
IN CHANCERY OF NEW JERSEY.

Young
v.
Vough & al.

} *Opinion.*

IN CHANCERY, February Term, 1873.

Argued on final hearing upon pleadings and proofs.

MR. VANATTA for complainant.

MR. SHIPMAN for defendant, MATTISON.

THE CHANCELLOR.

The complainant seeks to compel the First National Bank at Washington, in the county of Warren, one of the defendants to this suit, to transfer to him on their books ten shares of their capital stock, sold to him by the sheriff of Warren county, on an execution against the defendant, Vough, July 10, 1868. The defendant, Mattison, claims that these shares were lawfully transferred to him by Vough, on the second day of June, 1868, before the judgment, execution or levy under which they were sold by the sheriff. 10

Mattison is a director and the principal stockholder of the bank, and had been so from its organization in 1864. Vough had been a director and had held thirty shares of the stock from or shortly after the organization of the bank until June 2, 1864. Mattison, who was the chief promoter of the organization, had desired to take a controlling amount of the stock, but others whom he desired to take part in it objected to this, and to having anything to do with it, unless each shareholder was limited to one hundred shares. Mattison agreed to this and took only one hundred shares in his own name, but obtained 20

saith—that the said Mattison never did say to the said Young, in this deponent's presence or hearing, that this deponent's note was and would be perfectly good, and just as good as a note made by said Vough, Mattison and Canfield; nor did the said Mattison ever say to the said Young in the presence or hearing of this deponent, that this deponent was a stockholder or director in the said bank; nor did said Mattison say in the presence or hearing of this deponent, that said Mattison, Vough and Canfield wished to get their business of said \$5,000 note settled
10 between themselves, nor anything like it; nor did said Young say in the presence or hearing of this deponent, "why not give me all three of your names on the seven hundred dollar note."

And this deponent further saith—that he never did tell the said Young, on the day he executed the said bond and warrant of attorney, then nor at any other time, that he still owned thirty shares of the capital stock of the said bank, and that said Young did not ask this deponent if he had not assigned said bank stock to said Mattison, and that this deponent replied he had not, that said bank had not recognized any assignment of
20 said stock, and that what he and said Mattison had done as to said stock was a mere fix between him and Mattison. And this deponent further saith—that no such conversation nor any of like import ever took place between this deponent and the said Young, nor anything like it. And this deponent further saith—that at the time he gave the seven hundred dollar note to said Young he was able to pay it, but deponent was engaged in the buying and selling of grain; that a sudden depression in the grain market seriously affected this deponent, and eventually, with other causes, ruined him. And this deponent further saith
30 —that he never represented or held out to any one that he was the owner of the said thirty shares of the stock of the said First National Bank of Washington. And deponent further saith—that he never transferred said stock to said Mattison for the purpose of defrauding his creditors; that he did it in good faith and because the said stock honestly and justly belonged to said Mattison; that he executed the said deed of trust to said Mattison for the said stock, and held it for said Mattison in the way therein set forth; that said Mattison paid all the money for said stock, this deponent never paid a cent for it. And depo-
40 nent further saith—that when he transferred the said stock to

the said Mattison on the books of the bank, he was indebted to said Mattison also in large sums of money, as said Mattison hath in said testimony set forth. And deponent further saith—that at the time he was elected a director in said bank and took the oath prescribed by law, he supposed that inasmuch as the stock stood in his name he could lawfully take the oath; that he did not think of swearing falsely at all nor of doing any thing wrong, but considered it a matter of form, and that as the stock stood in his name he could take the oath; that Mattison never said a word to him about the oath nor he to the said Mattison. And 10 the deponent further saith—that he has always been willing to give his deposition, but that he went to the state of Pennsylvania to live near three years ago; that he was almost constantly engaged and it was almost impossible for him to leave home; that he returned to New Jersey to live in the month of August last, and has since been travelling as an agent through the country and has hardly been at home except from Saturday night to Monday morning.

JACOB S. VOUGH.

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Sworn and subscribed before me, this 18th day of November,
A. D. 1872, at Belvidere, New Jersey.

JAS. PURNELL TOADVINE, *M. C.*

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THE UNIVERSITY OF CHICAGO

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In Chancery of New Jersey

Between

DAVID M. YOUNG,
Complainant,

and

JACOB S. VOUGH, ET
ALS.,

Defendants.

Bill.

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*To the Honorable Abraham O. Zabriskie, Chancellor of the
State of New Jersey.*

Humbly complaining, shows unto your honor, your orator David M. Young, of the borough of Washington, in the county of Warren, and state of New Jersey, That on or about the fourth day of May, 1868, Jacob S. Vough, John V. Mattison and John Canfield, all of Washington aforesaid, were indebted to your orator in the sum of five thousand dollars, for mules previously sold and delivered to them by your orator for which indebtedness, on the day above named, your orator held a promissory note, made in the month of February, or March, 1868, to your orator by said Vough, Mattison and Canfield, for the sum of five thousand dollars. That on the said 4th day of May 1868, the three persons last above named paid

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a considerable portion of the said five thousand dollar note, and so that the balance unpaid thereon, was about the sum of thirteen hundred and eighty-five dollars. That on the day last named your orator and said Vough, Mattison & Canfield met for the purpose of settling the said note for five thousand dollars, at the office of said Canfield in the said borough of Washington, and after the amount due on said five thousand dollar note had then and there been ascertained and found to be about thirteen hundred and eighty-five

10 dollars, said Vough in the presence and hearing of said Mattison and Canfield, proposed and requested that your orator in part settlement of the balance last above stated should accept and receive a promissory note for seven hundred dollars to be then and there made by him, said Vough, to your orator payable one month after date to the order of your orator, at the First National Bank of Washington. To said proposition and request your orator answered, "why not give me all three of your names on the said seven hundred dollar note," or some equivalent remark. Said Canfield and Matti-

20) son, or one of them in reply to your orator's question, said that they, said Vough, Mattison & Canfield wished to get the said five thousand dollar note settled up as between themselves, and for that reason wished your orator to take said Vough's note for seven hundred dollars; and thereupon said Vough said he could pay the said note in thirty days; that he was a Director in the said First National Bank of Washington, and owned three thousand dollars of the stock of that Bank, and that if he should not be able to pay said note he could easily get it renewed at said Bank. This remark was

30 made in the presence and hearing of said Mattison and was not corrected or contradicted by said Mattison. And said Mattison then said to your orator that said Vough's note was and would be perfectly good, and just as good as a note made by said Vough, Mattison & Canfield, and upon those representations and assurances your orator accepted in part settlement of said \$5,000 note, a promissory note for seven hundred dollars, made by said Vough, dated May 4th, 1868, payable one month after date, to the order of your orator, at the First National Bank of Washington, for value received,

40 and on the same day your orator got said seven hundred dol-

lar note discounted at said Bank, but when said note became due, said Vough failed to pay it, and your orator had to take up said note from said Bank, and said Vough never paid said note.

And your orator further shows that he would not have accepted said note, had not said Vough then represented that he was the owner of said Bank stock, as your orator believed that statement and statements of said Mattison as to said Vough's responsibility.

And your orator further shows unto your honor that in consideration of and for the purpose of securing the amount due on said note for seven hundred dollars the said Jacob S. Vough, on or about the tenth day of July, eighteen hundred and sixty-eight made and delivered to your orator a bond in the penal sum of fourteen hundred and twelve dollars and seventy-eight cents, conditioned for the payment of the sum of seven hundred and six dollars and thirty-nine cents and at the same time the said Jacob S. Vough made and delivered to your orator, a warrant of attorney, authorizing judgment to be entered upon the said bond, by confession, in favor of your orator and against the said Jacob S. Vough, with costs.

And your orator further shows, that on or about the tenth day of July, eighteen hundred and sixty-eight, in the circuit court in and for the said county of Warren, final judgment was rendered and entered on the said bond by virtue of the said warrant of attorney in favor of your orator and against the said Jacob S. Vough, for the sum named in the penal part of said bond with four dollars costs; before the signing of said judgment, your orator made affidavit stating and showing the true and real consideration upon which said bond was founded, that the said sum of seven hundred and six dollars and thirty-nine cents, was justly and honestly due and owing from the said Jacob S. Vough to your orator, and that the said judgment was not confessed to answer any fraudulent intent or purpose whatsoever, or to protect the property of the said Jacob S. Vough from his other creditors.

And your orator further shows unto your honor, that on the day said Vough made and delivered to your orator the

said bond and warrant of attorney, said Vough told and assured your orator that he, said Vough, still owned thirty shares of the capital stock of said Bank. Your orator then asked said Vough if he had not assigned said Bank stock to said Mattison, and said Vough said he had not, that said Bank had not recognized any assignment of said stock, and that what he and said Mattison had done as to said stock was a mere fix between him and Mattison.

10 And your orator further shows, that at the time of the entry of the said judgment, or very shortly afterwards, an execution was issued upon the said judgment in due form of law to seize and sell personal property, directed and delivered to the sheriff of the county of Warren. By virtue of the said execution the said sheriff, (who was then Albert K. Metz, Esq.,) on the eleventh day of July, eighteen hundred and sixty-eight, at the banking house of the said Bank, in the presence of the officers and agents of said Bank, did seize, levy upon and inventory the said thirty shares of the capital stock of the said Bank,
 20 standing in the name of the said Jacob S. Vough upon the books of said bank, as the property of the said Jacob S. Vough; that the said Sheriff did thereupon, and on the thirteenth day of July, eighteen hundred and sixty-eight, advertise the said shares of stock to be sold at public vendue on the twentieth day of the same month of July, at the hotel of John Canfield, in the said Borough of Washington, by advertisements, signed by the said Sheriff, and put up in more than three of the most public places in said Borough. And on the said twentieth day of July, 1868, pursuant to
 30 the said advertisement, and in all respects according to law, did offer and expose to sale at public auction, ten shares of the said capital stock so as aforesaid levied upon and advertised by the said Sheriff; and your orator having bid for said ten shares the price of Eighty-five dollars per share, and no person bidding any more, nor so much therefor, the said ten shares of stock were then and there openly and publicly struck off and sold by the said Sheriff to your orator at the price above named.

40 And your orator further shows unto your honor, that on or about the 20th day of July, 1868, the said Sheriff did

make, and deliver to your orator, a deed of assignment of the said ten shares of stock so as aforesaid sold by him to your orator, to which deed, ready to be produced and proved as this honorable Court shall require, and to which your orator prays leave to refer, will more fully and at large, appear.

And your orator further shows unto your Honor, that after your orator had so as aforesaid purchased the said ten shares of stock, and on or about the Twenty-seventh day of July, 1868, your orator did exhibit the said deed of assignment so as aforesaid made to your orator by the said Sheriff, to the Cashier of the said Bank, at the banking house of said Bank, within the ordinary business hours of said Bank, and then and there your orator did request the said Bank to transfer the said ten shares of stock to your orator, and to make and deliver to your orator a certificate showing your orator to be the owner of, and entitled to, the said ten shares of stock, but the said Cashier, and the said Bank, refused to comply with your orator's said requests, or with either of them, and said Bank never has transferred said ten shares of stock, or any part thereof, to your orator, or issued to your orator any certificate therefor, nor has the said Bank ever paid, or offered to pay to your orator, any of the dividends which have accrued and been declared upon the said ten shares of stock, although several dividends have been declared thereon since your orator purchased said stock in manner aforesaid.

And your orator further shows unto your Honor, that the only reason assigned by said Bank, or the officers thereof, to your orator for not transferring said stock to your orator is, that said John V. Mattison has made some claim to be the owner of the said ten shares of stock, and that while the said Bank is not willing to admit or recognize the legality or validity of the said claim of the said Mattison, yet, because he has made such claim as aforesaid, the said Bank refuses to transfer said ten shares of stock to your orator, and to give to your orator the benefit thereof; and your orator further shows and charges, that the said Bank assert that on or about the 2d day of June, 1868, the said John V. Mattison, and Jacob S. Vough, went to the Banking House of the

said Bank, and in the absence of the President and Cashier of the said Bank, said Vough did then write in the Transfer Book, or in some other book of said Bank, what is said and pretended to be a transfer to the said John V. Mattison, of the whole of the said thirty shares of stock which belonged to, and stood in the name of, Jacob S. Vough.

10 And your orator further shows, that the object and intent of said Mattison and said Vough, in making the said pretended transfer, was to hinder, delay, and defeat your orator and other creditors of the said Jacob S. Vough in the collection of the debts owing by said Vough to your orator and others, his creditors. As soon as the Cashier and other officers of the said Bank learned of said transfer made by said Vough, they repudiated and disallowed the said transfer made by said Vough, and gave notice thereof to said Mattison, and said Bank has never recognized said transfer. And your orator charges that said Bank refused to recognize said transfer made by said Vough, because the officers of said Bank knew that said Mattison had no lawful right or
 2.) title to said stock, and because said seven hundred dollar note so as aforesaid given by said Vough to your orator, and other negotiable paper of which said Vough was maker or indorser, and which said Bank had discounted, were then held by said Bank, were unpaid, and said Bank claimed to have a lieu on said thirty shares of stock on all debts and liabilities of said Vough to said Bank, and a right to hold said stock as security for any and all indebtedness of said Vough to said Bank. And your orator expressly charges
 30 Vough, had not, nor has he now and he never had, any legal or equitable right or title to said thirty shares of stock, nor to any part thereof.

And your orator further shows, that the said John V. Mattison claims to own the said thirty shares of stock by virtue of a resulting trust which he falsely and fraudulently alleges and sets up, and that the alleged facts from which said Mattison claims that said trust results are in substance these: That when the capital stock of said Bank was originally subscribed the said Jacob S. Vough subscribed for
 40 said thirty shares of stock at the request, on account of

and for the use and benefit of the said John V. Mattison, upon the understanding that the said Mattison would pay for the said shares of stock to said Bank, and that said Mattison did pay therefor, with his own funds, to said Bank, at and when the instalments for said stock were called in and required to be paid by said Bank, and that said Vough before said Vough made said transfer to said Mattison, made and delivered to said Mattison a writing declaring said trust upon and for the facts hereinbefore stated.

And your orator further shows, that said Mattison neither has or pretends to have any other title to said stock than the one hereinbefore stated. 19

And your orator further shows, that the said Jacob S. Vough subscribed for no more than thirty shares of the capital stock of said Bank, and he never owned nor claimed to own any of the capital stock of the said Bank, except the said thirty shares.

And your orator further shows, that the capital stock of the said Bank was subscribed in or about September, October, and November, 1864, and the said Bank was organized on or about the 14th November, 1864, under the act of Congress, the title whereof is hereinafter given, with a capital of one hundred thousand dollars, divided into shares of one hundred dollars each. That among the original subscribers to said stock were the said Jacob S. Vough, who subscribed for the said thirty shares and the said John V. Mattison, who subscribed for not less than one hundred shares. That at the first election of directors of said Bank the said John V. Mattison was elected a director of said Bank, and on the 22nd of May, 1865, said Vough was appointed a director of said Bank, and they said Mattison and Vough were elected annually thereafter, and continued to act as directors of said Bank until after your orator purchased said ten shares of stock at Sheriff's sale as hereinbefore stated, and at every of said election for directors, said Mattison voted for said Vough. 20

And your orator further shows and charges, that when the said Jacob S. Vough was first appointed a director of said Bank or within a few days thereafter, and, yearly thereafter, he, said Vough, in the presence and with the knowledge, consent, and permission of said Mattison, took an oath that he 40

would, so far as the duty devolved on him, diligently and honestly administer the affairs of the said Banking Association, and would not knowingly violate, or willingly permit to be violated, any of the provisions of the act of Congress, entitled "An act to provide a National Currency secured by a pledge of United States Bonds, and to provide for the Circulation and Redemption thereof." Approved June 3rd, 1864. And that he then was the *bona fide* owner, in his own right, of the number of shares of stock required by said act, sub-
 10 scribed by him and standing in his name on the books of said Bank and that the same were not then hypothecated, or in any way pledged as security for any loan or debt, and that the said John V. Mattison at the same times, in respect of himself, took a similar oath, which oaths, severally sub-
 20 scribed by said Vough and said Mattison and certified by the officer before whom each one of said oaths was taken, were transmitted to the Comptroller of the Currency. And your orator further shows that after said Bank was organized and before your orator caused said stock to be levied
 up as aforesaid, the said Bank made and declared divers dividends upon the said stock which stood in the name of said Vough, and paid said dividends to said Vough, and said Bank and said Mattison dealt with said Vough in respect of said stock in every way as if said Vough were the absolute owner of said stock in his own right and for his own use.

And your orator further shows that since your orator purchased said ten shares of stock as aforesaid, said Bank has declared dividends on the said thirty shares of stock and declared them to said Vough, but have paid them to no person
 30 and the said dividends remain unpaid.

And your orator further shows and charges that said stock when subscribed for by said Vough and ever afterwards until the same was sold by virtue of your orator's execution as hereinbefore stated, was the property of the said Jacob S. Vough in his own right and for his own use, and that the same was paid for by said Vough, with his own money and was not paid for by said Mattison nor with his money, and that the said allegations of the said Mattison as to the said resulting trust are untrue.

