he could, for he thought Stout was a very nice kind of a man; that was about all that passed between us.

Q. Was anything said as to whether he had voted?

A. He told me he had voted for Mr. Stout.

Q. Anything said as to the circumstances under which he voted?

A. He said there was a kind of a rush in there, and they came out and he went in with the rest and voted.

I do not know who went in or who came out, only as he told me, there was a kind of a pull there; I don't know who "they" were, nor I don't know anything more about it.

Cross-examined:

Q. You have been talking with Mr. Stout lately?

A. Not any more than with any one else, that I know of.

Q. He has told you what he was trying to prove?

A. No, sir, I think not.

Q. Did not he tell you what had been sworn to here about what took place on election day.

A. I don't recollect whether he did, I don't know.

Q. Did he not tell you that he wanted to show that Leonard was not entitled to vote on that election day?

A. I don't recollect whether he did say that or not; there might have been something said about it; I do not recollect now.

Q. He told you that he had this suit with Leonard, and wanted you to help him?

A. No, sir, he didn't.

I did not say anything to Mr. Leonard on the night of election day, except to pass the time of day with him; and I asked him if he had come down to election, and he said he had; he said he had come down to help Mr. Stout, who was a good, clever sort of a man; and then I asked him if he was a voter there; well, he said, no, not exactly, he had come down to help Mr. Stout; that's all there was of that.

Q. Was that all that was said?

A. In regard to the voting, that was all.

Q. Was there anything else said between you and Mr. Leonard on any subject?

A. I believe it was all, except as to some work he wanted me to do for him.

Q. Did Mr. Stout speak to you about what Major Riley had sworn here?

A. No, sir; I don't think that Mr. Stout ever mentioned Major's name to me, that I recollect of.

Q. How often has Mr. Stout talked to you about this case?

A. Not more than once or twice, I guess.

I don't think I have heard it spoken of by Mr. Bowman; I have not heard of it from my son-in-law any more than from any one else in the town; there is a good deal of talking about it.

Q. Will you swear here that it was David Smith's son from whom you first heard about Calvin Day's death?

A. I said I believed it was him; I wouldn't be positive; I think it was him.

Re-direct examination:

Q. Are or are you not sure that it was a boy who lived near Calvin Day, who first announced his death to you?

(Objected to as leading.)

A. I am pretty sure it was the boy; but, as I said, I would not be positive.

(Question repeated.)

(Same objection.)

A. I am not positive whether it was him or not; it was a boy.

Q. Are you the De Groot of the firm of De Groot & Bowman?

A. I am not; nor am I his brother.

Q. Do you know how Mr. Stout heard that you knew anything about this case?

(Objected to as immaterial.)

A. I do not.

JAMES DE GROOT.

Sworn and subscribed before me, this 21st day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Richard T. Bowman, a witness called and re-sworn on part of plaintiff, deposes and says:

Q. Did you ever help make out any fresh canvass in the Spring of the year?

A. No, sir.

I never heard of its being done.

Q. Were you ever present when any canvass was made out for Mendham Township in the Spring of the year—I mean a political canvass, and not a registry?

A. No, sir.

Cross-examined:

Q. Wasn't there a canvass made in the Spring of the first year that the negroes first voted?

A. I think not.

Q. When did the negroes cast their first vote; in the Spring, or in the Fall?

A. I was under the impression it was in the Fall, though I might have been mistaken.

Q. Was there not a canvass made just before the election when the negroes first voted?

A. There might have been—there was, if it was in the Fall.

Q. And at that canvass was not the letter C put

opposite the negro voters' names, and did not that give rise to talk and jokes among those present?

A. Yes, sir.

Q. And was not the fact of the negroes being about to vote with white men, talked over and jested about?

A. Yes, sir.

Re-direct examination:

Q. And when was it, what time of year was it, when this talk and jokes about the niggers voting was had?

A. I think it was in the Fall when we made the canvass.

Second cross-examination:

Q. It was when the canvass was made for the first election that the negroes were entitled to vote in, was it not?

A. Yes, sir, if it was the one that I was at the canvass, unless they made some other one.

Second re-direct examination:

Q. After all this examination, and your memory being refreshed, was you ever present at the making of a canvass at the Spring of the year?

(Objected to because it already appears by the testimony of this witness that he cannot tell whether he was or not.)

A. I don't think I ever was.

Q. Do you think it probable that the politicians would go to the trouble of making up a fresh canvass in the Spring of the year on account of eight or ten colored voters being added to the list?

(Objected to because it is clearly improper to ask a witness brought here by the plaintiff, as to the

probabilities of what politicians might or might not have done.)

A. No, sir.

Q. Did you ever hear of such a thing being done in Mendham township?

(Objected to as not being a proper re-examination.)

A. No, sir, I don't think I ever did.

Third cross-examination:

Q. You do not mean to say that it was not done, do you?

A. I mean to say that I never knew it to be done.

Q. So far as you now recollect?

A. Yes, sir.

RICHARD T. BOWMAN.

Sworn and subscribed before me, this 21st day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

John Reynolds, a witness called and sworn on part of plaintiff, deposes and says:

I live in Mendham Township, New Jersey, and have lived there thirteen years.

Were you ever present at a meeting of Democratic politicians at the house of John Yawger, on Pitney's farm, for the purpose of making up a political campaign canvass?

(Objected to as not rebutting.)

A. I was.

Q. Who wrote the list of names in the canvass book on that occasion?

A. I think Mr. Jerome L. Stout and Mr. Jonathan Pitney.

Q. What time of the year was that?

A. I think it was the Fall of the year.

Q. Were you ever present, or ever assist in making out a political canvass in the Spring of the year?

A. I don't remember that I was.

Q. Has it been the practice to do that in Mendham Township?

A. I think not.

I was never at Mr. Yawger's on such business but this once.

Cross-examined:

Q. Your recollection of when that canvass was made is very indefinite, is it not?

A. I cannot tell the date.

Q. You cannot fix it within six months or a year, can you?

A. It was either 1869 or 1870.

Q. You have been at canvasses at other places besides Mr. Yawger's house, have you not?

A. Yes, sir.

Q. You have been at Mr. Marius Robinson's for that purpose, have you not?

A. I was.

Q. Can you say with certainty where it was that Mr. Jonathan Pitney and Mr. Stout wrote out the canvass?

A. I think it was at Mr. Yawger's.

Q. May it not have been at one of these other places where you met Democrats for the purpose of canvassing?

A. I think not.

Q. Why?

A. Because I do not recollect at Mr. Robinson's of Mr. Stout's being there.

Q. If Mr. Stout was there, it was as likely to have been at Mr. Robinson's as at Mr. Yawger's, was it not?

A. If he had been there he would have been as likely to have wrote there as at Mr. Yawger's.

Q. Is not your recollection of the particulars of the writing out of these canvasses at the different places where you held Democratic canvasses, very indistinct?

A. Some of them are in some particulars.

Q. Is it not a mere impression on your mind, that Pitney and Stout wrote together on the canvass made at Yawger's, without your having any distinct recollection of the fact?

A. I think not.

Q. Was any of the testimony which had been given in this case, read over to you before you went on the stand?

A. No, sir.

Re-direct:

Q. You are attending at Morristown as a juryman?

A. Yes.

I have been on a jury, and just come off before coming in here; it was about ten minutes to five when I came in here; I had heard nothing of the case previously; Mr. Stout first asked me if I recollected being at Mr. Yawger's when I came out of the Court room at one o'clock to-day; neither he nor any one in his behalf had ever spoken to me before about that.

Q. Did you, at once, by your own unaided memory, recollect the circumstances of Mr. Stout's writing in the canvass book made up at Yawger's house?

A. I did.

Q. And also of Mr. Pitney's?

A. I did.

Q. Have you now any doubt in you mind that both Mr. J. L. Stout and Mr. Jonathan Pitney wrote in the canvass book which was made at Yawger's house, in your presence?

(Objected to as leading.)

A. I have not.

Q. Have you any doubt that that was in the Fall of the year?

(Same objection.)

A. I have not.

JOHN REYNOLDS.

Sworn and subscribed before me, this 21st day of May, 1872.

EDMUND D. HALSEY,
Supreme Court Commissioner.