40 And your orator further charges and respectfully submits

that if the said allegations and pretences of said Mattison be regarded as true, those facts do not and cannot constitute any right or title in said Mattison, legal, or equitable, to said stock or any of it, and that said Mattison is and should be legally and equitably esstopped from setting up or enforcing any such right or title to said stock.

And your orator further shows that the said Bank at or about the time of its organization, adopted a By-law, which still remains in force, to the purport and effect that the said Bank should have a lien upon the shares of the capital stock of every stockholder for any and all indebtedness of any stockholder to said Bank, and that no stockholder should have the right to transfer any of his stock on the books of said Bank until all indebtedness of such stockholder to said Bank should be paid and satisfied. 10

And your orator further shows, that before he received the aforesaid note for seven hundred dollars from said Vough, said Vough, to induce your orator to receive said note, promised your orator that he would induce the said Bank to immediately discount said seven hundred dollar note, and give your orator the money therefor, and said Vough did request said Bank to discount said note, and at his request said Bank did discount said note, and by means thereof said Bank became entitled to, and had a lien on said stock of said Vough, to secure the payment of said seven hundred dollar note. 20

And your orator further shows, that when the said Vough pretended to transfer the said thirty shares of stock on the books of said Bank to said Mattison, as aforesaid, the said Bank held promissory notes, made or indorsed by said Vough, which said Bank had discounted, amounting to about two thousand five hundred dollars, of which the said seven hundred dollar note was a part. 30

And your orator further charges, and respectfully submits, that when your orator paid the said Bank, as your orator did, on or about the 8th of July, 1868, the amount due upon the said seven hundred dollar note, your orator in equity became entitled to, and now is entitled to, the same lien upon the said stock of said Vough for the payment of the said seven hundred dollar note, as said Bank had before your 40

orator paid the said seven hundred dollar note to said Bank.

And your orator also shows that he still has and holds the said note for seven hundred dollars.

And your orator further shows that said John V. Mattison at and before the 4th of May, 1868, had full notice and knowledge of the said by-law of said Bank and he also knew on the 4th of May, 1868, and long before the 2nd of June, 1868, that said seven hundred dollar note had been dis-
10 counted by said Bank at the request of and for the accom-
modation of said Vough, and that said Bank had and claimed a lien on said Vough's said stock as security for the payment of said seven hundred dollar note.

And your orator further shows unto your honor that the said pretended transfer of said thirty shares of said Bank Stock made by said Vough to said Mattison on or about the second of June, 1868, is an unlawful and inequitable cloud upon your orator's said title to his said ten shares of said stock and said pretended assignment is an unlawful and in-
20 equitable obstacle and obstruction in the way of your orator and hinders and prevents your orator from the enjoyment and benefit of his said ten shares of stock in as full and beneficial a manner as he is entitled to, and that said cloud, obstacle, and obstruction should be removed by the decree of this honorable Court, and said ten shares of stock should be assigned and transferred to your orator, together with all dividends which have accrued thereon since the eleventh day of July, 1868, and your orator well hoped that the said Bank would have complied with your orator's requests and would
30 have transferred to your orator on the books of the said Bank the said ten shares of stock so as aforesaid purchased by and assigned to your orator, and given to your orator a certificate therefor, and paid to your orator all the dividends which have accrued thereon since the 11th day of July, 1868, as in equity and good conscience they ought to have done, yet the said Bank has wholly neglected and refused and still do neglect and refuse so to do. But now, so it is, may it please your honor, that the said John V. Mattison, Jacob S. Vough, and the First National Bank of Washington combin-
40 ing and confederating with divers other persons at pre-

sent unknown to your orator, but whose names, when discovered, you orator prays may be inserted in this his bill of complaint with apt and proper words to charge them as defendants hereto, to injure and aggrieve your orator in the premises, not only refuse to transfer said ten shares of stock to your orator and to pay your orator the dividends thereon, but they, the said defendants, make divers false and fraudulent pretences, all of which your orator charges to be untrue, and contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator ; in tender consideration whereof and forasmuch as your orator is without adequate remedy in the premises by the strict rules of the common law, and without the assistance of this honorable Court where matters of this nature are particularly cognizable and relieveable. 10

To the end, therefore, that the said defendants and their confederates, when discovered, may full, true, perfect and distinct answer make to all and every the matters aforesaid, and that as fully as if the same were here again repeated, paragraph by paragraph (but not under oath, or affirmation, 20 answers under oath, or affirmation being hereby waived) and that it may be decreed that your orator has a good legal and equitable title to the said ten shares of stock so as aforesaid purchased by your orator. That the said John V. Mattison has no title legal, or equitable, to said ten shares of stock ; that the pretended right and title of said John V. Mattison to said ten shares of stock, is illegal, inequitable, fraudulent, and void ; that the said defendants, John V. Mattison and Jacob S. Vough and each of them, may be decreed to assign and transfer the said ten shares of stock to your orator, and 30 to transfer said ten shares to your orator on the books of said Bank ; that said Bank may be decreed to assent to such transfer of said ten shares on its books to your orator ; to issue a certificate therefor to your orator, and to pay to your orator the dividends which have accrued on said ten shares of stock since the 11th day July, 1868 ; that the said defendants, and every of them, may be enjoined from selling, assigning, or transferring said ten shares of stock, or any part thereof, to any person or persons whomsoever, except your orator ; and that your orator may have such other and such 40

further relief in the premises as the nature and circumstances of his case may require, and as shall be agreeable to equity and good conscience.

May it please your Honor, the premises considered to grant unto your orator not only the State's writ of Injunction to be issued under the seal of this honorable Court to be directed to the said 'defendants' and each and every of them, enjoining them, and every of them, from selling, assigning, or in any way transferring the said ten shares of
 10 stock, purchased, as aforesaid, by your orator, to any person other than your orator, but also the State's writ of Subpoena to be issued under the seal of this honorable Court, and directed to the said The First National Bank of Washington, John V. Mattison and Jacob S. Vough, commanding them, and each of them on a certain day, and under a certain penalty therein named, to be, and appear in this honorable Court, then and there to answer the premises, and to stand to abide and perform such order and decree in the premises as to your Honor shall seem meet, and as shall be agree-
 20 able to equity and good conscience, and your orator, as in duty bound, will ever pray, &c.

VANATTA & DEMOTT,

Sols. of Compl't.

JACOB VANATTA,

Of Counsel.

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IN CHANCERY OF NEW JERSEY.

Between

JOHN V. MATTISON and
others
Defendants,

and

DAVID M. YOUNG,
Complainant,

Answer.

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The answer of John V. Mattison to the bill of complaint of David M. Young complainant.

This defendant now and at all times hereafter saving and reserving to himself all and all manner of benefit of advantage to the errors and insufficiencies in the said bill of complaint contained for answer thereto, or to so much and such parts thereof as he is advised, it is material or necessary for him to make answer unto, he answers and says that the defendants, John Canfield and Jacob Vough, were indebted to the said complainant on or about the fourth day of May, A. D. eighteen hundred and sixty-eight, in the sum of five thousand dollars on a promissory note, which they had given to the said complainant on or about the months of March or February, A. D. 1868.

And this defendant further saith that the said note for five thousand dollars was given for mules which they had

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purchased of the said complainant, that it was understood that the said Canfield and Vough were to sell the mules with the assistance of the said complainant, and that out of the proceeds of the said sale of the said mules the said note for the said sum of five thousand dollars was to be paid and satisfied, and this defendant was not to take any active part in the matter.

And this defendant further saith that the money received for the mules was to be placed in the First National Bank at
10 Washington, New Jersey, to the joint credit of this defendant and the said Vough and Canfield, and not to be paid out unless by the consent of all the said parties.

And this defendant further saith when the five thousand dollar note became due the said Canfield, Vough and the said Young came to this defendant with a check for him to sign to draw the said money from the bank, it to the said complainant on account of the said promissory note for five thousand dollars, and that this defendant
20 signed the said check, and the money was drawn and paid to the said Young; that this defendant left in the hands of Canfield other papers to pay all his share of the said note of five thousand dollars, and that the said Vough settled his share by giving his note to the said Young, payable at the First National Bank of Washington, New Jersey, for the sum of seven hundred dollars.

And this defendant denies that the said Vough declared at the time he gave the note that he could pay it in thirty days; that he was a director in the said First National Bank at Washington, and owned three thousand dollars of the
30 stock of the bank, and that if he should not be able to pay the said note he could easily get it discounted at said bank.

And this defendant further denies that any such remark was ever made by said Vough to the said complainant, or that the said Vough ever declared or stated or asserted to the said complainant that he, the said Vough, was the owner of any stock in the said First National Bank of Washington.

And this defendant denies that the said Jacob Vough
40 stated in his presence and hearing to the said complainant

that he could pay the said note for seven hundred dollars in thirty days, that he was a director in the said First National Bank at Washington, and owned three thousand dollars of the stock of that bank, and that if he should not be able to pay said note he could easily get it discounted at said bank, or anything like that, or that said Vough ever pretended or represented in the presence or hearing of this defendant that he was the owner of three thousand dollars worth of the stock of that bank.

And this defendant further denies that said complainant ever said in his presence or to him "why not give me all three of your names on the said seven hundred dollar note," or any equivalent remark, or that anything like that was said by the said complainant. 10

And this defendant further denies that he or any one else in his presence or hearing said that they, Mattison, Canfield and Vough wanted to settle the matter among themselves. This defendant, in fact, saith that he and the said Canfield and the said Vough had arranged among themselves the amount due from each on the five thousand dollar note, and it was understood that each one should settle his own part of it, and that in accordance with such understanding the said Vough did settle his part with the said Young, and the said Young took his note without any hesitation at all. 20

And this defendant further denies that he said at any time to the said complainant that said Vough's note was and would be perfectly good, and just as good as a note made by said Vough, Mattison and Canfield, and he denies that upon their, or any other representations and assurances, the said complainant accepted in part settlement of said five thousand dollar note a promissory note for seven hundred dollars, on the contrary this defendant declares the truth to be that said complainant took the said note for seven hundred dollars of said Vough without any representations whatever as to his solvency, that the said complainant and the said Vough were very close friends, and the said complainant had entire confidence in Vough's integrity and in his pecuniary ability, and the said Young had no hesitation about trusting him. 30

And this defendant, further answering, admits that the 40

said Jacob S. Vough gave the note set out in the bill of complaint, dated May 4, 1868, for the sum of seven hundred dollars, and payable as therein set forth, and this defendant is informed and believes that the said Young had the note discounted at the said First National Bank of Washington New Jersey.

10 And this defendant, further answering, said that he has been informed and believes it to be true that the said Jacob Vough did fail to pay the note at maturity, and that said Vough never paid it, and that said Young took the note up from the said bank.

And this defendant further denies that said complainant would not have accepted said note had not said Vough then represented that he was the owner of said bank stock, and because the complainant believed that statement, and the statement of this defendant as to the said Vough's responsibility.

20 And this defendant further saith that he has been informed that said Vough did confess a judgment to said Young for some sums of money, but this defendant has no particular information on the subject, and therefore leaves the complainant to make such proof on that subject as he shall be advised it is proper for him to make.

30 And this defendant, further answering, denies that the said Vough on the day he made and delivered to the said complainant the bond and warrant of attorney he has set forth in his bill of complaint, or at any other time told and assured the said complainant that he, the said Vough, still owned thirty shares of the capital stock of the said bank, and he further denies that said complainant asked said Vough if he had not assigned said bank stock to said Mattison, and said Vough said he had not, that said bank had not recognized any assignment of said stock, and that what he said Mattison had done as to said stock was a mere fix between him and said Mattison.

40 And this defendant further saith he hath been assured by said Vough that no such conversation ever took place between him and the said complainant, and this defendant further saith that if said Vough ever did make any such statements they were absolutely untrue.

And this defendant further saith he had been informed and supposes it is true, that the said complainant procured an execution to be issued upon his judgment, and placed it in the hands of Albert K. Metz, then sheriff of Warren county, to be executed, and this defendant has been informed that by virtue of it the said Albert K. Metz, under the direction of the said complainant pretended to levy on the thirty shares of the capital stock of the said First National Bank of Washington; which the complainant pretended stood in the name of the said Jacob S. Vough on the books of the said bank as the property of the said Jacob S. Vough. But this defendant denies that the said levy was of the least effect and was utterly void; that said Vough had no property in any shares of stock in said bank; that he was not the owner of a single share of the stock of the said bank, nor did any stand in his name at the time of said pretended levy that said Vough had transferred and assigned on the books of the bank long before the issuing of the said execution the said thirty shares of bank stock to this defendant; and the said complainant knew perfectly well at the time he obtained his pretended judgment, execution and levy that the said Vough had transferred the said stock to this defendant on the transfer book of the said company, and the said complainant has seen it and examined it on the transfer book of the bank, and had been told by the cashier of the bank of such transfer before he obtained his pretended judgment, execution and levy. And the complainant also knows perfectly well that said stock never belonged to said Vough, that it was permitted to stand nominally in the name of the said Vough, but that in reality it belonged to this defendant, and said complainant knew perfectly well that said Vough had gone to the transfer book of the bank of his own volition as an act of simple justice to this defendant, and had then transferred the said stock to this defendant in the presence of the teller of the said bank, and with his knowledge and assent, because it belonged to this defendant and not to the said Vough at all, and that the complainant proceeded to obtain his judgment and his pretended execution and levy in the hope that he might frighten this defendant by so doing into the payment of the said com- 40

plainant's claim against said Vough, if any he had, and said complainant would intimate to this defendant, after he had taken his pretended levy, that if this defendant would settle with him the claim he held against said Vough he would not disturb him in the said stock, which this defendant utterly refused to do, and told the said complainant he knew well enough it was not Vough's stock but this defendant's.

10 And this defendant further saith that he hath been informed that the said Sheriff Metz, acting under the direction of the complainant, did advertise the said stock for sale, and that said complainant did pretend to bid therefor, and the Sheriff did pretend to strike off ten shares of said stock to him, the said complainant, for some sum which the said complainant pretended to bid, but this defendant knows nothing of it except from hearsay, as this defendant was not present, but this defendant declares the truth to be that if any such sale did take place, it was utterly null and void as against this defendant, and can give the said complainant no right to the stock belonging to this defendant.

20 And this defendant further declares the truth to be that the said complainant, as well as the said Albert K. Metz, at the time of the said pretended levy and sale, had full notice that the said stock belonged to this defendant and not to the said Jacob S. Vough, and that the whole proceeding was void as against this defendant.

30 And this defendant further saith he did not know until he read it in the bill of complaint that the Sheriff, Albert K. Metz, did, at the time specified in the said bill of complaint, or at any other time, make and deliver to the said complainant a deed of assignment of the said ten shares of stock, but this defendant declares the truth to be that the said pretended assignment conveyed no title to the said ten shares of stock to the said complainant, and was and is a mere nullity as against this defendant.

40 And this defendant further saith he does not know, only as he has heard it, that the said complainant went to the cashier of the said bank at the time stated in his bill of complaint, and requested the said bank to transfer the said ten shares of stock to him, the said complainant, and that the cashier of the bank refused to transfer said stock to him,

and this defendant declares the truth to be that the said cashier had no right, authority or power to transfer the said stock to the said complainant, nor had the said bank or any of its officers any such right or power; that said stock was the property of this defendant and not the property of the said Jacob Vough or of the said complainant.

And this defendant further saith he is informed by the said bank that no certificate of stock has been issued to the complainant for said ten shares of stock, and that none will be issued, or has the bank ever paid to the said complainant any dividends on the said stock, because the complainant has no right to receive it. 10

And this defendant further saith that he does not know what reason the said bank or any of its officers pretend to assign to said complainant for refusing to deliver to him a certificate for the said ten shares of stock, but this defendant declares the truth that said bank has no right to issue any certificate to said complainant for said ten shares of stock, and the said bank knows very well that said stock belongs to this defendant, and that it is transferred to him in the transfer book of said bank, and that said bank never at any time issued to said Vough a certificate for said stock or any part of it. 20

And this defendant further saith it is true as the said bank asserts, if it does so assert, that the said Vough did assign, transfer and set over unto this defendant the said thirty shares of stock of the said bank on the second day of June, A. D. 1868.

And this defendant further saith that the transfer made by the said Vough was made on the regular transfer book of the said bank, and the only one the said bank kept for that purpose; that it was between the regular banking hours of the said bank, and was made in the presence of one of the officers of the said bank—the teller of said bank—and was witnessed by him, and the said transfer was made in the same manner that all other transfers are made on the books of the said bank. 30

And this defendant further saith that the said transfer is in the following form :

“ For value received I hereby transfer unto John V. Matti- 40

“son all my right, title and interest in thirty shares of the
 “capital stock of the First National Bank of Washington.
 “June 2d, 1868.

“Witness—John F. Woodruff, Jacob S. Vough.”

And this defendant further saith that the said transfer was
 made to this defendant on the second day of June, A. D.
 1868, on the very day it purports to have been made, and
 that the said John F. Woodruff signed his own name to said
 transfer, and that the said John F. Woodruff is the teller of
 10 the said bank, and procured and handed the said book to
 the said Vough on the said second day of June, A. D. 1868,
 when he made the said transfer.

And this defendant further saith that said transfer of
 stock was made by the said Vough to this defendant long
 before the said complainant had obtained his bond and
 warrant of attorney from said Vough ; long before the com-
 plainant obtained his judgment and execution ; long before
 the sheriff made any pretended sale or transfer to the said
 complainant, and the complainant had full knowledge at the
 20 time he obtained his pretended judgment and execution, if
 he ever did obtain any, that the said Vough had transferred
 the said stock to this defendant and had no interest what-
 ever in it.

And this defendant denies that the object and intent of
 this defendant and said Vough in making the said transfer
 was to hinder, delay and defeat the complainant and other
 creditors of the said Jacob Vough in the collection of the
 debts owing by said Vough to the said complainant and his
 other creditors ; on the contrary this defendant declares the
 30 truth to be that the said transfer was made by the said
 Vough to this defendant in good faith, because the said stock
 belonged to the defendant, and had been paid for by him,
 and of right was his property, and because as well the said
 Vough was largely the debtor of this defendant for goods,
 wares and merchandise sold him, and for money lent to and
 paid out for him, and because this defendant was also the
 endorser of the said Vough in the said bank on a note for
 one thousand dollars, and which sum, with interest, this
 defendant has to pay for said Vough to the said bank.

40 And this defendant further saith he was not present with

the said Vough in the bank at all when the said Vough made the said transfer of the said stock to this defendant, nor did this defendant know that he intended to do it that morning until after he had done it; the said Vough and this defendant had talked about the matter before, and the said Vough was to make the said transfer.

And this defendant further saith that he was not aware at the time the said Vough made the said transfer, on the second day of June, A. D. 1863, that the said Vough was indebted to the said complainant in one cent; that this defendant supposed and believed that said Vough had paid the said complainant his indebtedness to him in full, nor did this defendant know that the said Vough owed any other person or persons, except what he owed this defendant, and what he owed to the said bank, namely, the sum of one thousand dollars, and for which this defendant was his sole endorser. 10

And this defendant further saith he denies that the officers of the said bank repudiated and disallowed the said transfer, made by said Vough, and gave notice thereof to this defendant, and that the said bank has never recognized said transfer, and he denies that the said bank refused to recognize said transfer made by said Vough, because the officers of said bank knew that said defendant had no lawful right or title to said stock, and because said seven hundred dollar note given by said Vough to the said complainant and other negotiable paper, of which said Vough was maker, or on which he was endorser, and which said bank had discounted, were unpaid, and said bank claimed to have a lien on said stock for any and all indebtedness of the said Vough, but this defendant declares the truth to be that the officers of said bank never repudiated the said transfer, nor doubted its legality, but simply withheld a certificate from this defendant as a matter of safety, as the failure of said Vough was creating some excitement, and the said bank did set up some claim that the thousand dollar note on which this defendant was endorser, and which had been discounted for the benefit of the said Vough, was unpaid, and that the said bank had some lien on the said stock until it was paid, but this defendant insists that the said bank had no right upon 20 30 40

any such grounds to withhold the said certificate, that neither the charter of the said bank nor any by-law made by it recognized any such right, and because the said bank, if it had a right to any such lien, had it on said stock in the hands of this defendant, as well in the hands of the said Vough. And this defendant distinctly declares the truth to be that at the time the said Vough made the said transfer to him he had the legal and equitable right and title to the said thirty shares of stock, and to every part thereof; and he denies, as charged in said bill, that he had not at the time the said transfer was made by the said Vough, and has not now, and never had, any legal right or title to the said thirty shares of said stock, or to any part thereof.

10 And this defendant further saith he denies that he claims to own the said thirty shares of stock by virtue of a resulting trust, which he falsely and fraudulently alleges and sets up. On the contrary this defendant declares the truth to be that the said thirty shares of stock legally and equitably belonged to this defendant, and always did belong to him, and that the said Jacob Vough never had a dollar's worth of interest in the said stock.

20 And this defendant further saith that he was one of the principal projectors and originators of the said bank, that at the time of its organization and at the time the subscriptions for its capital stock were made this defendant desired to subscribe for a large amount of the capital stock, believing that it would be a safe and profitable investment, and that said defendant subscribed in his own name for one hundred shares of the capital stock of the said bank, the par value of each share being one hundred dollars; that after this defendant had subscribed for the said one hundred shares he mentioned to said Vough that he regretted that he had not subscribed for more of the said stock, that he would like to have more, that said Vough immediately offered to subscribe for this defendant for any number of shares this defendant might desire, and that this defendant could pay for it, and the said Vough would transfer it over to this defendant at any time after the said bank was organized.

30
40 And this defendant further saith that he had entire confi-

dence in the said Jacob Vough as a man of honor, integrity and of satisfactory pecuniary responsibility, and wishing to become the owner of more of the capital stock of the said bank than he had already subscribed for, he instructed the said Jacob S. Vough to subscribe for thirty shares of the said stock, and that this defendant would pay for it, and that said Vough could transfer it to this defendant on the transfer book of the said bank after the said bank was organized.

And this defendant further saith that the said Vough 10 thereupon immediately subscribed for thirty shares of the capital stock of the said bank, in his own name, but for this defendant.

And this defendant further saith that he, this defendant, paid for the said thirty shares the sum of three thousand dollars to the directors and officers of the said bank, as required by the charter of the said bank, that said Vough did not pay one cent on the said stock, but the whole of it was paid for by this defendant to the officers of the said bank authorized to receive it, or gave the said Vough the 20 money to pay it.

And this defendant further saith that in order to remove all doubt as to his title to the said thirty shares of stock he took from the said Vough an instrument under seal, bearing date on or about the month of February, A. D. 1865, signed and sealed by said Jacob Vough, or Jacob S. Vough as he was called, and as his name is, which after reciting in substance that whereas the said Jacob S. Vough held in his own name thirty shares of the capital stock of the "First National Bank of Washington, New Jersey," witnessed that the said 30 stock is the property of this defendant, and that he, the said Vough, held the said stock as trustee for the said John V. Mattison, this defendant, his executors, administrators and assigns, and that the said Vough bound himself thereby, as well as his heirs, executors and administrators to pay over to this defendant, or to such person as this defendant might direct, all dividends upon said stock, as soon as he should waive the same, and that he would transfer the said stock on the books of the said bank to this defendant, or to such person as this defendant shou'd direct at any time 40

when called upon, and he fully authorized this defendant, his heirs or assigns to collect all dividends on said stock and give receipts therefor as his attorney in fact, as by the said writing will more fully and at large appear, and to which this defendant begs leave to refer if it be necessary so to do.

10 And this defendant further saith that the said Vough did receipt for the said dividends which were declared up to the time when he made the transfer aforesaid, but he at once handed over to this defendant all such dividends and never kept them in his hands at all. And this defendant further saith that the said Vough never pretended, so far as this defendant ever knew or heard, to be the absolute owner of the said stocks.

20 And this defendant further saith that he told several of the directors of the said bank as well as the cashier that the thirty shares of the stock of said bank subscribed for by the said Vough belonged to this defendant. And this defendant further saith that no certificate was ever issued by the said bank to the said Vough for the said thirty shares. It simply stood in his name on the subscription book of the said bank, that said Vough never asked for any certificate, never intended to do so, and never claimed any ownership over said stock whatever. And this defendant insists that the said Vough had no interest whatever in the said stock.

30 And this defendant denies that he neither has, nor pretends to have, any title to the said stock than the one said complainant has stated in his bill of complaint. On the contrary this defendant declares the truth to be that even if the said Vough had been the legal or equitable owner of the said stock, which this defendant declares he was not, as this defendant has already set forth, this defendant has the legal and equitable right to the said stock by reason of its transfer to this defendant by said Vough, as a creditor of said Vough.

40 And this defendant further saith that the said Jacob S. Vough, at the time he made the transfer of the said thirty shares of the said stock, on the second day of June, A. D. 1868, was indebted to this defendant in a sum of money much larger than the whole value of said stock, for goods, wares

and merchandise sold by this defendant to said Vough, and for money lent to and paid, laid out and expended for him and this defendant, was likewise liable as the endorser of the said Vough to the said bank for the sum of one thousand dollars, as this defendant has already set forth, and the said Jacob S. Vough had a right, as a debtor of this defendant, to prefer him to any other creditor, and to transfer the said stock to this defendant to secure him for his said debt and his liability as his endorser, as far as the said stock would go to secure him, and that said Jacob S. Vough felt his obligation to place the said stock in the hands of this defendant, as the person to whom it rightfully, justly and equitably belonged, and who was above all others entitled to receive it, and therefore he made the said transfer to this defendant. 10

And this defendant insists that the transfer made by the said Vough on the transfer book of said bank vested the complete legal title in this defendant, not only by virtue of his ownership, but also as a creditor, and that this defendant has a right to claim and hold it in opposition to all other persons, not only as owner but also as a creditor of the said Vough. 20

And this defendant further saith that it is not true, as the said complainant has alleged, that the said Vough ever pretended that he was the owner of the said stock, and that said complainant trusted him upon the credit of the said stock; on the contrary this defendant declares the truth to be that the said complainant did not really know until after the said Vough had transferred the said stock to this defendant, that the said Vough had any stock of said bank standing in his name on its books; that said complainant and said Vough were intimate friends; that said Vough was a man of undoubted credit in the neighborhood before he had any connection with the said bank in any way; that it was understood in the neighborhood that he had received a very considerable sum of money through the will of a very wealthy gentleman in the West, after whom he was named, and that he had other moneys beside, and he had the confidence of the public, and was engaged in business in Washington. 30 40

And this defendant further saith that he himself had the most entire confidence in the honesty, integrity and pecuniary ability of the said Vough; that this defendant trusted him to large sums of money for goods, wares and merchandise, sold and delivered to him, and also endorsed his paper in the bank for large amounts, and because of this, defendant's entire confidence in the said Vough, he allowed the said stock to stand in the name of said Vough on the subscription book, this defendant not dreaming there was the least doubt
10 of his pecuniary ability, and it was not until said Vough had actually transferred the said stock to this defendant on the said book, and told this defendant that he was in failing circumstances, that this defendant had a single suspicion of his want of pecuniary ability.

And this defendant further saith that the said Vough owed him at this time several thousands of dollars, besides the thousand dollars for which this defendant was his endorser, and which this defendant will have to pay for him in the said First National Bank of Washington.

20 And this defendant further saith that he does not know whether the said Vough did subscribe for any more than the said thirty shares of stock in said bank, but this defendant thinks he did not, and that he has been so informed by the officers of the said bank, and never claimed to own any of said capital stock; and defendant denies that said Vough ever claimed to own the said thirty shares of the said capital stock.

And this defendant further saith that he is not certain when the said stock was subscribed, and that for anything
30 he knows to the contrary, it may have been subscribed during the months and the year the complainant has set forth in the said bill of complaint.

And this defendant further saith he has no distinct or clear recollection as to the time when the said bank was organized, but thinks it may have been in the day and year specified in the said bill of complaint, although this defendant thinks the said bank did not go into operation until some days after the fourteenth day of November, A. D. 1864. And this defendant denies that the said Jacob S. Vough was
40 one of the original subscribers to the stock of the said bank

any further than this defendant has already set forth, that the said Jacob S. Vough subscribed for the said thirty shares for this defendant, as this defendant has already set forth.

And this defendant further saith that this defendant was one of the original subscribers for the said stock, and that he subscribed in his own name for not less than one hundred shares of said capital stock as he has hereinbefore set forth.

And this defendant further saith that this defendant was elected one of the first directors of the said bank, and has always been one of the directors of the said bank, and that said Vough was appointed a director of said bank about the time set forth in the said bill of complaint, and was afterwards elected a director of the said bank, but defendant denies that the said Vough continued to act as a director of the said bank until after the said complainant had purchased the said ten shares of said capital stock at sheriff's sale; on the contrary this defendant declares the truth to be that said Vough never acted as a director of the said bank after he made the transfer of the stock to this defendant on the second day of June, 1868.

And, this defendant further saith he has no doubt but that at the annual election for directors he did vote for the said Vough for director.

And this defendant further that saith the said Vough did take an oath in substance, as set out in the said bill of complaint, and with the knowledge of this defendant, but this defendant denies that he gave any consent or permission for the said Vough to take said oath, or that it was particularly with his consent or permission. All this defendant thought about it was that the stockholders of the said bank had elected the said Vough one of its directors, and he chose to accept the position, and this defendant did not stop to inquire whether said Vough was legally elected or not, nor did this defendant consider what the terms of the oath were as applied to the said Vough; this defendant had no doubt the said Vough supposed that inasmuch as the said stock stood in his name on the subscription books of the said bank he could take the required oath; that it did not even pass

through the mind of this defendant that the oath required was in conflict with the position of said Vough in reference to the said stock.

And this defendant further saith that a person was only required to have ten shares of the capital stock of the bank in order to qualify him to be a director, and defendant is satisfied that said Vough honestly believed that because the said stock stood in his name on the subscription book of the said bank he could honestly take the said oath, and that
10 other directors took the same view of it, as other directors were acquainted with the fact that the stock belonged to this defendant, and that said Vough only held it for the benefit of this defendant.

And this defendant further saith that the said bank declared dividends from time to time, and that said Vough drew the dividends on the said thirty shares and paid them over immediately to this defendant. And this defendant declares the truth to be that so far as the said complainant is concerned neither the form of the oath taken by the said
20 Vough nor the person in whose name the dividend on said thirty shares of stock was declared was a matter of the slightest consequence; that it did not affect the rights of the complainant in any way, nor influence him to give the least credit to said Vough, and the said complainant cannot avail himself of any such matter to establish his title to the said ten shares of stock.

And this defendant denies that the said thirty shares of stock were ever the property of the said Jacob S. Vough in his own right and for his own use, and he further denies
30 that the said Jacob S. Vough paid for the said thirty shares of stock with his own money, or any part thereof, and he further denies that it was not paid for by the said Mattison, this defendant, nor with his money, but he says that the said Mattison, this defendant, paid with his own money the whole sum due for said thirty shares of stock, viz., the sum of three thousand dollars; and he further denies that the statements of this defendant in reference to the said resulting trust are untrue.

And this defendant denies that either legally or equitably he
40 ought to be estopped from setting up and enforcing his rights

to the said stock; on the contrary this defendant declares the truth to be that his title to the said stock is perfect, and that both as owner and as a creditor of the said Jacob S. Vough this defendant is entitled to hold the said stock, and that the said Vough transferred the said stock to this defendant, and made his title complete and perfect to it long before the said complainant pretended to have any lien on the said stock, which the complainant perfectly well knew, and that all the pretences of the said complainant are, or were, sham, and an attempt on the part of the said complainant to compel this defendant to pay the said complainant his demand against the said Jacob S. Vough. 10

And this defendant further saith that the bank did have a by-law to the effect as stated in the said bill of complaint, but this defendant denies that such by-law has the slightest application to the complainant.

And defendant further saith that even if the said Vough did make the statements which the said complainant pretends he did to induce the said complainant to take said seven hundred dollar note, that he would get it discounted at bank, which this defendant absolutely denies, and even if said Vough did request said bank to discount the said note, and even if the said bank did discount it upon such request, and even if the said bank, under the said by-law, had a lien upon the said stock, which this defendant denies, yet the moment the said complainant paid the said bank the amount of the said note the lien was discharged, and the pretence of the said complainant that when he paid the said bank the amount of the said note on the 8th day of July, 1868, and discharged the indebtedness of said Vough to said bank for the said sum of money, that he was entitled to, and now is entitled to the same lien the bank had upon said stock, is absurd and ridiculous; that the said by-law was adopted simply and only for the protection of the said bank; that the said complainant was not a stockholder nor director in the said bank, and had no interest whatever in it, and that he became liable as endorser to pay the said note to the said bank, and did pay it, on the 8th day of July, 1868, and the said note was extinguished as between said complainant and the said bank, and that the said complainant 30 40

afterwards obtained a judgment on the said note against said Vough, which absolutely extinguished and discharged said note as against said Vough himself, and the said complainant had no right or title even to the said note.

10 And this defendant further denies that under and by virtue of the said by-law the said bank had any lien on the said stock; that the said by-law was only intended to apply to persons who obtained discounts for their own benefit, and who were the real owners of the stock of the said bank; that said Vough was only the nominal holder of the said stock, not the owner of the said stock, and the directors of the said bank had notice of it, and they could not therefore claim any lien whatever upon the said stock.

20 And this defendant further denies that when the said Vough transferred the said stock to this defendant, the said bank had notes to the amount of above two thousand five hundred dollars, of which the said seven hundred dollars was a part. But this defendant declares the truth to be that so far as this defendant knows there were only two notes drawn by said Vough on the said bank, the one to said complainant and the one of one thousand dollars, endorsed by this defendant, and that if there were any others they were all taken up except the one for one thousand dollars, on which this defendant is endorser. And this defendant further saith that if the said bank has a lien at all upon the said stock it is in the hands of this defendant.

30 And this defendant further saith that the said complainant had notice on the eight day of June, 1868, that the said stock belonged to this defendant, and that said Vough had transferred it to this defendant on the transfer book of the said bank. And this defendant further saith that the title of this defendant was complete and perfect on the said 8th day of June, 1868, as well as any before, and that it did not require the certificate of stock to be issued by the said bank to this defendant to make his title to it complete; and that it cannot avail the complainant at all to say that the bank had not issued a certificate of stock to this defendant; that that is a matter solely between the said bank and this defendant, and that if the said bank absolutely withholds from this
40 defendant a certificate for said stock this defendant has an

adequate remedy against said bank to compel it to do its duty. And this defendant declares the truth to be that the said bank had no right to refuse to issue a certificate to this defendant for the said stock.