Orrin B. Stout, a witness called on part of the plaintiff, deposes and says:

I am twenty-one years old and past, a son of the plaintiff; live in Washington City, District of Columbia; was living at home in 1870; had been engaged in business previous to that, in mercantile business in Mendham; the firm was Stout & Bowman, myself and I. Briant Bowman; on 22d day of December, 1870, was at my father's house; my uncle, William B. Johnson, from New Haven, Connecticut, came out to see if he could get me as his book-keeper; he was a merchant in New Haven, in the agricultural business; he was my great uncle; he arrived at Mendham in the morning stage, between eleven and twelve o'clock; previous to that, I had no intimation that he wanted my services; I agreed to go and to meet him, or to be at his store on Monday, the second day of January, 1871; he stayed at my father's house a part of the afternoon, and from there went to my grandfather's, Mr. Grovier's, near Mr. Leonard's; he went with me; I took him up in the wagon called our sundown with two horses, and got to Mr. Grovier's in the neighborhood of six o'clock; I stayed at my grandfather's

long enough to take a meal, and then returned home; my uncle left his cane at father's; it was a cane with ivory head; had an inscription on it; that cane was sent to him that night at Mr. Grovier's; it was not gone from my father's when I got home; Elmer Stout carried it from my father's to Mr. Grovier's; Elmer was not at my father's when I left with Mr. Johnson to go to Mr. Grovier's; my uncle went on to New Haven from my grandfather's; I left home for New Haven on the morning of second of January, and stayed there until October; on 23d December I was at my father's; father went to Mr. Leonard's, or stated that he was going when he left; I was home evening of twenty-third; father was not home that evening; on that evening David M. Kaggen came to father's house; he came with two horses; he was riding one and leading the other; he came after our large spring wagon; he arrived, I should judge, between eight and nine o'clock; I was there in the dining room, and hearing a noise outside made by his approach, and the dogs barking, I went to the door, which is the side basement door, and found Mr. Kaggen there on one of his horses; he said he had come after our large spring wagon, stating that he had seen father at Mr. Leonard's, who told him to tell me I was to let him have the large spring wagon; he stated that he wished it to take a load from Mr. Leonard's down to New York; he got the wagon; there was no cover on it when he came, nor hoops; they were put in the wagon; the hoops coming from the granary, where we always kept them, the cover from the house; the cover was usually kept with the robes, in the upper part of the house; the cover was never kept in the granary on account of the rats and mice there, which were very abundant; Jerry S. Emmons and myself, and the girl Annie Scanlon, assisted in getting the cover and the bows; Annie Scanlon got the cover; no one was with Mr. Kaggen that night; no one came with him to the house; no one went away with him, to my knowledge; I saw him start, but could not see him very far, be-

cause it was so dark; it was rather a blustering night, cold—cold enough to have a good thick ice for skating; father did not come home the night the wagon was got by Mr. Kaggen; he got home the next day, in the middle of the day, after twelve o'clock, between twelve and half-past one.

Q. Is there any circumstance by which you recollect that your father was not home on the forenoon of the 24th of December, 1870, and if so, state it?

A. Yes, sir; I had made arrangements to go down to William Child's, Baskingridge, New Jersey, that morning; I was to get there about noon; I was very much disappointed that I could not go; the reason being father having the buggy, and one of the horses that I wished to drive.

On afternoon of the twenty-fourth of December, I was home, and around the village of Mendham.

Q. Did you transact some business in a matter between Elmer Stout, Joseph Hulbert, and yourself of that afternoon or evening?

(Question objected to as leading by the counsel of defendant.)

A. Yes, sir, I did.

("Exhibit Q," on the part of the plaintiff, being shown witness at page 322, he is asked: Is there any entry there in your handwriting, and if so, when was it made?)

A. Yes, sir, there is—made on the 24th day of December, 1870; the entry is at or near the bottom of the page; it was made, as near as I can judge, between three and four o'clock in the afternoon; father was engaged in trying a case, as Justice, at the Mendham hotel that afternoon; I did not go to Brooklyn Pond on that day, December 24, 1870; nor did anybody from my father's house go there; I went to Brooklyn Pond looking for lost steers,

with Jerry Emmons and Will Smith, that Fall; we did not find the steers on the occasion I went with them.

That was either the last of November or the first of December, as it was next to the last time I went to the Pond; the last time I went, Jerry Emmons went with me for one, and father was another; on that occasion Jerry Emmons and myself became separated from the rest of the party in going through the woods looking for the steers; this was in the first part of December, as near as I can recollect, in the second week; I never went to the Pond with Will Smith after steers but once; I afterwards went to make the visit at Mr. Childs', upon Monday, the 26th of December, the day after Christmas.

There was a young lady in the case at Mr. Childs'; between 26th of December and 1st of January, I recollect what I was engaged in; on the 27th and 28th I was engaged in preparing for the vendue; on the 29th, on the day of the vendue, I was at the farm; and next few days was at the farm delivering the goods, and in addition to this I was getting ready to go to New Haven.

I attended the polls on election day in Fall of 1870—father's election; kept a list of the voters.

("Exhibit K," on part of the plaintiff, being shown to the witness, he says:)

This is the book I kept—the part of it in pencil; the ink part I did not do; the ink part was the names of the voters in that township—Mendham; don't know who prepared this book; at the adjournment, from one to two o'clock I was back and forth from the house; as soon as adjourned I started to my father's house for dinner; arriving there, I found that all had finished their dinner; did not see father nor Elmer Stout, or Jerry Emmons; I found part of them setting in dining-room; I sat down to take a bite, but was called up by the girl, who said there was a man at the side-basement

door who wanted to see me; going out, I found Johnny Kate, who was sent up there to see me; I got him to remain while I went down town after Mr. Josephus Sanders, as Mr. Sanders and I had made arrangements about this Johnny Kate, we wishing to secure his vote; I found Mr. Sanders, and he returned with me; found Johnny Kate there in the kitchen; I had left him in the kitchen when I started for Mr. Sanders; we went in by the dining-room door, which was open; the table was partly cleaned off, and no persons down stairs, either in the dining-room or kitchen, besides Mr. Sanders, myself, Johnny Kate, and the girl, Annie Scanlon.

Mr. Sanders and myself talked to Johnny Kate in the kitchen; Kate wasn't in any other room in the house than the kitchen, to my knowledge; and we got him to say that he would vote the Democratic ticket for fifteen dollars; which Mr. Sanders paid him; I did not have the money in my hands; I had nothing whatever to do with the financial matters that day; I went in and took a piece from the table, on the second visit, but did not eat it there; took it in my hand and eat it on my way to the hotel; after settling with Kate, I and Sanders returned to the hotel, as it was nearly two o'clock; Kate followed on.

Q. At any time on that dinner occasion did you see at the house either your father, Jerry Emmons, or Elmer Stout—I mean between one and two o'clock on election day?

A. I did not; the only time I saw father on that day at the house was at breakfast; did not see him there after breakfast, as he came to Morristown and did not return home until next day; I was with him.

Q. Did you or your father, or some of you, go to Brooklyn Pond frequently or otherwise, during the year 1870?

A. Yes, sir, frequently; we used generally the small spring-wagon, which we termed the "sun-down," whenever we went hunting cattle; we also

used the buggy and carriage when a fishing party were going there, and also the large spring-wagon when we went fishing with a large party; but this large spring-wagon we never went in excepting when a large party was going for the purpose of fishing, it being too large and heavy to go in when there was a small party going—a party less than five.

My employment at Washington is that of first clerk in the pay department; my superior is Colonel William B. Rochester.

The witness being cross-examined by the counsel of the defendant, says:

I am clerk for Colonel Rochester—first clerk; I am not the only clerk he has; he has another one; Colonel Rochester is one of the paymasters of the army; he is the only one who makes local payments at Washington; there are two others; they do not make local payments; one pays volunteer claims, and the other gets up the paymaster's manual.

My father left for Mr. Leonard's on the twenty-third of December, as near as I can remember, a little after twelve o'clock; I think he took didner at home; Elmer Stout was not there; Jerry Emmons was there; he took dinner there; father had not been to Morristown that day.

Kaggen, on the night he came for the wagon, when I first saw him, was on one of the horses, in the gangway in front of the side basement door, the other horse was beside him; he had hold of the strap he was leading him with; there was no one on the other horse.

I came on here to attend as a witness in this suit; I left Washington City on nine o'clock in the evening, and arrived here on Tuesday morning, at nine o'clock, and have been since staying at my father's house; my father has had, I think, part of the manuscript evidence taken in this case, at his house since I have been here; I read part of it over there, and have talked with my father about the matter; I have tes-

tified to it here to-day; it would be very natural that I should, he being my father.

I did not fix the time I went with Will Smith to the pond; I said it was next to the last time; I did not give any date, but as near as I can recollect, it was the last part of November or the first part of December.

Q. You have nothing then to fix that date by?

A. I know that it was before the last time I went up; as I remember, the last time I went up, father was along, and Jerry S. Emmons and myself; we became separated from himself and Mr. Ingram.

Witness being re-examined by the counsel of the plaintiff, says:

Q. About how long apart were the different times you went to Brooklyn pond, the two last occasions?

A. About two weeks; two or three weeks; two weeks, I think; I did not go to Brooklyn Pond at all after my uncle came down, on twenty-second of December.

Q. Or did anybody go from your house to Brooklyn pond after the 22d of December until you went to New Haven?

A. No, sir, no one.

When I left my uncle's at New Haven I came home to Morristown, and went from here on 18th of October to Washington to take the situation I now occupy; the pay of this situation is considerably better than the former one.

ORRIN B. STOUT.

Sworn and subscribed before me, }
this 23d day of May, 1872. }

FRED. A. DE MOTT,
Master in Chancery of New Jersey.

Annie Scanlon, a witness produced on part of the plaintiff, being duly sworn, upon her oath doth depose and say:

I recollect the night Mr. Kaggen came after the big spring-wagon, I saw him ; Mr. Stout was not home that night ; I did not then know where he was ; I knew he was away ; Mr. Kaggen said Mr. Stout said he could have the big spring-wagon ; so I thought then he must be at Mr. Leonard's ; I knew that Kaggen lived at Leonard's.