And this defendant further saith that the said Jacob S. Vough, on or about the 8th day of June, A. D. 1868, signed and sealed a written notice to the said bank surrendering up to the said bank the certificate for said stock, which he had never taken out at all, but which then remained in the certificate book of the said bank, and the said Jacob S. Vough did further, in and by the said sealed writing, authorize the said bank to cancel the said certificate of stock; and he did further therein authorize, request and require the said bank to issue a certificate of stock to the said John V. Mattison, this defendant, for the said thirty shares of stock, and that that writing should fully sustain and justify the said bank for so doing. And this defendant further saith that he presented the said instrument of writing to the directors of the said bank soon after its date, and requested them to comply with its terms, and issue the said certificate to this defendant, which the officers of the said bank declined to do at the time, lest they might be blamed, as the failure of said Vough had excited a good deal of feeling on the part of the said complainant. And this defendant further saith that the said bank, by the terms of its charter, has do right to hypothecate or create a lien on the stock of said bank, and that for that reason the said by-law is inoperative and void.

And this defendant further saith that the said bank has declared dividends on the said stock since it was transferred to this defendant; the said bank refuses to pay them over to this defendant, but this defendant insists that that is not a matter which at all affects the complainant, and that this defendant will at the proper time compel the said bank to do its duty to him in this respect.

And this defendant admits that he did know of the existence of a by-law in said bank to the effect stated by the complainant's bill, but this defendant denies that he knew long before the second day of June, 1868, that said seven hundred dollar note had been discounted by said bank, at the

request of and for the accommodation of the said Jacob S. Vough, and that said bank had, and claimed to have, a lien on said shares of stock, as security for the payment of the said seven hundred dollar note; and this defendant declares the truth to be that up to and prior to the said second day of June, A. D. 1868, the said bank never pretended to have a lien on said stock for any purpose whatever, and it was not until after the said stock had been transferred to this defendant that the said bank pretended to have any lien on
 10 the said stock for any purpose, and it never pretended in the presence or hearing of this defendant to assert any lien on the said stock for or on account of the said seven hundred dollar note, and it never did assert it.

And this defendant denies that the transfer of the said stock to this defendant on the second day of June, 1868, is unlawful and inequitable, and a cloud upon the complainant's title to ten shares of said stock, and he denies that said assignment is an unlawful and inequitable obstacle and obstruction in the way of said complainant, and hinders and
 20 prevents the complainant from the enjoyment and benefit of his ten shares of stock, and that said obstacle and obstruction should be removed; and he denies that said stock should be transferred to the said complainant with all dividends. But this defendant declares the truth to be that the said complainant never has had, nor has he now, the least shadow of title to the said ten shares of stock, neither at law or in equity, and that to allow the said complainant the said ten shares of said stock would be most injurious and oppressive, and an outrage upon the rights of this
 30 defendant.

And this defendant further insists and submits to this Court that the said complainant has no standing whatever in this Court, and that this Court has no jurisdiction of any such claim as that set up by the said complainant; that the said complainant, if he has any remedy at all, which this defendant utterly and entirely denies, has a complete remedy at law. And this defendant, being required by the prayer of the complainant's bill to answer without oath, answers accordingly.

40 And this defendant denies all, and all manner of

unlawful combination and confederacy by the said bill, charged without this, that any matter or thing in the said bill charged, and not herein and hereby well and sufficiently answered, confessed and avoided, traversed or denied, is true to the knowledge or belief of this defendant, and this defendant prays to be hence discharged with his reasonable costs, in this behalf most unreasonably sustained.

J. G. SHIPMAN,

Solicitor and of Counsel with the said defendant,

John V. Mattison. 10

A true copy,

B. GUMMERE, Clerk.

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Between

DAVID M. YOUNG,

Complainant,

and

20 JACOB S. VOUGH, JOHN V. MAT-
TISON and the FIRST NATIONAL
BANK at Washington,
Defendants.

On Bill, &c.

Answer.

The answer of the First National Bank at Washington, a defendant in the above stated suit to the bill of complaint of David M. Young, complainant.

30 This defendant now, and at all times hereafter, saving and reserving to this defendant all manner of benefit and advantage of exception to the many imperfections, uncertainties and defects in the said complainant's said bill of complaint, contained for answer thereto, or unto so much and such parts thereof as this defendant is advised is material and necessary for this defendant to make answer unto, this defendant answers and says that it is true that the said Jacob S. Vough, one of the said defendants, was a stockholder and director in this defendant's said corporation,
40 as stated in the said bill of complaint.

And this defendant admits that the said Jacob S. Vough made and delivered to the said complainant a promissory note for the sum and of the tenor and effect stated in said bill, but for what consideration or under what special circumstances the said note was made and delivered this defendant has no knowledge or information other than what is stated in reference thereto in the said bill of complaint.

And this defendant, further answering, says that this defendant has heard, and believes it to be true, that the said complainant obtained a judgment against the said Jacob S. Vough, and that execution issued thereon, but for what sum or at what time the said judgment was obtained and execution issued thereon this defendant has no knowledge or information other than what is stated in relation thereto in the said bill of complaint. 10

And this defendant also admits that the sheriff of the said county of Warren made, or pretended to make, a levy and sale of a portion of said Jacob S. Vough's said stock, and that the said complainant became the purchaser thereof, and that the said sheriff made a transfer of a portion of said stock in some form to the complainant, but whether such evy, sale and transfer was legal as between the complainant and the other persons claiming the same, this defendant is not advised. 7 But this defendant charges that the said levy, sale and transfer as to this defendant, for the reasons hereinafter stated, was, and is, illegal, inequitable and void. 20

And this defendant, further answering, admits that the complainant requested this defendant to make a transfer on the books of this defendant of the portion of stock so pretended to be sold and transferred to the complainant, and that this defendant refused to assume any responsibility or take any part in the questions and disputes between the said complainant and other persons claiming the same in reference to the title to said stock, and for the other reasons hereinafter stated. 30

And this defendant, further answering, says that this defendant is a corporation, duly and legally organized and established by authority of, and under the provisions of the laws of the United States, "Entitled an Act to provide a national currency secured by a pledge of United States 40

“Bonds, and to provide for the circulation and redemption
 “thereof.” Approved June 3d, A. D. eighteen hundred and
 sixty-four, and that this defendant has been duly and legally
 organized under and by the authority of said act, and that
 in pursuance of the provisions in said act contained, this
 defendant, at or about the time of the said organization,
 made, adopted and established by-laws, rules and regulations
 by which to govern this defendant in the business of banking.
 That it was, and is, provided in the said by-laws, amongst
 10 other things that the capital stock of the said bank (this
 defendant) should be assignable only upon the books of this
 defendant, subject to the restrictions of the act of Congress
 aforesaid, and that a transfer book should be kept in which
 all transfers and assignments of the capital stock should be
 made, and that no transfer should be made of any stock
 without the consent of the Board of Directors of this
 defendant by any stockholder who might, or should, be
 liable to this defendant, either as a principal debtor or other-
 wise, on any obligation, due or not due, but owing to this
 20 defendant.

And this defendant, further answering, saith that on the
 sixteenth day of May, in the year of our Lord one thousand
 eight hundred and sixty-eight, the said defendant, Jacob S.
 Vough then being such stockholder and director as aforesaid,
 became, and was, and still is, indebted to this defendant as
 the drawer or maker, and the said defendant, John V.
 Mattison, then also being a director in this defendant's said
 corporation, then also became, and was, and still is, indebted
 to this defendant as the endorser of the said Jacob S.
 30 Vough on a promissory note, bearing date on the day and
 year last aforesaid, in the sum of one thousand dollars,
 payable six months after the date thereof, at this defendant's
 said bank by the said Jacob S. Vough to the order of the
 said John V. Mattison, without defalcation or discount,
 which said promissory note was, after the same became due
 and payable, to wit, on the nineteenth day of November, in
 the year last aforesaid, protested for non-payment thereof,
 and notice of such protest was then and there in due form
 of law given to the said John V. Mattison as the endorser
 40 thereof, and which said note endorsement and protest is now

in the custody of these defendants, and ready to be produced and proved, as this Honorable Court shall direct, and to which note endorsement and protest this defendant prays leave to refer, if it be necessary so to do. And this defendant prays leave also to refer to the by-law above mentioned, if it be necessary so to do.

And this defendant charges and claims that by reason of the indebtedness of the said Jacob S. Vough and John V. Mattison, as above stated, and by force and effect of the by-law above stated, no legal transfer of said stock could or can be made, until the said debt, interest and costs so due to this defendant from the said Jacob S. Vough and John V. Mattison shall be first paid and satisfied to this defendant. 10

And this defendant prays that a decree may be made by this Honorable Court requiring the said complainant and the said other defendants, or some or one of them, to pay to this defendant the said debt, interest and costs, or if it shall appear to this Honorable Court more equitable and just that said stock may be decreed to to be sold, and that out of the proceeds of the sale thereof this defendant may be first paid the said debt, interest and costs so due as aforesaid, with all reasonable costs and charges in this behalf unjustly sustained, &c. 20

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New Jersey to wit:

Philip H. Hann, of full age, being duly sworn on his oath, saith that he is the cashier of the First National Bank at Washington, a defendant named in the bill filed in said cause, and that he has knowledge and information as to the matters set forth in the above answer as facts, and this deponent further saith that the matters and things set forth in the above answer, so far as relate to the acts of the said 40

defendant, are true, and so far as relates to the acts of others
he believes them to be true.

P. H. HANN.

Sworn and subscribed before me, }
the 19th day of May, 1870. }

OSCAR JEFFERY,
Master in Chancery.

A true copy,

B. GUMMERE, *Clerk.*

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IN CHANCERY OF NEW JERSEY.

Between

DAVID M. YOUNG,
Complainant,

and

JACOB S. VOUGH, *et al*,
Defendants.} *On Bill, &c.*
} *Depositions.*

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Examination of witnesses in the above stated cause, taken before Samuel S. Halsey, one of the Masters and Examiners in Chancery, of New Jersey, at his office in Morristown, on Friday, the Second day of September, Eighteen Hundred and Seventy, pursuant to notice, duly served in the presence of Jacob Vanatta, Solicitor, and of Counsel with complainant, and Jehiel Shipman, Solicitor, and of Counsel of John V. Mattison. 30

Philip H. Hann, a witness, called and sworn on the part of complainant, deposes and says :

I reside at Washington, Warren County ; am Cashier of the First National Bank at Washington, in Warren County. This bank does business under the authority of the United States Banking Law. It was organized in November, 1864. 40

Its capital stock was One Hundred Thousand Dollars. The bank actually commenced business on the twenty-second of May, 1865—that is to discount paper, &c. I don't know that I had any connection with the bank at first. But at its first election I was elected Cashier. I have been Cashier ever since, and am now. I was not a director at the time I was elected Cashier. I was elected Cashier November 14, 1864. I afterwards became a director about two or three years ago. John V. Mattison was an original stockholder in the bank. Jacob S. Vough was also an original stockholder. Mattison had \$10,000—stock. Mr. Vough had \$3,000, stock. Dr. Mattison was one of the first directors elected. He has continued a director ever since, and has been acting all the while in that capacity. Jacob S. Vough became a director in May 22d, 1865. He was then appointed a director by the board to fill a vacancy. He was sworn in on June 5, 1865. I think I swore him—I am not quite positive. As judge of the Court of Common Pleas of the County of Warren, I then had authority to administer oaths. I think he was sworn in in the bank. I don't remember any one that was there when he was sworn in. I don't remember what directors were present at the meeting that appointed him. An entry of his appointment was made on the minutes. My impression is that the oath he took was a printed blank filled up.

Witness being shown a printed blank which I have marked Exhibit No. 1, on part of complainant, Counsel asks—

- 30 Q. Is that the kind of a printed form you issued?
 Objected to as irrelevant.
 A. I think it was like this form—

The Exhibit was also objected to by Mr. Shipman.

Witness says: We kept such blanks in the bank. The affidavit I think was signed by Mr. Vough—it must have been. (This testimony objected to by Mr. Shipman.) The original affidavit I sent to Washington City to the Comptroller of the Currency. I have a copy of it in the minutes

of the bank. John V. Mattison made a similar affidavit in 1864 or 1865. Mr. Vough was afterwards elected a director. He was elected a director in January following, namely, in January, 1866, January, 1867, January, 1868—three years. These elections were made by the stockholders. I am not certain that John V. Mattison was present at these elections, but I think he was. He was elected a director upon every one of those occasions. He was sworn anew after every election, and Vough also. The same form of oath was used on all those occasions. The same form in substance, but we generally swear them altogether, and they all sign the same oath. I am not positive that I always administered the oaths. I did it most generally, but since I have been a director it has been done by somebody else. Those original oaths were sent to Washington to the Comptroller of the Currency. I kept copies of them. They are in the minutes of the bank. Mr. Vough continued to act as a director until June 2d, 1868. I think he met quite frequently with the board of directors. He resided at Washington, in Warren County. I don't think that any other director attended more frequently the meetings of the board of directors than Mr. Vough.

Q. On the 2d day of June, 1868, how many shares of stock of the bank stood in the name of Mr. Vough?

Objected to.

A. Thirty shares of the par value of one hundred dollars per share. I could not say what their market value was. I don't know of any being sold at that time. We had at that time our capital intact and a surplus of about \$10,000. The stock was worth not less than par. Our surplus might have been more than that at that time. On the second day of June, 1868, Mr. Vough transferred his stock to John V. Mattison on the transfer book of the bank. I was not at the bank when it was done. John F. Woodruff, the clerk, was in charge of the bank that day. I am not positive, but I think I ascertained of its transfer that evening or the next morning. Prior to this transfer Mr. Vough had never told me he was not the owner of this stock that stood in his name. I do not remember that John V. Mattison prior to this transfer ever told me that the stock standing in Vough's

name belonged to him (Mattison.) Mattison had given no notice to the bank prior to that transfer that he owned the stock standing in Vough's name.

Q. When you learned of that transfer did you assent or dissent from it?

(Objected to.)

- A. I dissented to it. I think I first made known my dissent to Mr. Woodruff, and afterwards to Mr. Mattison and Mr. Vough both. That stock was never transferred to Mr. Mattison on the stock ledger of the bank. I refused to have it transferred on the ledger. I called the attention of the Board of Directors to this soon after. They refused to have it transferred on the ledger until the indebtedness of Jacob Vough was paid. I am not certain whether that order of the directors was entered on the minutes in writing or not. (The above testimony objected to by Mr. Shipman.) There had been dividends declared on this stock prior to its transfer every six months from the first day of April, 1865. The first dividend was in October, 1865, and every six months after.
- 20 Part of the time it was three and a-half per cent. and after that four per cent. I think the first were three and a-half per cent. All the dividends prior to this transfer were paid to Jacob S. Vough. Since that transfer dividends have been declared on that stock every six months. I think there have been four dividends declared since. They have been declared in Jacob S. Vough's name, and stated on our dividend book as in litigation. They have not been paid to anybody. My impression is that the first dividend since the transfer was three and a half per cent., and the others have been four
- 30 per cent.

Q. Did the bank claim to have any lien on those shares at the time they were transferred?

(Objected to.)

A. They did.

Q. By virtue of what authority did they claim that lien?

(Objected to.)

A. By virtue of the authority of the United States Banking Law and a by-law of our bank made in accordance with it.

- 40 Q. About what time was that by-law made?

(Objected to.)

A. In November, 1865. There are no printed copies of that by-law. It is recorded in the minute book of the bank. I have not the minutes of the bank here with me to-day. I think the bank held at the time of this transfer as indebtedness of Mr. Vough, a note of \$700, endorsed by D. M. Young.

Being shown a promissory note for \$700, dated May 4th, 1868, made by Jacob S. Vough, payable one month after date, at the First National Bank of Washington, and protest which I have marked Exhibit No. 2, on part of complainant, witness says : 10

That is the note. The bank at that time held another note made by Mr. Vough of \$500, endorsed by R. P. Strader. This note was not due at the time of the transfer. It had, I should judge, a month to run at that time. There was also another note of \$1,000, made by Jacob S. Vough, and endorsed by John V. Mattison. This was not due at the time of the transfer. This note is still unpaid and held by the bank. There was another note made by Jacob S. Vough for \$1,000, endorsed by James F. Van Doren. This was due soon after the transfer I think, and taken out by Mr. Van Doren. There were one or two other small notes made by Jacob S. Vough, but I have forgotten who the endorsers were on them, but they have been paid off since, and taken out by the endorsers. 20

Q. Which of the four notes you have described, if any, had been discounted by the bank for the benefit of Jacob S. Vough before that transfer.

(Objected to.) 30

A. The one thousand dollar note that Mattison was the endorser upon. The \$500 that Mr. Strader endorsed I think also. I don't remember about the one Van Doren endorsed, but I rather think that was. I think the seven hundred dollar note was discounted for Mr. Young. I can't tell the time the seven hundred dollar note was discounted, but I presume about the date of it. I do not know whether Jacob S. Vough had anything to do with discounting that note. I presume he was present. I don't remember who came with 40

Mr. Young when that note was submitted for discount.

Q. In discounting those notes made by Mr. Vough was the bank influenced by the fact that Mr. Vough had thirty shares of the capital stock of that bank, or in other words did the fact of Mr. Vough having that stock, help or improve his credit with the bank.

Objected to as leading, and illegal in other respects.

A. I can't say whether the board of directors were influenced any by his holding stock or not. I don't know
10 whether the board of directors would give him any more credit by his having stock there or not—I would.

Q. With you, as an officer of the bank, did it influence you in conceding credit to Mr. Vough's paper?

Objected to on same grounds as above.

I don't know that it did influence me at all, although I would consider it safer if I had doubts of him.

Q. Were there any other privileges conceded to directors in the matter of discount that were not given to any other person?

20 Objected to same as above.

A. I don't know that there was, with the exception that the directors were allowed one thousand dollars for six months with the privilege of renewing it. They were all allowed to renew as often as they wished. They paid the regular discount. Only a few of the directors had this.

Q. Were any of those four notes you have mentioned six months notes?

Objected to.

A. The one Mattison was endorser upon was a six months
30 note. I should think this note had been renewed four or five times prior to this transfer. This note, Exhibit No. 2 of \$700 was taken up by D. M. Young. I should think something like a month after it was due. He paid our bank the amount due on the note when he took it up.

Q. Did the Sheriff of Warren make a levy on those 30 shares of stock at the suit of Young?

Objected to.

A. I believe he did. Shortly after Young took up the
40 note. I was not present when the Sheriff sold any of that stock on the execution.

Q. Did Mr. Young show you a bill of sale of ten shares of that stock, made to him by the Sheriff?

Objected to.

A. I think he did.

Being shown a paper purporting to be a bill of sale of ten shares of stock, which I have marked Exhibit No. 3, on part of complainant, Counsel asks—

Q. Is that the paper he showed you?

10

A. I can't say, it looks as if it might be. I don't know that I ever saw the Sheriff write anything, but I think this looks like his signature. Mr. Young, I think, showed me that paper in the director's room of the bank. I could not tell at what time. It was not long after the sale. I think Mr. Young, at the time he showed me that paper, asked me to transfer the ten shares of stock to him. I refused to do it. It has never been transferred to Mr. Young. There was a meeting of the board of directors at the time Mr. Young preferred that request. At the time I refused to make the transfer to Mr. Young, I acted in accordance with the directions of the board.

20

Counsel for John V. Mattison admits the genuineness of the signature of the Sheriff to this bill of sale, marked Exhibit No. 3, and dispenses with the calling of the subscribing witness thereto, but objects to it on the ground of relevancy.

Cross-examined by Mr. Shipman.

30

We keep a minute book of all the transactions of the board of directors of the bank. I have known Jacob S. Vough some seven or eight years. I think he came to live in the neighborhood of Washington some seven or eight years ago. He came from Cincinnati, I think. He had relatives in the neighborhood—his father lived there, his name was Ira C. Vough, and he lived in Washington. His father was a tanner. He (Jacob) had an uncle, Mr. Robert P. Strader, living in the neighborhood. No. I think Robert P. Strader is an uncle to Jacob's mother. William

40

W. Strader and Charles Strader are uncles of Jacob S. Vough. William W. Strader is a director in our bank and has been one since its organization. He lives about a mile and a half or two miles from Washington. Jacob S. Vough was in the tanning business with his father. He was a member of the firm, he was in no other business I think. Upon reflection, I think at the time of the transfer he had gone out of that business and had been buying grain.

10 *Q.* Was he a man in good financial credit in Washington while he was in business with his father?

A. He was, I think, and was so up to the time of the transfer, I think. The by-law I have referred to is recorded. No public notice was given of it. I don't remember when Robert P. Strader took up the \$500 note, it was not long after it was due. I don't remember when Van Doren took up his note. The one thousand dollar note, on which Mattison was endorser, has been protested, and Mattison is charged as endorser. I did not examine the books of the bank to see how often it had been renewed. I merely guess
20 at the number of times. I am not sure at all that I am correct. I can't tell the time when Mr. Young asked for a transfer of this stock.

Q. Had you had no intimation prior to the second day of June, 1868, when Vough made this transfer to Mattison that Mattison was the real owner of those thirty shares of stock?

A. I think I had had intimation that he was the owner of other shares of stock that were not in his name, but am not positive that I had had intimation that he was the owner of this. I think Dr. Mattison gave me some intimation. I
30 think it was before June 2d, 1868. I don't remember that any one was by. I don't remember of talking to anybody else about it. He (Mattison) told me that he owned A. P. Berthoud's stock. I don't know that he told me of any others. I am under the impression that he did tell me of others.

Q. Do you recollect my having a conversation with you in the bank on one occasion prior to June 2d, 1868, in which I mentioned to you that the stock standing in the names of Vough, William W. Strader, and Berthoud, and
40 William Winter belonged to Mattison?

A. You might have done so, but I don't remember. It is very likely you did, but I don't remember. I think Young got the money on the \$700 note. It was discounted for his accommodation. The five hundred dollar note Mr. Vough got the benefit of.

Re-direct :

Q. Had the note endorsed by Robert P. Strader been renewed prior to June 2d, 1868, and if so, how often?

A. I think it had been renewed, but I have no recollection as to the number of times. 10

Q. At or about the time of the last renewal prior to June 2, 1868, do you remember Robert P. Strader's calling at the bank and making inquiry about Jacob S. Vough's bank stock?

A. I do not.

P. H. HANN.

Sworn and subscribed before me, this 2d }
day of September, A. D., 1870. }

SAMUEL S. HALSEY, M. C. C. 20

Robert P. Strader, a witness, called and sworn on the part of complainant, deposes and says :

I reside near Washington, Warren County, New Jersey, and have lived there a great many years. I know the First National Bank at Washington, and Jacob S. Vough, and Dr. Mattison—they are all neighbors. Jacob S. Vough is a son of my brother's daughter. I endorsed a note for Jacob S. Vough. The first note I endorsed for him was for \$1,000. It was renewed several times, and my endorsement was renewed each time. I was an accommodation endorser. The money was got for Mr. Vough. I never got any of it. The note was discounted at the first National Bank at Washington. The last renewal was made just before the time of this transfer. The note was not due at this time. It came due just after the transfer. I think it had two months to run. The note was reduced before the last renewal to five hundred dollars. 30

Q. State what occurred at the time you made the last renewal? 40

(Objected to.)

A. I think prior to the last renewal I went to the bank to ascertain the amount of stock Mr. Vough had, and I talked to Judge Hann about it. I think Woodruff was present. The Judge said he had stock enough to secure me. I told the Judge the note had been running some time, and I thought it was about time it was paid. That I would not renew it but once more any how. The note then stood \$1,000. I went to the bank to ascertain about the stock and to know when the note came due. I knew he had stock, but
 10 did not know how much.

Mr. Shipman objects to all conversation between witness and Judge Hann.

Before I went to the bank I don't think I asked Mr. Vough about the stock. I don't know that the Judge told me how many shares Vough had, but he did tell me that he had stock enough to secure me. The reason why I wanted to know about the stock was I did not know how much property he had, and I thought it was well enough to look out for those things. Vough was buying grain. The note had
 20 been running a long time, and I thought it was time it was paid.

Examination of witnesses adjourned to Friday afternoon at 2 $\frac{1}{4}$ o'clock.

Friday afternoon, 2 $\frac{1}{4}$ o'clock parties present pursuant to adjournment.

Direct examination of Mr. Strader continued :

30 Q. If you had found upon making inquiry at the bank that he did not own any of the bank stock, would you have endorsed that note in renewal the last time?

(Objected to.)

A. No, sir.

Q. About how long after that renewal did you hear of the transfer of that stock to Dr. Mattison?

A. I think the note was renewed for sixty days. It had run about a month. After I heard Mr. Vough had failed I met Dr. Mattison in Washington. He asked me if I had
 40 not endorsed those notes. I told him I had. He replied do

you know that that stock in the bank belongs to me. I told him I did not, and he said it did, and he had a bill of sale or deed of trust for it. I told him that stock stood in the bank to Mr. Vough's credit, and I supposed it was his. He replied again that the stock belonged to him. I asked him then how he come to do it in that way, and he said that Jacob Vough was a young man and out of business, and he had done it to give him a credit, and use him whenever he wanted to, and that he could not have got that position if it had not been for him. I took up the note I endorsed shortly after it came due. I think likely within a month, may be sooner. I took it up by giving another note with another endorser. 10

Q. How did you learn that Mr. Vough first had any stock in the bank?

A. It is generally known in our neighborhood that a man cannot be a director in a bank without he is a stockholder. I knew that Mr. Vough was acting as director in that bank.

Cross-examined.

20

I have known Mr. Vough from the time he was five years old. He had been living with his father until he was between 15 and 20 years old, and then he went to Cincinnati and lived with a brother of mine. He sent him to school until he got to be a man, and gave him a good education. He left him some \$2,500 when he died, by will. He remained at Cincinnati after the death of his uncle for a while, and then came to New Jersey. He was in the railroad office at Cincinnati at the time of the death of my brother. He came to New Jersey several years ago, and went in partnership with his father. He was rather a favorite with us, and is yet. This is not the only note I have endorsed for him. I endorsed this note at its renewals several times, and I went security on another note. That was \$1,500. This was to Mr. William Richey. I went on this shortly after he came from the West, when he went in business with his father. I was on that note for two years or so. His father eventually took that note, or became responsible for that. I don't know that there was any other paper that I was security on of his—there might have been. I could not tell when 30 40

I first endorsed the \$1,000 note. Mr. Vough's credit was always very good in Washington while he was in Washington. I became alarmed about Mr. Vough, and went to his father. The conversation between me and Mattison occurred in Washington. I don't know where it was in Washington, but I am very confident we had the conversation. I think it was the first time I met Dr. Mattison after Jacob Vough had failed. It was very shortly afterwards. I am at Washington every day and the Dr. is too. I could not tell who
 10 began the conversation. It is a thing we both would talk about. I could not tell how long we talked. We talked long enough to talk the matter over. It was before I paid the note off. I don't know that any body was by. I can't tell who introduced the subject. One was as liable to do it as the other.

Q. Will you state in what language the conversation between you and Dr. Mattison, on the occasion you have spoken of, was introduced?

A. I don't know which one introduced the conversation,
 20 but I do know that we both talked about it, and talked very freely.

Q. Did you not introduce the conversation by asking Dr. Mattison if it was true what you had heard, that he was the owner of the stock?

A. I could not tell you because he talked about it as freely as I did. He complained of being injured also, and pronounced Vough a damned rascal, and said he had placed that stock in his hands to befriend him.

Q. Was not the whole of the Doctor's conversation
 30 denunciatory of Vough, for cheating him?

A. He complained about as much as I did. He said he had been Mr. Vough's endorser too.

Q. Have you pretended to give, in your principal examination, the language of Dr. Mattison, on the occasion referred to?

A. I think I have told you all the conversation that occurred between the Dr. and me on that occasion, in reference to this matter.

Q. Question repeated.

40 *A.* As near as I can recollect.

Q. Can you recollect whether you have used the words which Dr. Mattison used on that occasion?

A. Yes, sir; I can recollect that very distinctly, and I have given you that. No one was present at the first conversation we had. We have had several conversations since. I don't think the Doctor told me the amount that he was endorser for in this conversation.

Q. You have not pretended to give us, have you, all the conversation that passed between you and Dr. Mattison, on this occasion, about Jacob S. Vough?

A. All of any importance. 10

Q. Please to give us the balance that passed between you on that occasion about Vough whether it is important or not?

A. He complained of Mr. Vough as betraying his trust. He said he would be a damned rascal if he did not pay me.

Q. Who had you ever heard say in your neighborhood that a person could not be a director in a bank unless he is a stock holder?

A. Everybody knows that. Any common little school boy knows that. I can't name anyone I ever heard say so. I think Mr. Groff and Mr. Shield have mentioned it to me. They are directors and the bank has been very kind to me. 20

Q. Can you tell whether Mr. Groff or Mr. Shields ever did say to you that it was necessary for a man to be a stockholder in the bank before he could be a director?

A. I am satisfied upon reflection that they both talked to me about it. They have both been directors for some time. 30 It has been sometime during the last two or three years. It has been since June, 2d, 1868, that I have talked with Mr. Shields and Mr. Groff about that, but it has been known by common report, and I have known it ever since the bank opened.

Q. Who reported it to you before the second day of June, 1868, that it was necessary for a man to be a stockholder in any bank before he could be a director?

A. I don't know that I can mention anyone in particular. I am sixty-five years. Mr. Vough confessed a judgment to 40

me for this money. I paid for him. I had the sheriff levy on this stock and sell it too, and I bought ten shares. I have no interest in this suit. I calculate to bring a suit. I can't give you the month I went to Judge Hann. It was just before the last note was renewed that I had the conversation with Judge Hann. The note was then for one thousand dollars. I think it was given for five hundred dollars, but the once. I don't know where that note is. It may be in bank or it may be home. I have not commenced my suit
 10 yet. I can't tell you when I expect to, but not till I get ready. I will bring it before I see the issue of this, if I think prudent. This suit has nothing to do with me.

Q. Is not the reason you have not begun your suit because you wished to see how this one results?

A. I intend to try my case if this one is lost.

Q. Question repeated.

A. No, sir. That is no reason at all. If I don't change my mind I intend to bring my suit. When banks get to swindling I think it is bad business for the country. At the
 20 time when I went to the bank to see Judge Hann before about the renewal of this note I think Judge Hann was there alone.

Q. Please state what you said to Judge Hann in introducing the subject to him?

A. I think I went to Judge Hann for information to know Mr. Vough's indebtedness to the bank. He told me about my note and about Mr. Van Doren's. He did not tell me about the one Dr. Mattison endorsed. He told me I was safe. I went then to ascertain Mr. Vough's indebtedness to
 30 the bank.

Q. Tell now what you said to Judge Hann in order to get the information you went after?

A. I went to ascertain Mr. Vough's indebtedness to the bank to know how much I was endorser for Vough for. I I asked Judge Hann how much I was endorser for Vough and how many notes he had in the bank. He referred to his bank books and told me.

Q. State now all that Judge Hann said in reply to your question.

40 *A.* He told me the amount of the notes, and replied by

saying that I was safe at present. He told me the amount of my note and that of Van Doren. He told me my note was \$1,000, and he told me the amount of Van Doren's note, but I could not exactly tell you what it was. Those two notes were the only ones he gave me if I recollect right.

Re-direct examination :

Q. At the time you called at the bank to ask the cashier about Mr. Vough's indebtedness to the bank did you ask the cashier anything about Mr. Vough's being a stockholder, 10 and if so, what did you ask him ?

(Objected to.)

A. I did not ask him.

Q. What, if anything, did Judge Hann tell you about Vough's stock ?

A. He did not tell me the amount, and I don't know that he mentioned stock.

Q. How then did you know that Vough owned any stock at that time ?

A. From the fact that he was a director in the bank. 20

Q. How did Judge Hann come to say that you were safe. Had you said anything about Vough's responsibility or what led to his making that remark.

(Objected to.)

A. I suppose the way he came to make that remark I was a little fearful about Vough as his endorser.

Q. How did Hann learn that you were fearful of Vough ?

A. I told him I was. I told him what had excited my fears. I told him I had had a conversation with Mr. Vough's father, and he had told me that Vough had drawn all out of the firm he had there. That is the reason why I went to Judge Hann. We talked then about Vough's indebtedness to the bank. I did not know how many notes he had in bank. He told me of the notes in the bank. 30

Q. Was there any talk between you and Judge Hann, on that occasion, respecting Vough's means of payment ?

A. No, sir ; there was not.

Q. How did you come to go to the bank on that occasion ?

(Objected to.)

A. I was fearful I was going to lose money. 40

Q. What made you fearful you was going to lose money ?

A. From the conversation with Mr. Vough's father, I had two reasons. I was security in the Richy note that stood open about that time, and report in the neighborhood said that they had lost money in the tanning business, which made me go to his father, and he was then in the grain business, and that is a very precarious business, and that led me to go to the bank, and then I had the conversation with Judge Hann.

10 Q. When did you first learn the amount of stock he had in the bank ?

A. It was shortly after the flareup of Mr. Vough. Shortly after it came out that he had made the assignment or transfer of the stock to Mattison.

Q. You speak of Vough's flareup and Vough's failure—what do you mean by that ?

A. I mean that he was displaced in the bank from being a director, and ceased to do business in his own name. This failure occurred in the summer of 1868. I mean the time
20 when his stock was transferred to Dr. Mattison. That was the first we knew of it in the neighborhood.

Upon reading the testimony over to witness he wishes to correct it by saying that he don't know that Judge Hann, in his conversation with him, mentioned stock.

2d Cross-examination.

Q. When had you this conversation with Mr. Vough's father ?

30 A. It was prior to the note's falling due—just before it was renewed the last time.

R. P. STRADER.

Sworn and subscribed before me, this 2d }
day of September, A. D., 1870. }

SAMUEL S. HALSEY, M. C. C.