The wagon cover was always kept up stairs in the house ; I got it down that night ; I didn't see any one with Mr. Kaggen that night ; I was looking out of the back kitchen window ; they had a lattern out there ; Mr. Stout got home next day at early noon ; I think so because his son wanted to go away in the morning, and he promised to be home next morning, and he didn't get home ; Mr. Orrin was home the next day ; Orrin nor anybody else did not go from our house for lost cattle the next day.

Q. Do you recollect of Orrin, and Jerry and Will Smith going after the lost cattle ?

A. Some two or three weeks before that they went, I remember.

Being cross-examined, witness says :

At the time Kaggen came after the spring-wagon I think Mrs. Stout was up stairs sick ; she stayed in her room ; I looked out of the window because I didn't know what to make of Mr. Kaggen's coming so late after the wagon ; I looked out of the kitchen window, back of the house, the one I could see the barn from ; the first I knew of Kaggen's being there was seeing him riding past the window on horseback; he was riding one horse and leading the other ; I saw that out of the kitchen window ; he was going into the barn where the wagon was kept ; there are two windows, one a side window and one a back window which looks out towards the barn ; it was out of the side window I saw him first ; don't remember whether he came to the door and knocked ; he went around first, I think, and tied the horses ; I think he did, I am not sure.

Q. What did he do then ?

A. He came for the wagon, said that Mr. Stout had sent him after it at Mr. Leonard's; he came to the back kitchen door; he knocked; I am not sure who went to the door, either me or Orrin: Orrin was in the dining room reading when he came first.

Q. Was Kaggen riding fast when he passed the window?

A. I don't think he was riding very fast; he did not come in the house, stayed at the door, and went right back home again; I think Jerry got the lantern; Jerry Emmons; that was got two or three minutes, or may be five after Kaggen came; after the lantern was got Jerry went right out to help hook up, I think; Orrin went out, too, at the same time; Jerry and Orrin helped Kaggen hook up; that's all I saw around there; I saw them hooking up; I stayed in the kitchen, did not go out of the kitchen; I saw Mr. Kaggen go off, past the window; could just see him pass the window; it was not so very dark; I had never seen him but once or twice before, but I knew it was him when he passed the window.

Being recalled she said:

Q. Mr. Kaggen has a large red mark on one side of his face which distinguishes him, does it not?

A. Yes, sir.

Q. Was there any building, tree, fence or obstruction to hide the view between the back kitchen window and the spot or place in the back yard where the carriages and wagons stand, where they hook horses to them?

A. No, sir, there was not.

Being re-cross examined, says:

It is about as far as across the street from here between the kitchen and the barn—not quite as far, either; I think the wagons were under the shed; the tongues were outside, and the place where they hook up the horses is between the kitchen window and barn and shed.

When I said before that I did not go out of the

kitchen, I meant to say I did not go out of the house; I know I went out of the kitchen for the cover; I did not go out of the house, out doors.

ANNIE SCANLON.

Sworn and subscribed before me, this 24th day of May, 1872.

FRED. A. DE MOTT,
Master in Chancery.

Martha G. Stout, a witness produced on the part of the plaintiff, being duly sworn upon her oath, doth depose and say:

I recollect my husband losing some steers that were pasturing at Brooklyn Pond.

Q. Do you recollect of his hearing that said steers were found, or supposed to be found?

(Objected to as hearsay testimony.)

A. Yes, sir; a day or two before Thanksgiving, my husband went to New Haven, and the day before he got back, just before noon, the day previous to Thanksgiving, there was a letter there, got, I think, the same day, stating that the cattle were shut in a field up near Hopatcong Lake, or somewhere up that way, and that they would probably be kept there until Mr. Stout sent for them; he remarked that he ought to send for them the next day, Thanksgiving, but that we had made our engagement to go up to Mr. Leonard's on Thanksgiving day, and that he had promised the boys that they might go along and have a hunt; I did not go; Mr. Stout and my little daughters, and the boys, I think, went; next day after Thanksgiving we sent the boys up after the cattle; the boys who went were my son, and I think Jerry Emmons, I am not positive, and Will Smith; I know Will Smith did go with Orrin, I am not so positive about the other; I was down stairs and about the house when

the boys went; I remember it was a cold morning, and quite early, and Mr. Stout remarking that Willie looked rather cold, and he provided him with some kind of a coat ; I can't recollect what kind, but some kind of a coat ; I am under the impression that it was one my son had outgrown, but I am not positive.

I kept my room after my confinement——

Q. How many weeks did you keep your room after your confinement ?

A. Somewhere about six weeks ; I might have gone out of the room, but not to stay out—not to go down stairs, I don't think, I don't just remember ; I was not down stairs at daylight on the 24th of December, or at any other time on 24th of December.

I recollect being present when my husband had a settlement with David Smith, a short time—a few days—before we moved to Morristown.

(Objected to as irrelevant and immaterial.)

It was in the dining-room at my house at Mendham ; we moved to Morristown April 1st, 1871—not at the farm house, at the house in the village.

Q. Was there any dispute or trouble between your husband and Mr. Smith in the settlement ?

(Objected to as irrelevant.)

A. Not any that I heard of; Mr. Stout and Mr. Smith came in from the barn ; Mr. Stout went to his desk and took out his books, and they were looking them over together ; I remember just where Mr. Smith sat, on the corner of the lounge next the desk ; after they had settled, Mr. Smith made some remark like this, "Well, Mr. Stout, you didn't find me to be quite so hard or so bad a man to get along with (I don't recollect just what he said) as I was represented to be ;" Mr. Stout remarked, "No, they had always got along very

well;" and Mr. Smith said he could always get along with any one who would do right with him; he seemed perfectly satisfied, not a word; the cover of the big spring-wagon was usually kept in the third story of the house with the robes; I remember Mr. Leonard and Miss Moore coming to my house one evening quite late, along at dusk, last Summer, when we lived here in town; Mr. Leonard got out of the buggy, but Miss Moore did not; she did not come in; that was not the Saturday before we went to Brooklyn Pond on the pic-nic excursion; in my previous testimony I have stated that Mr. and Mrs. Leonard, and Mrs. Moore and Miss Moore, I was positive, came up from the depot, and called at our house; I should have said that that was my understanding at the time; of course I did not see them on the train; I only saw them at the door in the carriage; I say this to correct it.

MRS. MARTHA G. STOUT.

Sworn and subscribed before me, this 24th day of May, 1872.

FRED. A. DE MOTT,
Master in Chancery.

MORRIS CIRCUIT COURT.

JEROME L. STOUT,
vs.
AMASA LEONARD.

Examination of witnesses taken before me at the office of Alfred Mills, Esquire, in the presence of counsel for the plaintiff, and counsel for the defendant, on this eighth day of June, 1872.

FRED. A. DE MOTT,
Master in Chancery of New Jersey.

James Lawrence, a witness produced on the part of the plaintiff, being sworn upon his oath, saith:

I reside at Mendham; am 27 years old in September; I assisted in making a Democratic canvass of Mendham Township, at John F. Yawger's house, at Pitney's farm; a number were present; Mr. Stout, Mr. Reynolds, Mr. Bowman, Mr. Jonathan Pitney, Mr. Yawger himself, and I believe, Jerry Emmons, but I am not certain; Mr. Stout wrote down the names in the canvass book for a while, and then Mr. Pitney finished writing them; I saw the book they wrote in; had it in my hands. ("Exhibit L," on part of plaintiff, being shown witness, he is asked:)

Q. See whether you recognize that or not?

A. I do; I recognize the book from the outside, by the date, and the writing inside; Mr. Pitney's more particularly than Mr. Stout's.

Q. Is that the book which was made up that night at Yawger's house?

A. Yes, sir.

Q. Do you recollect anything in regard to Mr. Bowman that evening, as to whether he was able to write that night or not?

A. Yes, sir, I do; he had a sore hand, which he told me that day he had cut in dealing meat out of his wagon; he was unable to write.

Q. When was it that this canvass was made at Yawger's house?

A. It was in October, 1870.

Q. Were you ever present helping to make a canvass, or while a canvass was being made, in the Spring of the year?

A. No, sir.

I have assisted in making other canvasses; most always do in the Fall.

Q. Did you ever hear of a canvass being made in Mendham Township, in the Spring?

A. No, sir.

Q. Do you recollect whether they had any sweet cider to drink that night or not?

A. No, sir; they had cider, but I don't know whether it was sweet.

Being Cross-examined, the witness says:

I was not there when the cider was brought in; I was out of the room; I had been there, but just stepped out when the cider was brought in.

Q. The words and figures "October, 1870," on the outside of this book, "Exhibit L," are what led you to fix the date of this book as the Fall of '70, are they not?

A. I don't know what you mean, exactly.

Q. If the book had no date, could you give us now the time when it was made?

A. Yes, sir.

Q. In whose handwriting is that date?

A. Mr. Stout's, because I saw him put that on; and I know the handwriting, besides.

Q. When did you see him put that date on the book?

A. It was in October, 1870, at Mr. John F. Yawger's, before the canvass was made; it was the first scratch of a pen that was ever on the book, to the best of my knowledge; it was taken out of his pocket, and laid on the table.