David M. Young, a witness, called and sworn on the part of complainant, deposes and says :

40 I board at Port Colden, one mile from Washington, Warren County. I lived at Washington in 1868, and prior to

that. Being shown Exhibit No. 2, witness says this promissory note was given to me at the time it bears date. This note was given in part payment of a note of \$5,600, held by me. The five thousand dollar note was made by John Canfield, Jacob S. Vough, and John V. Mattison. The \$5,000 note had been given to me for mules purchased of me by them. All three of them were purchasers of the mules. At the time this note No. 2 for seven hundred dollars was given they gave me a check for I think \$2,700, and a note for six hundred and eighty-nine dollars, or six hundred and ninety eight dollars, and this note of \$700, No. 2, and the balance, I think, was given to me in two or three notes which they had got for mules. 10

Q. Why did you take this note, with but one maker to it, in part payment of a debt for which you held three persons.

A. They wished to effect a settlement between themselves, the three parties, and they gave me this check and other notes, and Mr. Vough then said to me, I will give you my note for my balance, for sixty days I think he wanted at first, but afterwards made it for one month. I was a stranger in the place, and though I knew the men I did not know much of their circumstances except Dr. Mattison. I said I did not care to give three names up and take one. Mr. Vough said he thought his note was good for \$700. I said I could not take it unless I could get it discounted. Mr. Vough said he was a director in the bank, had three thousand dollars worth of stock in there, and he could get it discounted for me right away. I think I said to Mr. Mattison and Canfield, both, that they might as well put their names on it, Mr. Mattison remarked to me that it was perfectly good, and would answer me the same as money, as Vough was a director and a stockholder, and could get it discounted for me that same day. Vough said he could get it renewed if it was not paid if necessary. Mattison was present at the conversation between Vough and me. Canfield was present also. It took place at Mr. Canfield's office at Washington. 20 30

Q. Did Mattison hear Vough tell you that he was a director in the bank and had \$3,000 worth of stock.

(Objected to as leading.)

A. I should think so, we were all in a small office together; 40

the office was not more than eight feet square. The remarks of Mattison about Vough's being good were part of the same conversation and made at the same time and place. Mattison saw the \$700 dollar note given.

Q. Had you heard before that that Mr. Vough was a stockholder in that bank?

A. No, sir. When they purchased the mules of me they, Mattison and Vough, both told me they were directors in the bank. After I got the note I think Vough, Canfield, and myself went with it to the bank to have it discounted. I got it discounted the same day. I can't say positively whether he took the note in and got it discounted for me, or whether I took it in. My impression is that Mr. Vough handed it to the board and got it discounted for me. He said something to the cashier or whatever person discounted it for me about getting it discounted. He went over to the bank to get it discounted. Mr. Vough did not pay that note at maturity, and it was protested, and I had notice of protest. I paid that note at the bank. At the time I paid it I said something to the bank about my having the benefit of the lien they had against Vough for that note.

Q. What did you say to them on that subject?
(Objected to).

A. I asked them if they could not hold his stock for the payment of this note. He thought the stock was holden for it, if I could not pay it, although he told me that Mr. Vough had made an assignment of it to Mr. Mattison, but the assignment was not recognised by the bank and that they would look into the matter and let me know in a few days.

Q. What did you say to them about wanting to stand in their shoes after you had taken the note up?

(Objected to).

A. I asked them if I could not have the same rights on the stock as they had. They said I could if I paid it off.

Q. Did you say you wanted the same rights that they had.

(Objected to).

A. I did, sir. After I had paid off the note I tried to get

Mr. Vough to make it good to me; I went to Mr. Vough and asked him if he would pay it off. He said he could not just then—but that it was perfectly good. I then asked him if he would secure me. He said he would give me a confessed judgment. I asked him if that would be good for anything, as he had transferred his bank stock. He said that transfer was merely a fix, and advised me to take a confessed judgment, and go right on and take the stock. He said the fix was made to keep some New York men from getting hold of it—some men that he had bought grain of. He stated who they were but I have forgotten them. I got a judgment on the note, and had an execution issued thereon, and a levy made on the bank stock. It was advertised and sold at the Washington Hotel. I showed Dr. Mattison one of the bills of the sale or advertisements before it was sold. The bills were sent over for me to put up. I most forget what the Doctor said about it. He said I might go to hell or something like that. I put up the advertisements—four I think. One at the Washington House, one at Pirson's Hotel, one at the Meat Market, or Johnson's store, and one up on my own stable. I kept a livery stable. I put the notices up eight or ten days before the sale, or may be more. Sheriff Metz sent me the bills to put up, signed by him. These places where I put up those notices were all in the borough of Washington.

Friday morning, August 28th, 1871, examination of Mr. Young continued by Mr. Vanatta, pursuant to notice before me at my office in Morristown.

SAMUEL S. HALSEY, M. C. C.

I was at the sale when the Sheriff sold the ten shares of stock, and I bought them. The Sheriff gave me a paper to show my purchase, and to take to the bank.

Being shown Exhibit No. 3, on part of complainant, witness says:

This is the paper the Sheriff gave me; I went to the bank with this paper; either a very few days after I got this paper or the same day, I am not certain; I saw at the bank most all of the Board of Directors—Judge Hann and the cashier of the bank; I presented the paper to Judge Hann; he read 40

it ; I asked him to transfer the bank stock mentioned in this bill of sale to me ; they did neither consent or refuse to do so just then ; they said they would let me know when the Board broke up ; when the Board broke up they said they could not very well do it just then, as Mattison had made a claim to this stock ; it was not transferred ; they did not do it ; that is about all they said to me ; they have never transferred this stock to me ; nor have they ever paid me any of the dividends declared on the stock. The first I heard of
 10 Mattison's having any claim to this stock was directly after Vough's failure, in June or July, 1868 ; Vough still claimed the stock after Mattison laid claim to it ; he told me it was his.

(This testimony objected to by Mr. Shipman.)

Q. After your note, Exhibit No. 2, became due did you say anything to Mr. Vough about his bank stock, and if you did, state what you said to him, or he to you, about it ?

(Objected to.)

20 A. After it came due I asked Mr. Vough if he was going to pay that note ; he said to me I can't just now, but you need not give yourself any uneasiness ; there is plenty of security to make it safe ; I said, in what way ? he told me he would give me a confessed judgment, and I could levy on his bank stock ; I said to him I understand you have assigned that to Mattison ; he said the bank had not recognized it, and it was a mere fix to keep these New Yorkers from getting hold of it ; he gave me a confessed judgment, and I had the stock levied on.

30 Q. At or about that time did you hear Dr. Mattison say anything about the bank stock that stood in Vough's name, and if so state what was said about that stock and Vough ?

A. Well we all of us had talks over the matter ; Dr. Mattison said he had helped him to get this stock, and lent him the money, and tried to help him along to give him a start and a credit, and he said in his rough way of talking that the damned rascal would cheat him out of it if he could ; I heard him say this more than once—a half a dozen times ;
 40 every few days we would have conversations about it.

Dr. Mattison states in his answer in this cause that on the day Vough gave you this note, Exhibit No. 2, he, Mattison, signed a check for \$5,000, on which the money was drawn; just state what, if anything, you know about that check?

A. I never had any such check; I do not know about his giving any such checks to any one that day; Mattison, Canfield and Vough, I think, gave me a check that day for some sum, from \$2,300 to \$2,900 dollars, I forget the exact amount, and notes enough with that check to make up the \$5,000; this \$700 note, Exhibit No. 2, was one of those notes; and another note of \$685 or \$689 was also a part of it; I had it discounted at the Iron Bank. 10

Q. When this note, Exhibit No. 2, was discounted at the First National Bank at Washington, did Jacob S. Vough have anything to do with procuring its being discounted, and if so state what?

(Objected to.)

A. When he gave me that note he said he would have it discounted for me that day; he took the note to the bank and presented it for discount, and got it done; it was discounted. 20

Cross-examination by Mr. Shipman.

I had not known Jacob Vough a great while before I made the sale of the mules to him and got this \$700 note; I moved to Washington in the spring of 1868; before that I lived in Chester, in Morris county; I should think I have known Dr. Mattison ten years, and may be longer; when I first moved to Washington in 1868, I was in the horse business and livery; I had never done any business with Vough before this transaction with him; the night before I sold him the mules I sold him a horse, and when I sold him the mules I took the horse back; he did not pay me the money for the horse, but agreed to in the morning; he was to have given me \$100 for the horse; this transaction about the sale of the mules took place in Mr. Miller's hotel; I did the business with all of them; I think Mattison was the first man that talked of buying me out; Mattison did not sign a check alone to me but all of them signed it together; it was signed at Washington; I think they all signed it in their 30 40

individual names; I did nothing with it; I think I left it either at the Washington Bank or the Iron Bank of Morristown, and I have never taken it away since. The \$689 or \$685 note was protested, and they were all sued on it by the bank; they got a judgment against them, and Mattison paid it I think; I think Coult, at Newton, has this note, or somebody at Newton. This conversation about the \$700 note when he gave it to me, and about Vough being a stockholder and director in the bank, took place in John
10 Canfield's office; Canfield was present, Dr. Mattison was present also.

Q. Have you not told the Doctor since that he was not present at any such conversation?

A. No, sir; Doctor was not at the Warne Farm when the contract for the sale of the mules was made, and I did not have to go down after him; I did not go down there to get him to sign the check; I was down there one evening a night or two before to get him to come up; I lived in Washington two years and a little over; I now live in
20 Newark; I am in the business of dealing in horses.

Q. Where did this conversation take place between you and Vough, when he said he would give you a confessed judgment, and you could levy on this stock, &c.?

A. At Washington; I think it was in my stable; I don't think any one was present; it was a very short time after the note was protested; it strikes me it was in June; I could not tell the day.

Q. When did you have the conversation with Mattison, which you have given here, in which he said he had lent
30 Vough money to buy the stock, &c.?

A. That was about the time I got the judgment against Vough, and right along after that; I think Robert Strader was present at one of these talks.

Q. The Doctor always claimed that he was the owner of this stock, did he not?

A. I never heard him claim anything about it till about the time of this sale.

Re-direct by Mr. Vanatta.

I don't know where John C. Canfield is now: he is some-
40 where in Kansas or Nebraska; I could not find out exactly

where he was; it appears to me he moved away from New Jersey a year and a half or two years ago; I have tried to find out where he was located, but I could not find out where he was; I could not say whether Dr. Mattison was at the bank when note, Exhibit No. 2, was discounted.

D. M. YOUNG.

Sworn and subscribed this 25th, }
 day of August, A. D. 1871, }
 before me,

SAMUEL S. HALSEY, M. C. C.

10

The counsel for complainants here states that the testimony on his part is here closed, with the exception of the introduction by him hereafter of a copy of the by-laws of the bank referred to in the pleadings, and a copy of the oath of the directors, as referred to by Judge Hann.

In the above examination notices of the taking of testimony in this cause on this day were produced before me, upon which was an acknowledgment of services endorsed respectively, by Joseph Vliet, Solicitor of First National Bank, which notices are hereto annexed.

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10

IN CHANCERY OF NEW JERSEY.

2)

Between

JOHN V. MATTISON, AND OTHERS,

Defendants,

and

DAVID M. YOUNG,

Complainant.

3)

Examination of witnesses on the part of the defendant, John V. Mattison, taken before the subscriber, a Master of the Court of Chancery, at the office of——Shrope, in the village of Washington, on the twenty-ninth day of November, A. D. 1871, in the presence of J. G. Shipman, Esquire, Counsel for the defendant, John V. Mattison, Joseph Vliet, Esquire, Counsel for the defendant. The First National Bank of Washington, and of Jacob Vanatta, Esquire, Counsel for the complainant, service of notice being admitted by the parties.

40

WM. H. MORROW, M. C. C

John F. Woodruff, a witness, being produced on the part of the defendant, John V. Mattison, being duly sworn according to law, upon his oath saith : I reside in Washington, N. J., I am teller and book-keeper in the First National Bank of Washington ; have been so seven years the first day of April next, since the organization of the Bank ; am acquainted with Dr. Mattison and Jacob S. Vough, have known the latter a number of years ; I am not positive that I knew him when I went into the Bank. The Bank keeps a Transfer Book.

10

Being shown Exhibit A, on the part of the defendant Mattison, the witness saith : That is the Transfer Book of the Bank ; the only one in use, I think we have two books, but have never used but this one.

Q. Did Jacob S. Vough ever make a transfer of stock in that book of John V. Mattison ?

A. He did.

Being shown page 19 of the Transfer Book, witness saith that is the transfer ; I was a subscribing witness to the transfer and that is my signature as such witness. I filled it up at the request of Mr. Vough ; I saw Vough sign his name there ; no one was present when he made that but myself and him ; Dr. Mattison was not in the Bank or about it at the time. As near as I remember it was between nine and twelve o'clock in the forenoon ; Judge Hann, the Cashier, was absent, I think at Belvidere.

Q. State all that passed between you and Vough at the time he made the transfer in that book ?

30

A. I don't know that I can give all the conversation, I will give a part. He came in and called for the book of transfers, then asked me to fill up a transfer, as he wished to transfer his stock to Dr. Mattison ; I told him he had better wait till the cashier returned, as that was a part of his duties and not mine ; that I had never filled a transfer even in the presence of the cashier, unless directed so to do by him ; I told him to fill it up himself and I would witness it. He said he thought it would make no difference, it mattered but little who filled it, him or me, so that his signature was to it. I

40

then filled the transfer, and saw him sign it, and signed my name as a subscribing witness to his signature.

Q. Please give a copy of that transfer as it is on the transfer book, word for word.

Complainant's counsel objects to the admission of that transfer in evidence, because the transfer was illegally made, and because it was not stamped with a revenue stamp, as required by law, and because the making of it by Vough at the time was a violation of his duty as a director of the Bank, and was in fraud of the Bank and of the complainant in this cause, and of the other creditors of the said Vough, and was wrong altogether.

A.

19

First National Bank, Washington, N. J.,

For value Received, I hereby transfer unto John V. Mat-
tison—all my right, title, and interest in—Thirty—
Shares of the Capital Stock of

20 THE FIRST NATIONAL BANK, WASHINGTON, N. J.
Washington, June 2nd, 1868.

JACOB S. VOUGH.

WITNESS,

JOHN F. WOODRUFF,

That is a correct copy.

I think Mr. Young saw that transfer ; there was a number who came in to see it, and I might be mistaken about Mr. Young. I can't tell the time when Mr. Young came. I can't tell the time when Mr. Young saw it from the date of the transfer.

The date of the transfer there is the actual time when he made it.

And being cross-examined by counsel for the complainant, witness saith :

On the second June, '68, James K. Swayze was President of the Bank, and had been President from the time the Bank was organized up to that time, and has been the President ever since. He then resided at Hope. I think that is about twelve miles from this place.

I think Mr. Swayze was not in the Bank or at Washington on the second June, 1868. He was not at the Bank.

We had no other officers or clerks employed in the Bank at that time, beside Judge Hann and myself; on that day there was no substitute at the Bank to fill Judge Hann's place.

Jacob S. Vough was a director of the Bank at that time. Mr. Vough had nothing to do with the business of the Bank except to meet with the board of directors, when they were in session. I don't remember that I saw Dr. Mattison on that day, the 2d of June, 1868—on that day or on any prior day Dr. Mattison did not say anything to me about Vough's assigning his stock to him. 10

Q. You say that when Mr. Vough asked you to fill up the transfer that you told Mr. Vough that making or attending to the transfers was a part of the Cashier's duties, and not a part of your duties, and that you had never filled up a transfer even in the presence of the Cashier; was that statement according to the fact, that is, strictly true?

A. I believe it was. 20

Q. What reason, if any, did Mr. Vough give for not postponing the transfer till the Cashier returned?

A. He said he wished to return to New York. He had just come from New York that day or the day before, and he wished to go back.

Mr Vough then resided in this place.

Q. Did he explain to you why he could not just as well wait till he returned from New York, and till the Cashier got home?

A. He made no other explanation than that he wished to go to New York. 30

I don't remember that he said how long he expected to be away in New York. I don't know whether he did go to New York that afternoon. I don't remember when I next saw him; can't tell whether it was long or short, whether the next day or the next week.

I don't remember that I told him when Judge Hann would return, or that he asked when he would return. When he came in he asked where Judge Hann was, and I may have told him, but I don't remember the whole conversation. It 40

would have been very natural for me to have told him where Hann was when he asked the question.

Q. Did not Mr. Vough give you any information or explanation of the reasons why he wanted to make the transfer that day, and why he was not willing to leave it until the Cashier should be at the Bank, other than what you have already stated?

A. I think not; no other explanation.

10 After I had filled the transfer and he had signed, he said the stock rightfully belonged to the Doctor.

Q. At the time Vough signed that transfer did you know that your Bank held a note or notes against Vough, or that he was in any manner absolutely or contingently indebted to the Bank?

A. I did.

20 *Q.* At that time were you aware that a rule or by-law of the Bank gave the Bank a lien upon the stock of such of its stockholders as were indebted to the Bank for their indebtedness to the Bank, and that that rule or by-law forbade a transfer of the stock, until the indebtedness of the stockholder to the Bank was paid, or of any similar rule or by-law?

Defendant objects to this question because it calls upon the witness to state a conclusion of law and also to give the contents of a paper without producing the paper.

A. I did.

The further examination of the witness was adjourned to the hour of half-past one o'clock in the afternoon.

WM. H. MORROW, M. C. C.

30

At half-past one o'clock the examination of the witness, John F. Woodruff, was resumed, in the presence of the respective counsel.

The witness saith:

40 *Q.* At the time Vough was making that assignment did you not dispute or deny Vough's right to make the transfer till he had paid what he then owed the Bank, and if you did state what you said to him and what he said to you, on that subject?

A. There was no dispute, I simply told him I had no right to make the transfer.

Q. Did you not mention or call his attention to that by-law?

A. No sir.

Q. Why did you not?

A. Not deeming it my duty to fill out the transfer, I did not think it my duty to say anything about the by-law; he being a director and subscriber to those by-laws, would know what his duties were, certainly.

Q. Did you say anything to Mr. Vough about bringing the transfer to Judge Hann's notice upon his return, and if so state what was said on that subject?

10

A. I don't remember that I did.

There was no revenue stamp put upon that transfer, as was the case with many others.

Q. At the time you filled it up and Mr. Vough signed it, did he say anything about the revenue stamp, and if so what was it?

A. I don't remember that there was anything said about the stamp, either by me to him or by him to me; he might have paid for the stamp, as was often the case, or he might not; I don't remember anything about it.

20

Q. Have you any recollection of his paying you any money on that occasion for a stamp, or for anything else?

A. I have not; but paid him money on deposit. I mean I paid a check; he had money on deposit, and drew it on a check. I think he drew out at that time all the money he had on deposit.

I think I recollect his asking me how much money he had there on deposit, and my recollection is that he drew the balance due him at that time.

30

Q. What reason, if any, did he give for taking away all the money that stood to his credit?

A. He gave no reason.

Q. When did Judge Hann next get to the Bank, after Vough signed that transfer?

A. I think he returned the same evening; that is my impression.

40

Q. Did you draw his attention to this transfer of Vough's, and if so how soon after he got to the Bank?

A. I called his attention to it the first opportunity. I don't remember whether it was the same evening or the next morning.

I think it was at the first meeting between him and me at the Bank.

Q. What did he say about it?

Objected to by defendants as being hearsay.

10 *A.* He said it cught not to have been done till he returned.

Q. Did he say whether he was a going to allow or disallow it?

Objected to by defendants as being hearsay, and a leading question on new examination.

A. I don't remember that he said he would or would not allow it.

We keep a Stock Ledger in our Bank—that transfer was not charged against Mr. Vough's account on the Stock Ledger. That stock was never credited to Dr. Mattison's account
20 on the Stock Ledger.

Q. To whose account have the dividends been credited that have accrued on that stock, since the 2d June, 1868?

A. They stand credited to Jacob S. Vough.

Q. Was this transfer of Mr. Vough's brought to the attention of the board of directors, and if so, how soon after the transfer was signed?

Objected to by Mr. Shipman, because irrelevant and not a cross-examination.

30 It was not by myself; the Cashier brought it to their notice. I have no communication with the directors when they are in session, unless they call for me.

Q. At or before the time of signing that transfer, had you heard that Mr. Vough was in embarrassed or failing circumstances?

A. No sir.

Q. Did you hear so afterward, and if so, about how soon?

A. I did hear so soon after.

Q. Did he ever keep an account as a depositor at your Bank, after the day that that transfer was signed?

40 *A.* I think not.

Q. Has the indebtedness which he owed at the Bank at that time been since paid, in whole or in part, and if not all what part has been paid?

A. I cannot tell what shape that has assumed.

Q. Can you say whether Jacob S. Vough is now indebted to your Bank at all?

A. I cannot say.

And being re-examined by counsel of the defendant, John V. Mattison, witness saith: I don't remember how much money Mr. Vough drew out of the Bank that day. As near as I can tell, I think it was three hundred dollars; it may have been more and it may have been less. 10

Q. Is it any unusual thing for persons in making transfers on your transfer book, to omit putting a stamp on the transfer?

Objected to by Mr. Vanatta.

A. It is not unusual; it has been omitted in several instances.

Q. On examining your transfer book, state whether the stamp is omitted in more instances than it is put on in the transfers? 20

Objected to by Mr. Vanatta.

A. I think there are more without stamps than with; I can't tell the exact proportion without counting. Exhibit A will show.

Q. When Judge Hann was absent from the Bank, did you discharge his duties and your own too?

A. In his absence I perform his duties as far as I can. I do all his regular routine of business, excepting posting his books and making his statements for the Government and others. I make no statements except the teller's statements. 30

Q. When Judge Hann left home on this day he placed no restrictions on your conduct at the Ban, did he?

A. I don't remember that he did.

Q. What business was Vough engaged in on the 2d June, 1868?

A. I think he was engaged in the milling and grain business, both. 40

That business led him to New York and back frequently, I suppose.

JNO. F. WOODRUFF.

Sworn and subscribed before me, this 29th day of November, A. D., 1871.

WM. H. MORROW,

M. C. C.

John V. Mattison, the defendant, being duly sworn according to law, upon his oath, saith :

10 I am defendant in this case. I now reside at Newark. I moved there the first of last June ; before that I had resided at Washington, New Jersey. I had resided at Washington for twenty odd years. I was and am acquainted with Jacob S. Vough.

Prior to June 2d, 1868. I had known him some eight or ten years ; he had been living here at Washington for some five or six years prior to June 1868. He had been at Cincinnati before that. His father resided at Washington, N. J. He
20 had been in Cincinnati ever since he had been a boy ; he had lived there with his uncle. He was not married when he came back here ; he got married here.

After he returned here he went into business with his father in the tanning business, I have known the complainant, I should judge, ten years. He moved to Washington I think between two and three years ago.

I had only known Mr. Young in the capacity of a drover and dealer in stock ; I have had dealings with him at various times. I know John Canfield ; I don't know where he is now.
30 The rumor is, that he is now down in Kansas, Nebraska, or somewhere else. John Canfield, Jacob S. Vough and myself, had some dealings with Mr. Young, with reference to some mules.

Canfield, Vough and myself, bought a drove of mules of Miller Young.

We bought the mules about, I think, some time in the fall ; I think some time in November.

Q. State what you paid Young, and how you settled among yourselves, and how that note, Exhibit No. 2, on the part of
40 the complainant, came to be given ?

A. We gave D. M. Young a note for five thousand dollars for the mules, and Mr. Vough and Mr. Canfield were to sell the mules, assisted by Mr. Young. The avails of those sales were to take up this note. The mules were sold for cash, and notes which were deposited in the First National Bank of Washington, subject to our joint draft. About the time that the five thousand dollar note came due, Mr. Young, John Canfield, Jacob S. Vough came to my house at the mill, and wanted to settle the matter, get it straightened up. They stated there was about three thousand dollars in the Bank, and some notes which had been taken for mules, and they wanted to draw a check to Mr. Young on this note, and give a new note for the balance. We went to figuring it up, and I am not positive whether we figured it up, or whether they had it figured up, and a statement showing how much money and how much notes there was; my impression is that they had it figured up, and I signed the check and they then presented a note for me to sign, for seven hundred dollars. the balance of money due Young, and on my making inquiry about the note, that it did not make up the whole five thousand dollars, Mr. Young stated that that was a matter between him and Canfield and Vough, and they had settled that between themselves, and my signing that seven hundred dollar note would relinquish my indebtedness on the five thousand dollars, and the balance they had settled among themselves. Upon my inquiring about this seven hundred dollar note, Mr. Canfield was to take the balance of the notes and collect them, and take the money and pay this seven hundred dollar note when it should become due. I don't know that there is any more. I received notice of protest of the seven hundred dollar note from the Iron Bank of Morristown. I believe it was afterwards taken up by Canfield's attorneys through his agency. I was afterward sued upon it, along with Canfield and Vough.

Q. When did you first see this Exhibit No. 2, the note for seven hundred dollars, given by Vough to Young?

A. About five minutes ago—that was the first I ever saw that note.

I first knew it was given, I think it was after this transfer of Bank Stock. I think Mr. Young told me about it.

When I gave the other seven hundred dollars, I signed it down at the Warne farm, where I then lived. My wife, Mr. Canfield, Mr. Vough, Mr. Young, were present at the time. My impression is that the note was just seven hundred dollars, but I won't be positive as to that.

Q. State whether Mr. Vough, or Mr. Canfield or Mr. Young then stated how Mr. Vough had settled his share, or how Canfield had settled his?

A. They simply stated that they had arranged it among themselves; that they had business matters and had arranged it among themselves.

Was any part of the business done by you in reference to the settlement of the promissory note of five thousand dollars, done at Canfield's office, at Washington, when you were present?

A. No sir.

Q. Was any business done with reference to the five thousand dollar note, in your presence at Washington; if so, state what it was?

A. The original five thousand dollars was given in Mr. Canfield's Hotel, in Washington, in the sitting room; that was all; no other business was done with reference to the five thousand dollar note; was done in Canfield's Hotel, in Washington, in my presence.

Q. Did Mr. Vough on any occasion in John Canfield's office, or elsewhere in your hearing, propose to David M. Young, the complainant, that he would give him his promissory note, payable to the order of said Young, payable at the The First National Bank of Washington, one month after date, for the sum of seven hundred dollars, and did said Young in your presence or hearing, reply to that proposal of Vough, (Why not give me all three of your names on the seven hundred dollar note), or any equivalent remark?

A. No sir.

Q. Did you ever hear any such conversation as is embraced in the last above question, between Vough and Canfield, or anything like it?

A. No sir.

Q. Did you ever reply to said Young, or did John Canfield in your hearing, ever reply to Mr. Young in answer to any

inquiry made why you all three did not sign the seven hundred dollar note ; that Vough, Canfield and yourself wished to get the said five thousand dollar note settled up as between yourselves, and for that reason wished said Young to take said Vough's note for seven hundred dollars ?

A. No sir, there was never any such conversation.

Q. Did Jacob S. Vough ever say to David M. Young, in your presence or hearing, that he could pay the said seven hundred dollar note in thirty days ; that he was a director in the said First National Bank of Washington, and owned three thousand dollars of the stock of that Bank, and that if he should not be able to pay such note he, could easily get it renewed at said Bank, or anything like that ? 10

A. No sir.

Q. Did you ever say to Mr. Young, the complainant, that Jacob S. Vough's note was and would be perfectly good, and just as good as a note made by said Vough, Canfield and yourself, or anything like that ?

A. No sir.

Q. Did you know that this seven hundred dollar note, Exhibit No. 2, had been discounted at the First National Bank of Washington ? 20

A. No sir.

Q. Did you ever at any time make any representation to Mr. Young, the complainant, in reference to the pecuniary standing or responsibility of Jacob S. Vough ?

A. No sir.

Q. Did Mr. Young ever ask you anything about his pecuniary responsibility ?

A. No sir. 30

Q. Did you ever tell Mr. Young at any time, that Jacob S. Vough was the owner of three thousand dollars of the stock of the First National Bank of Washington, or did Jacob S. Vough ever make any such statement, or anything like it, in your presence or hearing ?

A. No sir.

Q. When did you first hear that Vough had confessed a judgement to Mr. Young ?

A. After this Bank stock had been levied on. I am inclined to think that I was told in the Bank, or else Sheriff Metz told me ; I won't be positive which told me. 40

Q. Did you notify Sheriff Metz before he sold these ten shares, now in dispute in this suit, that this was your stock?

A. I did sir; at the mill, at the Warne farm.

Q. Have you ever seen the transfer of the thirty shares of stock of the First National Bank of Washington, made by Jacob S. Vough to you, on the transfer book?

A. I have sir.

Q. Was you present when Mr. Vough made that transfer to you on that book?

10 A. No sir.

Q. Whose stock were those thirty shares, transferred by Jacob S. Vough to you, on the transfer book of the First National Bank of Washington, on the 2d day of June, 1868? Objected to by Mr. Vanatta.

A. They were mine, sir.

Q. State how they were yours, all about it?

A. I paid for them.

Q. State how they came to stand in the name of Jacob S. Vough, on the books of the Bank, and what arrangement there was between you and Jacob S. Vough on that subject; state all about it?

20 A. When they proposed to organize a Bank I subscribed twenty-five thousand dollars, and it stood in that way some time, and some parties refused to subscribe for stock while I had so much; they thought I wanted to manage the stock. A resolution was then passed that no one should subscribe for over ten thousand dollars. I then made up my mind that I would get the twenty-five thousand dollars in some other way, that I would put it in the hands of some of my friends to

30 hold it for me, and amongst others, was that of this Jacob S. Vough's. On the day the payments were called for for the stock, I gave my check to pay for it, for three thousand dollars on The Hackettstown Bank. It was my own money.

Q. Was there any understanding, or did you take any paper from Vough showing in what relation he held it, if so, what was it?

A. I did sir, I took a paper from him by which he acknowledged me to be the owner of the stock, and by which all the dividends were to be paid over to me, with power of attorney

40 to transfer the stock.

I either myself or you must have that original paper. I have searched for it carefully. I can't now find that paper. Mr. Vough generally did draw the dividends on the stock, and handed them straight over to me. I got every dividend up to the time of the transfer.

Q. Why did he not transfer the stock at an earlier period to you?

A. Well, that is a pretty hard question to answer; we talked about it several times, and there was this little excuse, or that little excuse. I suppose I did not peremptorily demand that he should do it, was why it was delayed.

I remember when he was elected a director in the Bank. He was first elected by the directors to fill a vacancy in the board, and afterwards by the stockholders.

Q. Did you recommend, advise or authorize Jacob S. Vough, to take the oath prescribed by Act of Congress, by the directors of said Bank?

A. No sir.

Q. Did he ever speak to you or you to him on the subject of taking the oath prescribed by law, for the directors of the Bank, and which he did take?

A. No sir.

Q. Did you ever suppose or think, or did it pass through your mind that Vough's swearing improperly when he took the oath as a director?

Objected to by Mr. Vanatta.

A. Not till after this question came up, and this bill was filed and this question came up about his swearing to his stock, was the first I gave it any thought.

Q. Had you had dealings with Mr. Vough before he subscribed for this stock, and after also?

Objected to by Mr. Vanatta.

A. Yes sir; slightly before and more heavily afterward.

Q. What was his character as a business man, and a man of pecuniary responsibility, up to the time when he made this transfer to you on the second day of June, A. D., 1868?

Objected to as irrelevant, per Vanatta.

A. First class, sir.

Q. Up to the second of June, 1868, had you heard anything derogatory to his character as a business man?

A. No sir.

Q. Do you know the relation between him and Mr. Young, the complainant, up to the 4th day of May, 1868, when this seven hundred dollar note was given, whether friendly or otherwise.

A. They were friendly, entirely so.

Q. Prior to the second day of June, 1868, had you endorsed for Mr. Vough at different times, and if so, for what amounts?

10 *Objected to by Mr. Vanatta as irrelevant.*

A. I had sir, in various amounts, sometimes for hundreds, and sometimes for thousands, according to circumstances.

Q. On the second of June, 1868, was you liable as his indorser on any note, and if so, for what amount, and where were the note or notes?

A. I was an indorser for a one thousand dollar note at the First National Bank at Washington; that was all I was indorser for I believe. The note was protested, and notice of non-payment given to me. Vough never paid that note.

20 *Q.* Was he indebted to you on the second day of June, 1868, for anything, and if so, for what, and in what amount?

Objected to by Mr. Vanatta, as irrelevant.

A. Yes sir, he was largely indebted to me for grain, rent, milling, about I think twenty-five hundred dollars. I had a partial obligation against him for it—one note. I have the note.

Witness being shown Exhibit B, on the part of the defendant Mattison, being a note of hand given by the said Vough to him, is asked :

30 *Q.* Is that one of the notes he gave you?

A. That note he gave me, on the day it bears date—that was given for corn exclusively.

Q. Did he at the time he gave you that note, tell you or intimate to you in any way, that he was in failing circumstances?

A. No sir.

Q. What else did he owe you for, beside that note on the second day of June, 1868?

40 *A.* Grain, rents and milling—I should judge in the sum of eight hundred or a thousand dollars.

Q. On the 2d day of June, 1868, when he made this transfer to you of this stock, on the book of the Bank, did Mr. Vough inform you that he was about to make the transfer?

A. I did not see him that day; of course he did not, I will answer he did not.

Q. Had he informed you of his intention at any time before that?

A. No sir.

Q. How soon after the 2d of June did you know of this transfer?

A. The next afternoon. Joe Cornish came up to my house and informed me of Vough's rumored failure, and I immediately came up to the Bank and went in to see whether he had transferred the stock to me or not, and there I found that he had.

Q. Was this stock transferred to you by Jacob S. Vough through any understanding or arrangement between him and you, that he should transfer it to you for the purpose of hindering, delaying or defrauding his creditors?

A. No sir, he transferred it to me to carry out his original agreement or engagement with me. 20

Q. Did Jacob S. Vough ever pay anything whatever for those thirty shares of stock which stood on the books of the Bank in his name?

A. Not the first red cent; not even the stamp on the check.

Q. Did Jacob S. Vough ever declare, assert or state to you or to anyone, or to the complainant, Mr. Young, in your presence or hearing, or to anyone else in your presence or hearing, that this stock belonged to him?

A. No sir, never. 30

The further examination of this witness was here adjourned to the hour of half-past seven o'clock, P. M.

WM. H. MORROW,

M. C. C.

Examination resumed at half-past seven o'clock, P. M.

Q. I see an indorsement of payment on the back of the note Exhibit B; will you state whether that payment was 40

made on the note, and how and when ; state the matter fully?