Q. What else was taken out of his pocket?

A. Nothing that I think of.

Q. Where were you when he wrote it—the date October, 1870?

A. I was sitting by the table.

Q. Had you any recollection, before the book was lately shown to you by Mr. Stout, of what was put on the outside of that book?

A. I know there was nothing on it, inside or out, because I remember looking at the book when it laid on the table.

Q. When did you last see this book, before to-day?

A. I don't know that I have seen it since the night we made the canvass.

Q. Had you any recollection, before you saw it to-day, of what was on the outside of the book?

A. Yes, sir, I recollect that date; I could have told any one that that date was on the book—the book we had there.

Q. Can you recollect what day it was you met at Mr. Yawger's house?

A. Yes, sir, it was on Saturday.

Q. Can you give the month, or the day of the month?

A. It was October, near the first; I couldn't give exactly the date; it was in October; I had the book in my hands, that night we made the canvass; there is no entry of mine in my handwriting, in or on the book.

I don't know that I ever had it in my hands, after that night; I have been at Mr. Yawger's more than once; I am there quite often; couldn't tell how often; sometimes once a month, and sometimes once in two or three months; I drop in to see him about something; I have attended other political canvasses there before that; I did no writing at all, that night; I don't think I did any writing at any of the political causes; Mr. Bowman generally did the writing.

Q. Do you recollect attending a political canvass, just after the negroes were entitled to vote, and the fact of their being voters being talked about, and laughed over?

A. Yes, sir.

Q. Were the negroes talked about and laughed about at this canvass at Mr. Yawger's, that you have spoken of?

A. Yes, sir, they were.

Q. They were about to vote for the first time, were they not, and something was said about going up to the polls with a nigger, wasn't there?

A. They had voted in the Spring, prior to making this canvass.

Q. How do you know?

A. Because they had voted in our road district, and we had quite some contention as to whether they were entitled to vote in the district for Over-

seer of the Road ; that is held on Saturday before town meeting ; town meeting is held on Monday.

Being re-examined, witness says :

The caucus at which the subject of the negroes voting was talked about, was, I think, at Mr. Yawger's, for one place ; we had a caucus in the Spring at Mr. Robinson's ; I do not recollect whether anything was said there or not.

Q. Was any caucus book made up at that caucus, held in the Spring at Robinson's ?

A. No, sir.

Q. How soon after Mr. Stout was nominated, was this canvass made at Yawger's ?

(Objected to, because the question is leading, and because it states as a fact what does not appear by the evidence.)

A. I couldn't say exactly—very soon, though.

Q. Do you recollect ?

(Waived.)

I am a farmer; was born and brought up in Mendham.

The cross-examination of this witness being taken in absence of the defendant, it is understood that the defendant has the right to produce the witness hereafter, and finish his cross-examination.

JAMES LAWRENCE.

Sworn and subscribed before me, June 8, 1872.

FRED. A. DEMOTT,
M. C. C.

A. Augustus Emmons, being recalled and sworn on the part of the plaintiff, says :

I recollect of Mr. Kaggen coming to my uncle's

house for a wagon to go to New York in for Mr. Leonard; it was a long, green, spring wagon; it had bows, so you could have a cover; could take the top off and on; the cover of this wagon was kept up stairs in the store room, in the house.

Q. Where was your uncle the night Kaggen came for the wagon to your house?

A. He was away from home; he returned the next day, I think, towards noon; I learned from him when he got home where he had been; he said he had spent the night at grandfather Grovier's.

Q. Do you recollect of the boys going up to Brooklyn Pond for cattle that Fall?

A. Yes, sir.

Q. Did any of them go that next day after Kaggen came for the wagon?

A. No, sir.

I live now at Pleasant Plains; am keeping school; on election day of 1870, I recollect of John Kate being at my uncle's; I don't know just when he came; it was sometime after dinner when I first saw him.

Q. Did you hear of any allusion made to Johnny Kate, or any caution given about him by your uncle to Jerry and Elmer, or any other person?

A. No, sir—I did not.

Being cross-examined, witness says:

Q. When was your uncle home last, next before the night he spent at Mr. Grovier's?

A. I don't remember whether he left home in the morning or the afternooon of the day previous; he was away from home one night.

There is the same understanding as to the cross-examination of this witness as with the last.

A. Gussie Emmons.

Sworn and subscribed before me,
this 8th day of June, 1872.

Fred. A. DeMott,
M. C. C.

Walter Bain, a witness produced on the part of the plaintiff, being recalled and sworn, says:

Referring to the occasion that I have testified to before, when I was at Mr. Leonard's farm house, I have now no doubt that I got out of the wagon, and walked about; my recollection is perfectly clear upon that subject; I went into the barn; when I went there a man was working in the barn—a carpenter—he was fixing the stalls; could not tell what he was doing exactly; the reason why I got out of the wagon in the first place, was owing to the reason that the horse wanted to go into the barn; the man did not stay in the barn all the time I was there; not on that floor; he may have gone down stairs with the horses; he may have been down stairs; he went off with some tools, as if to cut wood, while I was there; he was a medium sized, ordinary looking man; I should never know him again if I should see him; I do not know David M. Kaggen.

Q. Mr. Kaggen is a slender man, and has on his right cheek a deep scarlet congenital mark, which gives him a very fierce aspect, and covers the whole of his right cheek—did you see any such man there that day?

A. No, sir—I only saw one man in the barn.

There is the same understanding as to the cross-examination of this witness, as with the last two.

WALTER BAIN.

Sworn and subscribed before me, June 8th, 1872.

FRED. A. DEMOTT,
M. C. C.

MORRIS CIRCUIT COURT.

JEROME L. STOUT,
vs.
AMASA LEONARD.
In Covenant.

Continuation of examination of *Jeremiah S. Emmons*, on part of the plaintiff, before me, Charles E. Pierson, a Notary Public of New Jersey, at Morristown, N. J., this 8th day of August, A. D. 1872, by consent of both parties, and in their presence.

I recollect going to Brooklyn Pond, looking for lost cattle, the Fall my uncle Stout ran for Sheriff.

That was in November.

Q. Did you go to Brooklyn Pond with Oran and Will Smith, looking for cattle, about Christmas—twice?

A. No, sir.

Q. Do you know who Johnny Kate is, at Mendham?

A. Yes, sir.

Q. Did you see him at Mr. Stout's house on election day, 1870?

A. No, sir.

Q. Did you lease Mr. Stout's farm?

A. I leased it the 17th of September, 1870.

Q. Did you hire anybody?

A. I hired David Smith to work on the farm after I leased it; I hired him shortly after I leased the place; all I said to him was he could stay on the same as he had been; he had had the use of the house; the bargain with him included the use of the house.

Cross-examined:

I took possession of the farm in April, 1871, and my arrangement with Smith commenced at that time; in December, 1871, I was under 21 years of age; Mr. J. L. Stout was my guardian.

I became 21 last April—April, 1872; Mr. Stout is still acting as my guardian.

Re-direct examination:

I made the bargain with Smith long before the first of April.

I mean by saying that, my uncle still acts as my guardian; that I have not settled with him; I don't suppose he has anything more to do with me now, except to settle.

JERRY S. EMMONS.

Jerome L. Stout, the plaintiff in this case, being produced and sworn on his own behalf, testified as follows:

Q. Did you ever send the boys with this big spring-wagon, that went to New York for Mr. Leonard, to Brooklyn Pond, after lost cattle?

A. I did not; I never sent it there after lost cattle with the boys in my life, in consequence of its being too large and heavy; I never thought of doing such a thing.

Q. Did you say anything to Mr. Leonard, December 23, '70, about sending the boys after lost cattle?

A. I did not; the subject wasn't mentioned that day; I had a conversation with Mr. Leonard, at his house, with reference to going after those steers; I recollect it very distinctly; in order to carry out the business arrangement which I had made with Mr. Leonard, I went to New Haven, on the 21st of November, to convert a mortgage I had into money;

on my return, the 23d, I received a letter in the Mendham post-office, stating that my two lost steers had been found, from Wm. S. Carey, Esq., surveyor, which was the first intimation I had of their being found.

(Objected to as hearsay evidence, and incompetent.)

(This is the letter [which I have marked "Exhibit U,"] on part of plaintiff.)

I received this letter by due course of mail; after receiving the letter I would have gone up immediately, the next day, after the steers, but having had a positive arrangement with Mr. Leonard to be at his house on Thanksgiving day, which was the next day, I did not go after the steers, but went to Mr. Leonard's on the 24th and showed him this letter, and had a talk with him in his house, and told him I was going to send the boys next day; I did so, and sent my son Oran, Jerry S. Emmons, and Will Smith, which is the only time Will Smith ever went for me.

Q. Did you ever show Mr. Leonard any canvass book, with his and Rhine Tollers' name on it?

A. No, sir, I did not; neither did I ever see any canvass book with his and Rhine Tollers' name on it; I showed him the returned tax list, called the return tax list of delinquents, with those two names on, which is the only book I ever showed him with those names on; I showed him that on the afternoon of the 21st of December, on Mr. Voorhees' sidewalk.

(Book shown witness.)

These are the stubbs of my checks for the Winter of 1870.

(Objected to as incompetent.)

(Book produced and marked "Exhibit V.")

I drew a check in favor of John R. Nesbitt, on the 20th of December.

(Objected to as irrelevant.)

That check was torn out of the book after I drew the one to pay the taxes, because I intended to pay the taxes on the 19th, but did not until Mr. Anderson came up; I drew the check on the 19th and left it in my book; that is my recollection now—since I came in this room; afterwards, on the morning of the 20th, by previous arrangement, I made a check for Mr. Nesbitt; and when I tore out the tax check I dated the margin, with the check, the 19th; that causes the variation, as I recollect it.

Q. Since hearing the evidence of Mr. Baldwin, state your recollection of your connection with the return of the delinquent taxes?

A. The evidence of Mr. Baldwin refreshed my recollection distinctly about that transaction; Mr. Anderson came there the evening of December 20th and returned the taxes, with no list made out; and I was tired, and we suggested that he should make the list in the morning, which he did, and returned the list to me some time the next forenoon, December 21st; I settled my taxes with him the evening that he came up previous, and paid him a check for the balance of the money which I had collected, after paying him some money out of my pocket; I think I paid him the money for some taxes for some persons which I had collected, and afterwards gave him a check, when I settled with him, for taxes I had received while the list was in my hands.

There was a French cottage bedstead with slats, a spiral spring section bed, a hair mattress upon that, a forty pound live geese feather bed upon that, in my spare bed room at Mendham, upon which Mr. and Mrs. Leonard slept at Mendham; it

was reasonably well dressed up, the whole thing having been purchased new in Newark, in Spring of 1866, costing about $110.

I wish to state further, that if that was the hardest bed that Mrs. Leonard ever slept on in her life; all the other beds that she has ever slept on must have compared very well with herself, and been remarkably soft.

I did not send my boys after steers on the afternoon of December 24th, 1870.

I got home from Mr. Grovier's on that day, between 11 and 12 o'clock.

I had a law suit before me at Mr. Taylor's Hotel on that afternoon, between Lewis H. Van Doren and John Scally; my docket shows that I was there at the hotel the entire time between 2 and 5; David Smith was chopping wood all that day at my house.

I saw Will Smith that day in Robinson Garrabrant's store; I paid him fifty cents there, between 1 and 2, before the trial commenced.

I did not go to my farm that day; I put up my advertisements for sale of personal property, 19th of December.

(Advertisements produced, and marked "W," on part of plaintiff.)

This is the bill; I ascertained from the *Banner* office that it was printed the 17th or 18th; the printer said, as they were got on the 19th, he would mark that as the day they were printed.

(Objected to.)

I got them from the *Banner* office, and put them up on the afternoon of the 19th—three of us.

I wrote that advertisement myself at my house in Mendham.

I understood at the time that I had made arrangements to go into business in New York; I wrote it

about the 10th of December, and had it some days before I got it printed.

Q. Did you ever tell Jonathan Pitney that Mr. Leonard had promised to vote for you?

A. I recollect very well telling him that Mr. Leonard had told me he would work for me in the election, but I never told him Mr. Leonard promised to vote for me; on the other hand, I knew that he had stated to me repeatedly that he could not vote for me in New Jersey.

I had no difficulty whatever in settling with David Smith; I did not threaten to turn him out of the farm house; had no opposing words about anything; never settled with a man more harmoniously in my life.

I bargained to sell my Mendham house in February, 1871.

I had no talk with Mr. Leonard about the Maple Avenue property previous to that time.

I was doing business with Mr. Leonard in New York up to January 15, 1872; they had my horse to use at the factory, up to, I think, it was January 17 or 18, when I took the horse away.

(Objected to.)

While dining at Mr. Leonard's in New York, I recollect of his daughter Lizzie giving way at the table to make room for me very often; Mrs. Leonard always presided on such occasions.

Q. There are some erasures in "Exhibit L" canvass book of 1870; what have you to say about those?

A. Those erasures were all made by myself; those in ink were done at a meeting just previous to election, in the presence of several others; they were parties who I ascertained were not voters, after the canvass was made.

Those in pencil are those whom we sent after on the afternoon of election, and had either moved away or refused to vote; I kept this book in my hand all day as a check list.

Q. Did you ever hear Mr. Leonard say anything about the Webb house, owned by Connet, above Brookside?

A. Yes, sir; he told me he had advertised in the New York Herald for laborers, which was one day in the office in New York, when several laborers came to him and had a conversation in my presence; this was the house referred to at time; he told me they wanted to get more laborers in the neighborhood after they went out.

The house was situated on a plump half mile from his farm house.

Cross-examination:

Q. With whom in New Haven were you talking about going into the whip business, in the Fall of 1870?

(Objected to as not subject for cross-examination.)

A. I never have talked with anybody seriously about going into the whip business in New Haven; on my return from New Haven I told Mr. Leonard that I had an offer from an acquaintance to go into the whip business, but it was never contemplated seriously on my part.

Q. Did you have, on Thanksgiving day, 1870, at Mr. Leonard's house, a patent pertaining to whips which you brought from New Haven?

(Same objection.)

A. I had not; I told Mr. Leonard that I was presented with a whip and half a dozen stems, I think, with a patent thimble to connect with a broken stock, and showed him a whip of mine which I had attached one to, and told him I would attach one for him, and did so afterwards; I have two left.

Q. Name the party with whom you had these communications about the whip business.

(Objected to as incomptent, and not subject for cross-examination.)

A. I accidentally met a friend of mine who was an old hunter; he invited me up to his place to see some dogs; he showed me his dogs, and then his whip factory; his name was C. R. Shelton.

Q. Did you have correspondence with Shelton about the whip business?

(Same objection.)

A. I may have had some correspondence with him; it was more about hunting than about the whip business; he may have mentioned the whip business in it; he invited me to go out hunting with him.

Q. Was any of that correspondence after the 24th of November, 1870?

A. As I recollect it, any correspondence I had with him on that subject was after the 24th of November, 1870.

(Exhibit "B," on part of plaintiff, shown witness.)

Q. That partnership agreement was signed on the 18th of January, 1871, was it not?

(Objected to as not cross-examination or rebutting testimony.)

A. No, sir, I do not think it was; I think it was some days after that, after the 18th.

The firm dissolved on the 15th of January, 1872; that was the date of dissolution agreement.

Q. The dissolution was to take effect on the 1st of January, 1872, was it not?

(Objected to by the counsel for the plaintiff, as the dissolution agreement is in writing and in evidence, and shows for itself.)

A. By advice of counsel, I refer to the written agreement.

Q. Do you refuse to answer my question?

A. Well, my recollection of the matter is, that it took effect on the day that it was written; there may have been something said about the first, but I don't recollect what it was.

JEROME L. STOUT.

E. Le Clerc Vogt:

I am connected with the Banner office; I was there in December, 1870.

Q. Was this hand bill, Exhibit "W," printed in your office?

A. It was printed there; it was charged on the book December 19th, 1870; it was not printed after that; it was printed on or before that day.

(Objected to as irrelevant.)

E. LE CLERC VOGT.

Plaintiff again rests his case.

Exhibits put in evidence by Amasa Leonard, the defendant in attachment.

EXHIBIT "A."

Deed dated 14th April, 1869, from "the Evergreen Cemetery," to Amasa Leonard (not naming his residence), conveying, in consideration of $49.50, burial lot in cemetery at Morristown, containing 330 square feet.

(No EX. "B.")

EXHIBIT "C."

Poll book, Mendham Township.
Election Nov'r 8, 1870.
Whole number of voters.....400
No. of voters before dinner.....183
Amasa Leonard is No. 137, and David M. Kaggen is No. 138.

EX. "D."

Amasa Leonard's tax bill, Mendham Township, 1870.

EX. "E."

MORRISTOWN, N. J., Dec. 22d, 1870.

The National Tradesmen's Bank of New York pay to the order of Samuel Anderson, collector, seventy-seven 14-100 dollars.

$77, 14-00. AMASA LEONARD.

Endorsed by "Samuel Anderson," and H. O. Marsh, Pres't.

EX. "F."

No. 241 W. 53d St.
NEW YORK, Oct. 29th, 1868.

J. L. Stout, Esq.,
Mendham, N. J.

KIND FRIEND:

Your favor of 28th inst. at hand. In reply, would say that the subject has had my attention before this, and were it not that I might suffer in a business point of view by changing my residence this Fall, I would be disposed to do so, for I have no doubt on my mind as to my right in that respect, but I have registered here already. You are mistaken as to my politics not being known in Morris Co. I was asked at the depot on Monday, if I voted in New York or Mendham, by a Republican, and he said the question had been asked him that day at Mendham. So you see that matter have been talked of there by them.

We are all tolerably well, hoping the Democratic ticket may receive a large majority for all their names.

I am, truly yours,

AMASA LEONARD.

EX. "G."

Copy of account of Atno, Pierson & Co., Grocers, of Morristown, against Amasa Leonard, containing 225 items, and running from March 31, 1871, to March 25, 1872.

EX. "H."

Summons in Morris Circuit. Ebenezer B. Osborn *vs.* Amasa Leonard, tested May 26, 1866, retbl. June 25, 1866, and endorsed as served by Jos. W. Coe, Sheriff.

EX. "K."

Mortgage:—Anna H. Thompson and John C. Thompson her husband, of the Township of Mendham, to Ichabod Searing, dated January 6, 1872. V. 2, 541.

EX. "L."

Indenture, dated Nov. 5, 1870, from Colored Orphan Asylum, N. Y., to Mrs. Amasa Leonard, of Morristown, N. J.

EX. "M."

{Stamp} No. 33.

NEW YORK, December 19, 1871.

SIXTH NATIONAL BANK

Pay to David Woodruff, Esq. (col.), or order, Ninety-six 7-100 dollars.

$96 7-100. AMASA LEONARD.

Endorsed by "David Woodruff (col.),
and also by "D. D. Craig, C."

EX. "N."

Amasa Leonard's tax bill, Mendham Township, for 1871.

EX. "O."

Notice to J. L. Stout to produce letter addressed to him by Amasa Leonard.

Dated 22d Dec., 1870. Notice dated April 27, 1872.

EX. "P."

LAW OFFICES OF AUGUSTUS W. CUTLER.

MORRISTOWN, N. J.,
Aug. 31, 1871.

Amasa Leonard, Esq.:

DR. SIR,—Seventeen head of your cattle have been feeding or the past two days in the corn and buckwheat fields of James Blanchard.

The damage is fixed at twenty (20) dollars. I am authorized to ask your attention to its immediate payment.

Yours,

AUG. W. CUTLER.

EX. "Q."

LAW OFFICES OF AUGUSTUS W. CUTLER.

MORRISTOWN, N. J.,
Sept. 11, 1871.

Blanchard
agst.
Leonard.

Amasa Leonard, Esq.:

DR. SIR,—The damages done by your cattle to the

corn of Jas. Blanchard has been appraised at thirty-five dollars.

My instructions require me to prosecute unless it is paid without delay.

Yours,

AUG. W. CUTLER.

EX. "R."

LAW OFFICES OF AUGUSTUS W. CUTLER.

MORRISTOWN, N. J.,
Sept. 19, 1871.

Blanchard
agst.
Leonard.

Amasa Leonard, Esq.:

DR. SIR,—The reason the bill rose from twenty to thirty-five dollars was because Blanchard, finding you did not go the next day to see the damage after I saw you, procured two appraisers, and they appraised the damages at the thirty-five dollars.

My instructions require me to sue, unless you pay the $35.

I shall be pleased to see you at any time, but on this matter it will be useless to see me unless you intend to pay the appraisement.

Yours,

AUG. W. CUTLER.

EX. "S."

Amasa Leonard and wife, of the Township of Mendham, in the County of Morris, N. J., to Ebenezer B. Osborne. Dated Nov. 30, 1865, on lands in Mendham Township. Book S 2, page 492, &c.

EX. "T."

Deed—Rachel Roff, to Amasa Leonard of the Township of Mendham, in the County of Morris, N. J., dated Dec. 30, 1869, for lands in Mendham Township. Book V, 7 of Deeds, 289, &c.

EX. "U."

Deed—E. B. Osborne and wife, to Amasa Leonard of the township of Mendham, in the County of Morris, N. J., dated Nov. 30, 1865, for land in Mendham Township. Book S 6, of Deeds, page 243.

EX. "V."

MORRISTOWN, Jan. 11th, 1871.

Silas D. Covey, Esq.:

Treas. of Morris Co., N. J.,

DEAR SIR,—Please pay to Messrs. Day & Muchmore the amount of sheep damages, $106, now in your possession, whose receipt shall be good.

Yours, respect'y,

AMASA LEONARD.

MENDHAM TOWNSHIP, Morris Co., N. J.

Endorsed Feb. 18, '71. Rec'd $106 in full for this order.

DAY, MUCHMORE.
W. P. S.

EX. "W."

Mendham Township, Tax Collector's Book for 1870.

EX. "X."

NEW YOEK, July 11th, 1871.

Mrs. Leonard:

MADAME,—On referring to my memorandum, I find that I have had 36 meals at your house up to July 10th, inst. It may be that I have omitted to mark some of them, so I have added 4 to cover mistakes, and send you ten dollars ($10), being 25 c. per meal, as per agreement.

Thanking you for your kindness, I would like, with your permission, to avail myself of your further hospitality.

Respectfully yours,

JEROME L. STOUT.

EX. "Y."

NEW YORK, July 11th, 1871.

J. L. Stout, Esq.:

DEAR SIR,—Your favor (per messenger) of this day was received. I thank you for the amount, which is very satisfactory. I have never kept any account of the number of meals, and did not intend to do so. My husband named the amount per meal, so that you could feel perfectly free to come whenever it was convenient for you. As he has experienced difficulty in that way, and has often passed the entire day from breakfast until a late tea without eating, for the reason he could not make any arrangement to pay for his dinner, I shall be glad to have you come as often you desire.

Yours, with respect,

MARY LEONARD,

241 West 53d street.

EX. "Z."

Received of Mr. J. L. Stout, New York, January 24th, 1872, ten dollars for the following accounts, viz.: $6.25-100 for meals sundry times; $2.30-100 for shoeing horse; $1.25-100 for shipping horse. Total, $10.

AMASA LEONARD.

EXHIBIT "B," on part of Plaintiff.

In Defendant's handwriting.

An agreement made and entered into the second day of January, 1871, between Amasa Leonard, of the City, County, and State of New York, and Jerome L. Stout, of Mendham, Morris County, State of New Jersey—Witnesseth:

First.—That the said parties doth agree to become copartners from the above date, until the first day of May, 1873, under the name and style of Leonard & Stout, for the purpose of manufacturing, also buying and selling hog hair, cattle hair, horse hair and sausage casings, in any and all their varieties, at 59th Street, N. R., in the City of New York, being the same business and location said Leonard has conducted for five years past.

Second.—Said Leonard doth furnish to the capital of said business, the lease of the ground and the buildings, machinery, tools, etc., (of his present business at 59th Street, N. R., New York City) amounting (as per Schedule) to seven thousand four hundred dollars, and said Stout doth furnish in money, business notes or securities to said capital, the sum of seven thousand five hundred dollors, making the full amount fifteen thousand dollars for the capital to carry on said business above mentioned, and for no other purpose whatever.

Third.—This co-partnership shall not become security in any manner for the payment of any debt or liability of any other party, neither shall the firm name or assets of this co-partnership be used for their individual interests, without the consent of both written on the books of this co-partnership.

Fourth.—It is fully understood and agreed upon by these co-partners, that owing to the uncertain health of said Leonard, and also that he has the most experience in this business, that said Leonard shall have charge of all in-door business, and said Stout shall attend to all out-door business. But in case of necessity, either partner can attend to any business, and shall do so as far as practicable. It is further understood and agreed upon, that both partners shall devote as much of his personal attention and time as may be necessary to properly conduct said business, and that neither partner shall engage in anything that will injure the interests of this co-partnership.

Fifth. — All moneys, notes, drafts, or things valuable (which can be deposited in a bank) shall be deposited in the Sixth National Bank of New York City, in the name and to the order of this co-partnership, and either partner may sign the name of the co-partnership as is usual in business, but shall not sign any blank, nor delegate to another "power" to sign the name of this co-partnership, except for deposit in said bank; and any loss arising from neglect or deviation from this duty shall be charged to the partner causing the loss or losses.

Sixth.—Neither partner shall be entitled to draw or use of the assetts of this co-partnership more than one hundred dollars in each and every month on his individual account, unless by permission of the other partner, which must be written on the books of this co-partnership by the consulting partner.

Seventh.—True, just, and correct books of account shall be kept of all transactions of this co-partnership; said books shall be accessible at all times to either partner or their legal representatives; and on the first days of July, in each year, an account of stock, etc., shall be made, and the books balanced, and the profits or losses ascertained, and the same equally divided between said co-partners; and at the end or sooner termination of this agreement, said co-partners, or either of them, shall make a true, just and final account of all things relating to this business, to the best of their ability and judgment, and for the best interests of this co-partnership, who are equal in every respect.

In witness whereof, we hereunto set our hands and seals, this eighteenth day of January, 1871.

(Signed), AMASA LEONARD. [L. S.]
JEROME L. STOUT. [L. S.]

Signed, sealed and delivered in the presence of

J. C. MEYERS.

{ 5 cent Stamp. }

Schedule of Articles to the Capital by Amasa Leonard.

Lease and Building	$2,500 00
Boiler and Engine	2,000 00
Shafting, Pulleys, etc	300 00
Kiln, etc	500 00
Dye-House, etc	500 00
Machinery, Tools, etc	1,250 00
Stable Fixtures	450 00
	$7,500 00

Schedule of Assets to the Capital by Jerome L. Stout.

Cash to A. Leonard, Jan. 7, 1871	$250 00
Bill of A. Leonard, Dec. 29, 1870	55 10
D. M. Kaggen, note Jan. 3d, 1868	25 00
Ck. on Iron Bank, Morristown, Jan. 18, 1871	685 90
C. L. Baldwin's note, due April 1st, 1871	1,484 00
J. L. Stout's note on demand, dated Jan. 2d, 1871	5,000 00
	$7,500 00

EX. "C," on part of Plaintiff.

Agreement, made this fifteenth day of January, A. D. eighteen hundred and seventy-two, between Amasa Leonard, of the City of New York, and State of New York, and Jerome L. Stout, of the City of Morristown, in the County of Morris and the State of New Jersey—witnesseth:

Whereas, the said parties have been of late co-partners in trade, to wit, the manufacturing of curled hair at Fifty-ninth street, North River, in the City of New York, and have agreed to put an end to the said partnership; and for the settling and closing their said partnership business and affairs it is mutually agreed as follows:

First.—That the said Jerome L. Stout doth, in consideration of the sum of six thousand two hundred and fifty dollars, to him paid or secured by the said Amasa Leonard, grant, assign, and convey unto the said Amasa Leonard, all the stock in trade, interest in buildings, machinery, etc., accounts, demands, notes, or other property, belonging or in anywise appertaining to the said partnership;

and doth authorize and empower the said Amasa Leonard to collect, demand and receive the same for his own use and benefit, at his own costs and charges.

Second.—In consideration of the premises, the said Amasa Leonard doth hereby agree to pay and discharge all debts and sums of money which are due and owing for or by reason of said partnership, and to indemnify and save harmless the said Jerome L. Stout from and against the same, and from and against all costs, charges and demands whatsoever, by reason of any contracts, engagements, or liabilities of the said partnership.

And it is further agreed and understood that the said Jerome L. Stout is to receive, in payment of said sum before named, the following book accounts, to wit:

One	note	against E. Fogg, for - -	$340 00
One	account	" E. M. Gedney - -	16 50
One	"	" J. D. Voorhees - -	283 50
One	"	" Max Kern - - -	42 50
One	"	" J. Leonard - - -	14 25
One	"	" B. Manville & Co. -	578 61
One	"	" Wm. H. Gray - -	64 50
One	"	" L. B. Miller - - -	54 00
One	"	" J. M. Quimby - -	56 00
One	"	" McDermott & Looker	117 00
One	"	" C. H. Turner & Co. -	72 45
One	"	" Wm. H. Lee - -	165 55
One	"	" S. C. Judd - - -	32 25
One	"	" J. C. Thayer & Son -	64 66
One	"	" James McClave - -	59 00
One	"	" D. J. Bailey & Son -	126 84
One	"	" J. W. Baker - -	57 12
One	"	" 8th Av. R. R. Co. -	57 00
One	"	" — Merrick - - -	20 00

The said Leonard agreeing to guarantee to the said Stout the amount of said note and accounts, as above named, and

pay the balance by his notes of equal amounts, payable in six, twelve and eighteen months from the date hereof, at the Sixth National Bank of New York, with interest on the same after six months, and to execute a chattel mortgage upon the tools, building, machinery, etc., to said Stout as collateral security for the payment of said notes.

In witness whereof, the said parties have hereunto set their hands and seals the day and year first aforesaid.

JEROME L. STOUT. [L. S.]

AMASA LEONARD. [L. S.]

Signed and sealed in the presence of

JOS. W. BALLANTINE.

EX. "D," on part of Plaintiff,

In Defendant's own handwriting.

AMASA LEONARD & Wife,
to
ANNA THOMPSON.

This Indenture, made the first day of December, in the year of our Lord one thousand eight hundred and seventy-one, between Amasa Leonard and Mary his wife, of the City of New York, in the County of New York, and State of New York, of the first part, and Anna Thompson, of the Township of Mendham, in the County of Morris, and State of New Jersey, of the second part.

* * * * * *

All those tracts or parcels of lands and premises, hereinafter particularly described, situate, lying and being in the Township of Mendham, in the County of Morris, and State of New Jersey.

* * * * * *

EX. "E," on part of Plaintiff.

AMASA LEONARD & WIFE,
to
JOHN & GEORGE RUDDELL.

This Indenture, made the eighteenth day of March, in the year of our Lord one thousand eight hundred and seventy, between Amasa Leonard and Mary, his wife, of the City of New York, in the County of New York, and State of New York, of the first part, and John and George Ruddell, of the City of New York, in the County of New York, and State of New York, of the second part.

* * * * * *

All those tracts or parcels of land and premises hereinafter particularly described, situate, lying, and being in the Township of Mendham, in the County of Morris, and State of New Jersey.

* * * * * *

EX. "G," on the part of Plaintiff.

JOHN BATES & WIFE,
to
AMASA LEONARD.

This Indenture, made the fourteenth day of August, in the year of our Lord, one thousand eight hundred and sixty-eight, between John Bates and Phebe, his wife, of the Township of Hanover, in the County of Morris, and State of New Jersey, parties of the first part, and Amasa Leonard, of the City, County and State of New York, party of the second part. * * * * * *

All that lot, tract, or parcel of land and premises here-

inafter particularly described, situate, lying and being in the Town of Morristown, in the County of Morris, and State of New Jersey.

* * * * * *

EX. "U."

FLANDERS, N. J., Nov. 21, 1870.

Mr. J. L. STOUT—

Dear Sir: I was Friday and Saturday of last week surveying in Columbia Valley, (between Stanhope and Sparta,) and heard a man say, that there are two oxen and one steer, or bull, he could not tell which, on the farm of a Mr. McConnet—on the formerly Drake Lawrence farm. Having heard that you had lost from Ingram's pasture, that number and kind of stock—Southern cattle—I write to you, presuming them to be yours.

Yery truly, Yours,

WILLIAM S. CAREY.

{ I very much regret your political defeat. }

NEW JERSEY SUPREME COURT.

JUNE TERM, 1873.

LEONARD
v.
STOUT.

OPINION.

1. The first process in personal actions in any of the Courts of law of this State, is a summons or capias. The writ of attachment is an exceptional and extraordinary remedy given by the statute.

2. The practical test in case of foreign attachment is, whether a legal service of a summons can be made on the debtor at his dwelling-house or usual place of abode in this State. If it can, the extraordinary writ of attachment cannot be used.

3. To constitute a residence in the State within the attachment act, it must be the debtor's home where he then is, or to which, if he be absent, he has the intention of returning, and where, in his absence, he is represented by some member of his family, or some one who can answer for him, and communicate with him.

4. In this case, the debtor had two places of abode, one in New York and one in New Jersey. The decisive points here are, that he votes in this State, and refused to vote in New York; has often expressed his intention to reside here; that when the attachment issued persons regarded by him as members of his family were living at his home in Morris County; that this house was kept open and often visited by him and his wife, while they were living in New York through the winter.

WOODHULL and SCUDDER.

A. MILLS and C. PARKER, for Plaintiff.
PITNEY, for Defendant.

The certiorari in this case to the Morris Circuit Court removes an order of that Court made March 10th, 1873, in a suit of foreign attachment, brought by Jerome L. Stout against Amasa Leonard, refusing to quash the writ and supersede the attachment.

The writ was issued February 13th, 1872, and a farm and other property by the defendant, Leonard, were taken in said county.

The facts upon which the motion to quash was based, appear in the opinion of the Court, delivered by

SCUDDER, J.

Our practice act, § 17, defines what shall be the first process in personal actions in any of the Courts of law of this State. A summons, or a capias ad respondendum, begins the action in our common law Courts.

The writ of attachment is an exceptional and extraordinary remedy, whereby the property of the defendant is first seized, and afterwards publication of notice made that he may appear and plead to the action. It is provided under our statute in two cases: either where the debtor absconds from his creditors and is not resident in this State at the time, or where the debtor resides out of the State and has property in the same.

In the former case, absence by absconding or concealment has been held to be the meaning of the term not resident.

In the latter, the word residence has the significance of a dwelling-house or usual place of abode.

The practical test in the latter case with which we are concerned, is whether a legal service of a summons

can be made on the debtor at his dwelling-house, or usual place of abode in this State.

If it can, the extraordinary writ of attachment cannot be used; the defendant must be sued by summons or capias.

If it cannot, then the defendant's property may be attached.

By the ordinary rules of construction, this procedure should be contested by the Courts with strictness, as it is a departure from the usual common law methods; but by sec. 60 of the statutes the act must be construed in all Courts of Judicature in the most liberal manner for the detection of fraud, the advancement of justice, and the benefit of creditors. In this spirit of liberality it has always been construed in our Courts, and every proper concession has been made in favor of the jurisdiction assumed under the writ. But this does not mean that the express words of the statute will be disregarded or misinterpreted for the negation of a debtor, who is amenable to the ordinary process of the Courts. We must still construe the statute as it reads, and according to its spirit and intent.

In a recent case—*Perrine* ads. *Evans*, 6 *Vroom* 221—it has been decided in this Court that mere presence in the State is not residence. Neither will it be held that mere absence is non-residence within the terms of the statute. As is stated in the case above cited, the description in the statute of "debtors who reside out of the State," means debtors who have not an abode in this State, or, we may render it in other words by referring to our practice act, as meaning debtors who have no dwelling house or usual place of abode in the State where the process of summons can be served. It is not enough to prevent the writ of attachment, that a personal service by capias or summons may be made. The debtor must be in such position that a summons cannot be served upon him by leaving it at his residence or usual place of abode.

Such residence need not be strictly the domicil where a person has an exclusive and only actual residence, with an intention to remain. It need not be where a man has his birthright, or his citizenship, for he may even have the rights and duties which attach to a domicil in one place, and a residence or abode in another. It is no solecism to say that a man has two homes. He may have one in the city, and another in the country. He may have one in one State, and another in another State. He may reside with his family part of the year in one dwelling house, and part of the year in another, or different places; and when absent from one home, the intention to return to it again as an abode. To constitute such residence within our statute, it must be either an actual present dwelling house, or an usual or customary place of abode. It must be his home where he then is, or to which, if he be absent, he has the intention of returning, and where in his absence he is represented by some member of his family, or some one who can answer for him and communicate with him. If he be absent, and have no such representation, no effective service of a summons can be made. He has deprived his creditor of the ordinary legal remedy, and he may therefore resort to the extraordinary.

A summons cannot be served where a dwelling is unoccupied.

It cannot be fastened to the door. (Miller *v.* Doolittle, 2 South., 845.)

What has been said is intended to be descriptive of the term residence, as used in this statute, rather than an attempt at exact definition, in a general application of the term domicil or residence, and their distinction.

It was said by the Court, in *Abington* v. *North Bridgewater*, 23 *Pick.* 176: "It is difficult to form any exact definition; as a question of fact it sometimes depends on minute shades of distinction, that can hardly be defined. It must often depend upon the circumstances

of each case, the combinations of which are infinite. Yet it will generally be found in practice that there is some one or two decisive circumstances which will determine the question."

Let us now look as briefly as possible at the facts of this case, to determine whether on February 13, 1872, when this writ of attachment was issued, the defendant, Amasa Leonard, resided out of this State, or whether he had a dwelling house or usual place of abode in this State, where service of a summons can have been made upon him. He was actually living at that time in the city of New York, in his own house, with his wife, son and daughter. His business was also carried on by him in that city. In October, 1864, he bought a farm in Mendham township, Morris county. He repaired the buildings, furnished the house, took his family there in November, and remained with them there the following winter. During that winter, and up to 1867, Leonard appears to have had a dwelling in New York and a house upon the farm, which were occupied at different times by his family. In 1867 he broke up housekeeping in New York for a time. In April, 1869, he broke up housekeeping altogether in New York, living only in Mendham until December or January following, when he rented a house again in New York, until May, when he returned again with his family to Mendham. He remained there until December, 1870, and since that time has occupied his own nouse in New York. His house was rented from May, 1869, to December, 1870, to Mr. Stephens. From December, 1870, to October, 1871, Mr. Stephens and his wife boarded with Leonard. In December, 1870, some furniture was taken from the house in Mendham to the house in New York, where the family remained through the winter; and in the summer of 1871 the family was again on the farm at Mendham.

From May, 1869, when the house in New York was

rented to Mr. Stephens, up to the time of issuing the writ of attachment and since, the house at Mendham has always been left open, and some one or more, whom the defendant calls part of his family, have been there. On February 13, 1872, when the writ was issued, Leonard's wife's mother, Mrs. White; a boy named Burnside, who was a connection of his wife, and whom he says he had adopted, were in the farm house and continued there after the other members of the defendant's had gone to New York in the fall previous. Besides these, David M. Kaggen and wife, and their five children were in the house. They had been there during the summer previous, while Leonard's family were there; Kaggen worked the farm and had general charge of the place in Leonard's absence, and his wife worked in the house. When the family were all there, a servant of his came from the house in New York to assist. A boy named Walter Merrifield, who was employed by Leonard to work on the farm, was also there. Leonard paid Kaggen and his wife wages, furnished provisions for Mr. Morie, Walter and young Burnside, during the winter of 1871, 1872, and also the fuel that was used in the house. The house was kept open, and Leonard and his wife came up occasionally through the winter and passed the night there. The furniture, except that which was used by Kaggen's family in their own rooms, belonged to Mr. Leonard.

In the fall of 1870, Leonard voted at the election in Mendham township, for the plaintiff in attachment, Mr. Stout, who was then running for the office of Sheriff, at his request. At the State election in New York, in November, 1871, Leonard was asked to vote and refused to take the ticket that was offered to him, saying openly that he was a resident of New Jersey. He swears, that since 1868 it has been his intention to make his residence in New Jersey. He has not been registered as a voter in New York, since 1868. He

had a box in the Post Office, at Morristown, where he received newspapers and letters. He had a pew in the Methodist Episcopal Church, at Morristown. He had a lot in the cemetery at Morristown, and had bought a lot in one of the principal streets of that place, for the purpose of building himself a house there. A summons had also been served by the Sheriff of Morris county, by leaving a copy at his house on the farm in his absence. Opposed to these facts, which go to show Leonard's residence in Morris county, it is urged upon the evidence, that his house in New York, which was valuable and well furnished, when contrasted with the small house in the country, which was plainly furnished and overcrowded when the family were there, shows that the former was his true home, and the latter but a place of temporary and occasional occupation. It is also denied that his wife's mother, and young Burnside were members of his family. It is also proven that in deeds and agreements executed by Leonard for several months prior, and up to the time of the attachment, he was described as of the city of New York. This he, however, explains by saying, that as a business man, he always hailed from New York, and there are other deeds and papers which describes him as of the state of New Jersey. He has always been taxed as a resident in New York, and as a non-resident, without poll tax in New Jersey; but that does not appear to have been done in either case by his direction.

An attempt was made to serve a summons upon him issued out of the Justice's Court, in the winter of 1871–2, for trespass done by his cattle, and failing to find him at the farm, the constable returned the writ without service. He also told the Attorney about that time, that it could not be served upon him there.

Several witnesses testified that he had told them in 1870 and 1871, that he resided in New York and was not a voter in New Jersey. Stout, and others say, that

after he voted in 1870, he was asked, at Stout's house, "If he did not think he had done wrong?" to which he replied, that "he did not think he had done wrong—he voted to correct a wrong." Stout says this wrong refers to an illegal vote which had been put in just before his against Stout, which his vote for Stout balanced. Leonard say what he said meant that his vote was cast to right the wrong done Stout by certain calumnies that have been spoken of him during the canvass, when he was a candidate for Sheriff.

It was also shown that he had never voted in Morris county, except in the fall of 1870, and had not been canvassed by his party in their poll list as a voter.

The testimony is voluminous, and there are after minor facts and circumstances shown to prove, and to disprove his residence in Mendham township.

While there is conflict in this testimony, it appears to me that the decisive points are, that he voted in Mendham Township in the fall of 1870, without challenge; that he had expressed his intention before that time to make his residence at his mountain home in New Jersey; that after that time he refused to vote in New York, saying he had changed his voting place; and that after April, 1869, some person or persons regarded by him as part of his family, lived in this house on the farm, and that this house was kept open and often visited by him and his wife, while they were living in New York through the winter, and that he now expressly makes oath that it has been his intention since 1868 to have his home in Morris County. Without proof of some decisive act to show a change of such intention, I think that these facts are conclusive. This being the case, within the principle found in Story on Conflict of Laws, I. 47, which is thus stated: "If a married man has two places of residence at different times of the year, that will be esteemed his domicil which he himself selects, or describes, or

deems to be his home, or what appears to be the centre of his affairs, or where he votes, or exercises the rights and duties of a citizen."

And this residence once obtained continues until a new one is gained. It is not changed by his occasional absence with or without his family, if it be amnio revertanti.

The cases in this Court are clear upon these points.

See— Cadwallader *v.* Howell, 3 Harr., 138.
State *v.* Ross, 3 Zab., 517.
Bonnell *v.* Dunn, 4 Dutch., 153.

And other cases therein cited. Also,

Thompson's Case, 1 Wend., 45.
Fitzgerald's Case, 2 Caine's Rep., 318.

The order of the Circuit Court, refusing to quash the writ of attachment, is reversed, and the writ must be set aside.

A true copy,

BENJ. F. LEE, *Clerk.*

New Jersey Court of Errors and Appeals.

JEROME L. STOUT, } *In Error to Supreme Court.*
v.
AMASA LEONARD. }

And now before the Court of Errors and Appeals, comes the said Jerome L. Stout, by Pitney & Youngblood, his Attorneys, and says that in the record and proceedings herein, and in the giving judgment thereon, in the Supreme Court, there is manifest error in this:

First. That it appears by the record and proceedings aforesaid, that the said Supreme Court reversed the order of the Circuit Court of the County of Morris, discharging the rule previously granted upon the said plaintiff to show cause why the attachment issued in his favor and against the defendant, should not be set aside and quashed as improvidently issued: whereas, by the law of the land upon the facts of the case, the said Supreme Court ought to have affirmed said order of said Circuit Court.

Second.—There is error in this, that by the record and proceedings aforesaid it appears that the said Supreme Court held and decided that the defendant in error, at the time of the issuing of the attachment therein mentioned, was a resident of the State of New Jersey, and not subject to process by foreign attachment: whereas, by the law of the land upon the facts of the case, the said defendant at the time aforesaid was a non-resident of the State of New Jersey, and subject to the said process of foreign attachment.

Third.—There is error in this, that it appears by the record and proceedings aforesaid, that the said Supreme Court rendered judgment therein for the defendant, and against the plaintiff in error: whereas, by the law of the land, said supreme Court should have rendered judgment for the plaintiff in error, and against the defendant in error.

PITNEY & YOUNGBLOOD,
Attorneys for Plaintiff.

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