10 *A.* This note was given me January 1st, 1868, payable two months after date for grain, or corn, it was ; when this note became due he had not sold the corn, and he wanted me to hold on to the note for a while longer. I told him I wanted to use a little money along from time to time, and he said he would pay me as I wanted it, and between that time and the third day of June, 1868, when this indorsement was put on the back of the note, he paid me small sums of money from time to time, from twenty-five to two hundred dollars, for which I gave him receipts and due bills. On the third day of June he gave me up these receipts and due bills ; we figured up the amounts and I endorsed it on the back of the note—that is the way that indorsement came about.

Q. What time of day on that third day of June, 1868, did you see Mr. Vough, and make the settlement and endorsement you have stated above.

A. In the latter part of the day. He came from New York.

20 He explained his situation to me that day with reference to his pecuniary condition.

Q. Was that the first you had heard from him that he was in failing circumstances ?

A. It was.

Q. Has Mr. Vough ever paid you any part of the principle or interest due on that note, Exhibit B, except the payment endorsed upon it ?

A. He has not.

30 *Q.* Has he ever paid any part of the other amounts you hold against him for milling, grain and rent, heretofore mentioned ?

A. He has not.

Q. You spoke a while ago about a resolution being passed that no one should take over ten thousand dollars of stock ; explain what that resolution was and all about it ?

Objected to by Mr. Vanatta.

40 *A.* At the time that they were soliciting subscriptions for the capital stock of the Bank, some urged that they did not like to subscribe or would not subscribe if it was to be under the control of a few men ; that they were willing to sub-

scribe if it could be generally subscribed or circulated throughout the whole neighborhood, and at a meeting of the subscribers they passed a resolution, or a motion was made rather, that no one should subscribe for over ten thousand dollars, as they thought it would injure the prospect of getting the whole amount subscribed—they thought they could get the stock subscribed in small sums, that people would subscribe more easily. The resolution was carried, and I put my stock at ten thousand dollars. This was before there was any organization, of course ; the stock had not all been subscribed—there was then about sixty thousand dollars subscribed. 10

I reduced my subscription to ten thousand dollars, and they started with a subscription to these people who had objected, and in the meantime I had made arrangements to get subscribed what I wanted myself, and then Mr. Vough subscribed this for me, as I have stated before with others.

Q. Did Mr. Vough ever take from the Bank any certificate for this stock ?

A. He never did to my knowledge. 20

Q. After this stock had been transferred to you by Mr. Vough on the 2d day of June, A. D., 1868, did you go to the Bank and ask the officers to issue a certificate to you for it ?

A. I did—I think I went right away after. I carried authority from Vough to the Bank to give me a certificate.

After the transfer was made I went to the Bank without authority from Mr. Vough to get a certificate, and then afterward went with the authority.

Being shown Exhibit C, on the part of the defendant Mat-tison, the witness is asked :

Q. Is that the paper you carried from Vough to the Bank ? 30

A. That is the paper.

That paper was executed by Jacob S. Vough ; I saw him sign and seal it ; I saw William C. Van Doren sign his name there as a subscribing witness.

That paper was executed the day it bears date. All those erasures were in it before he executed it.

I carried that paper after it was executed, to the directors of the Bank, at their first meeting, on or after the day that it was signed. 40

If the directors met on that 8th day of June, I took the paper to them on that day, and if not, then I took it to them on the first day next after they did meet, but I feel confident it was on the same day, the 8th day of June. I presented that paper to the directors and they asked me to read it, and I commenced to read it. I got about half or two-thirds through it, they began to find out what it meant, and two or three got up on their dignity and went out, and they went into the front room, and I went to the door and called them
 10 back. Mr. Swayze was one; I don't remember who the others were; I think Mr. Shields was one—and told them I wanted them to listen to this reading, that it was a matter of importance to me, and I think Mr. Swayze or Judge Hann replied that there was no use of reading it for they held concluded not to recognize the transfer. I don't remember that they said why; they were pretty short about it. I was a director at the time, and a stockholder. I then had all the hundred shares I had subscribed, and more too; I had bought up a lot outside.

20 I had another paper with me from Vough. That was the original agreement from Vough to me, that I have already spoken about.

I took the paper out and told them I had another paper showing who the stock belonged to, and then it was I think they made the reply, it made no difference, for they had concluded not to recognize the transfer.

Q. Did Mr. Vough ever act as a director of the Bank after he made this transfer of stock to you on the 2d of June, 1868?

30 A. He did not.

Q. Had you ever mentioned to any other of the directors, or to any officers of the Bank, before this time, the fact that this stock that stood in Vough's name belonged to you?

Objected to by Mr. Vanatta, as irrelevant.

A. To Judge Hann.

I don't remember whether he was a director then or not, but not to any other director, except to Col. Strader; he and I have talked about it, and he was aware of the fact from the first. I don't know that I ever spoke to William Winter about it.

40 Col. Strader was a director for I think about six or seven

years. I think up till within the last year, up to the last election.

Q. Did you ever have a conversation with Robert P. Strader with reference to Jacob S. Vough, after Vough had failed?

A. Yes sir, on different occasions and at different places.

Q. Did you ever tell him in any of those conversations, that the reason you let this thirty shares of stock stand in the name of Jacob S. Vough, was because Jacob S. Vough was a young man and out of business, and you had done it to give him a credit, and so you could use him whenever you wanted to, and that he, Vough, could not have got the position of director, if it had not been for you, or any words to that effect?

A. No sir, never, nor anything like it nor approaching it, or that could be construed into meaning that, with the exception that I may have said that he could not have been a director without me, which is a self evident fact, for he could not have been a director without having the stock.

Q. Mr. Young, in his testimony, states that he thinks he said to Dr. Mattison and Canfield, that they might as well put their names on it, meaning the seven hundred dollar note which Vough gave him; did Mr. Young ever say that to you and Canfield, or to you alone?

A. He never did; I did not know the note was in existence.

Q. He also states that Mr. Mattison, meaning you, remarked to him, that it, meaning the seven hundred dollar note, was perfectly good, and would answer him the same as money, as Vough was a director and a stockholder and could get it discounted for him that day. Did you ever make these remarks to Mr. Young?

A. No sir.

And being cross-examined by counsel for complainant, witness saith:

Being shown Exhibit B, on the part of the defendant is asked—

Q. Did you allow or agree to allow Jacob S. Vough anything in the way of payment on that note, because he transferred those thirty shares of stock to you?

A. No sir.

Q. At the time he gave you this note, or before or after giving it to you, did he agree that you should have a claim upon those thirty shares of stock, as security for the payment of that note, or of any part of the money mentioned in it?

A. No sir, it is an entirely separate transaction, both the face of the note and the indorsement.

10 *Q.* Was there ever any agreement or understanding between you and Jacob S. Vough, that you should have a claim upon those thirty shares of stock, or upon any part of them, as security for the indebtedness which you had against Jacob S. Vough, on the 2d June, 1868, other than the note Exhibit B?

A. No sir.

20 *Q.* Was there any agreement or understanding between you and Jacob S. Vough, that you should have a lien or claim upon those thirty shares of stock, or any part of them as security to you, for having endorsed for him his note for one thousand dollars, which you say was held by the Bank, on the 2d June, 1868?

A. No sir.

Q. Did he ever agree with you or give you to understand, that you should or could have a claim or lien upon those thirty shares of stock, or any part of them, for any indebtedness he ever owed to you, or for any liability you ever incurred for his accommodation or benefit?

30 *A.* No sir, unless you consider the stock itself a benefit, the way he had it. I didn't suppose you meant that however.

Q. Did you ever trust him for money or goods or become liable on his paper, for his accommodation, upon the understanding or expectation that you could secure yourself in whole or in part, by getting or resorting to those thirty shares of stock, or any of them?

A. No sir, never; it would be poor security to take my own property to secure anything of that kind.

40 *Q.* Has the thousand dollar note which you say the Bank held on the 2d June, 1868, against Jacob S. Vough, on which you were security as endorser or otherwise, been paid to the Bank, and if so, by whom and at about what time?

A. It has never been paid to my knowledge. I guess it has not been paid for they dun me occasionally for it.

Q. Was not that note settled at the time you sold out your stock in the Bank?

Objected to by Mr. Shipman as a fishing question.

A. No sir.

Q. You own no stock in this Bank at this time do you, and if any how much?

Objected to by Mr. Shipman.

A. Yes sir, and a considerable—I am not going to say how much, 33

Q. Does it stand in your name on the books of the Bank?

A. Some of it does and a good deal of it don't.

Q. Since '68 you have transferred a large amount of the stock that stood in your name, have you not?

Objected to by Mr. Shipman.

A. Well, I can answer that question—it has been transferred both ways, to me and from me.

Q. How much, how many shares are there standing in your name on the books of the Bank at this time? 20

A. I think only twenty.

Q. Tell us how it is that the Bank have permitted all the stock that stood in your name except twenty shares, to be transferred to other persons, without requiring that thousand dollar note to be paid before the stock was transferred?

Objected to by Mr. Shipman.

A. I don't know why they done it.

Q. Do not those twenty shares remain standing in your name on the books of the Bank as security for the payment of that thousand dollar note, or of some other one given in renewal of that one? 30

Objected to by Mr. Shipman.

A. No sir.

Q. Have you made an agreement or have you an understanding with any person to whom you have transferred the stock of this Bank, that he, she or they, should take the stock subject to the lien of the Bank, for the payment of that thousand dollar note, and should pay the note if the Bank insisted upon payment?

A. No sir, 40

Q. Has that thousand dollar note been renewed since the 2d June, 1868, and if it was, how often?

A. It has not been renewed to my knowledge.

Q. Has the Bank ever brought any suit on that note against you or Jacob S. Vough?

A. No sir.

Q. Tell us how it is or why it is, that the Bank permits that note to remain unpaid so long; what understanding is there that causes such long forbearance?

10 A. Why they have been talking about suing it and collecting it for the past two years; there is no arrangement that I am aware of.

Q. Please tell us why it is that they don't *do* something instead of talking so much, or what you understand to be the reason of their forbearance?

A. I don't know what is the reason they don't, I suppose it is the unsettled condition of this affair that is the reason, so I have associated it in my mind.

20 Q. You say that these thirty shares of stock were paid for by a check you drew on the Hackettstown Bank, please tell us to whom that check was made payable, and to whom you first delivered it after you signed it?

30 A. I don't remember whether I made that check payable to self to my own order, or to Jacob S. Vough or order—if I made it payable to Jacob S. Vough's order, I undoubtedly gave it to him first; if I made it payable to my own order I may have given it right to the cashier—I don't remember, from the fact that I handed or paid to the cashier a great many checks that day, for large amounts of money. It may be possible that the amount of that check was included with other amounts and put in a large check and handed direct to the cashier, or to the person appointed to receive the payments of stock for the Bank.

Q. Where is that check now?

A. I don't know; I may have it and may not. I don't remember whether I kept my Hackettstown checks or not; it is a good while ago.

Q. When the Bank organized how many shares of stock stood in your name?

40 A. One hundred—of the par value of one hundred dollars each.

Q. Besides that you owned one hundred and fifty shares that stood in the names of other persons, if I understand you right?

A. Yes sir, over that.

Q. How many over that?

Q. A hundred more than that yet.

Q. How many more than two hundred and fifty?

A. Well, I think about that within a thousand dollars or so.

At this point the further cross-examination of this witness was adjourned to the hour of half-past eight, of the 30th of November, inst.

WM. H. MORROW, M. C. C.

The cross-examination of John V. Mattison was resumed at the hour of nine o'clock on Thursday morning, Nov. 30th, in the presence of the respective counsel.

The witness saith :

Q. Please tell us in whose names on the books of the Bank, those two hundred and fifty shares of stock stood, and how many shares to each one?

Objected to by Mr. Shipman.

A. I don't propose to tell all of them—I have no objection to telling one or two. William Winter held five thousand dollars; Col. Berthoud held five thousand dollars, and further this deponent saith not.

Q. What objections have you to telling all of them?

A. It is a matter of honor between the persons holding the stock and myself.

Q. Is that the only reason for not telling, and if you have any other tell us what it is?

A. That is the only one and I regard it as a sufficient one.

Q. Did any of those two hundred and fifty shares stand in the name of William W. Strader, and if so, how many?

A. I don't propose to tell.

Q. While William W. Strader was a director in this Bank was there any stock of that Bank standing in his name other than the shares you had paid for, and he held in trust for our benefit?

Objected to by Mr. Shipman.

A. I don't propose to tell.

Q. Did any of those two hundred and fifty shares stand on the books of the Bank in the name of George W. Taylor, and if so, how many shares?

Objected to by Mr. Shipman.

A. I don't propose to state.

Q. Did George W. Taylor have any shares in this Bank except shares which you had paid for, and which he held for your benefit, and if he had, how many shares?

10 Objected to by Mr. Shipman.

A. I don't propose to state—the usual answer.

Q. Who in June 1865 were the directors of this Bank?

A. James K. Swayze, S. T. Scranton, George W. Taylor, William Shields, Col. William W. Strader, myself, and Col. A. P. Berthoud, and I am inclined to think Jacob S. Vough, and either Judge Hann or William Winter; the full board numbered nine.

Q. Were not four of those directors, excluding yourself, holders of stock, which you paid for, and which they held in trust for your use and benefit, and who owned no stock at all, except what they so held?

20 Objected to by Mr. Shipman.

A. No sir.

Q. Was not that the situation of Jacob S. Vough with regard to that stock?

A. He had no stock except what he held in trust for me.

Q. Did William W. Strader hold any except what he held in trust for you?

30 Objected to by Mr. Shipman.

A. I don't propose to state.

Q. How much did he hold in trust for you?

Objected to by Mr. Shipman.

A. I decline to answer.

Q. Did Alexander P. Berthoud own any of that stock, except what he held in trust for you?

Objected to by Mr. Shipman.

A. I decline to answer.

Q. Did William Winter own any of that stock except what he held in trust for you?

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Objected to by Mr. Shipman.

A. No sir.

Q. Did George W. Taylor own any of that stock except what he held in trust for you?

Objected to by Mr. Shipman.

A. I decline to answer.

Q. Whose place in the board of direction did Jacob S. Vough take—I understand he was elected to fill a vacancy?

A. I think Col. Berthoud's—I am not positive.

Q. Who proposed Mr. Vough as a director to the board? 10

A. I don't remember.

Q. Was it not done by you or by your procurement?

A. I don't think it was.

Q. Were you present at the board meeting when he was elected?

A. I don't remember.

Q. Did you vote *for* or *against* his appointment when he was first chosen?

A. I don't remember that I voted at all—I don't remember whether I was there or not. 20

Q. Did you vote against him?

A. I don't remember that I voted at all.

Q. At the annual elections of '66, '67 and '68, did you vote in *favor of* or *against* Mr. Vough being a director?

A. I presume that I was there, but I don't recollect whether I was at all three of them—the question is so comprehensive that I can't remember all; if I answer yes, it might include them all, and I can't tell whether I was at them all.

Q. Have you any recollection of being absent from any one of those annual elections? 30

A. I don't know that I have.

Q. At any of those elections when you were present, did you vote against Mr. Vough?

A. I think not.

Q. At such of them as you voted at, you voted for him didn't you?

A. I did.

Being shown the minute book of the Bank—No. 7

Q. Please look at the entry of the proceedings of May 22d, 1865, and after looking at them please say whether the entry of those proceedings is correct?

Objected to by Mr. Shipman.

A. I have no doubt they are—it appears there that I attended that meeting.

I know I was appointed on the committee to draft by-laws—I drafted them myself.

10 Q. It appears here that Mr. Vough was appointed at that meeting to fill the vacancy of B. S. French; now Doctor, do you recollect whether you voted for Mr. Vough or not on that occasion?

A. I do not remember.

Q. Do you think you objected to his election in any way?

A. I presume not—I don't remember.

Q. I see by the minute book that B. S. French was one of the original subscribers for fifty shares of stock, did you pay for the stock that stood in Mr. French's name or any part of it?

20 A. Mr. French never paid for any stock, he had no money. There was a new deal then, he couldn't pay and others had to take the stock.

I don't know where his stock went to.

Being shown the minute book aforesaid on the page on which the by-laws of the Bank commences, reported to have been adopted November 27th, 1865.

Q. Are these the by-laws which you drafted?

30 A. I presume they are.

Q. Were they adopted by the board?

A. They were no doubt as they stand there.

Q. Did you vote for them?

A. Unless my *delicacy* forbid me voting for them as one of the committee.

Q. Please look at the minutes under the date of January 9th, 1866, and say whether you attended that meeting and voted at that election?

40 A. The minutes show that I did and I presume that they are correct.

Q. On the next two pages in that book of minutes, look at what purports to be a copy of the oaths of the directors, made in January 1866, and say whether you made such an affidavit on that occasion, and whether Jacob S. Vough signed and swore to that affidavit in your presence?

A. That is a pretty comprehensive question too; I have no doubt I took this obligation, but I want to state one thing in regard to taking the obligation, or the affidavit rather, it has been, frequently been the case in the Bank, that the directors have not all been present, and that they were sworn at different times when they were present, or convenient for them to be there. Directors have been sworn when I have not been present. Whether I was there on this occasion and Mr. Vough was there I cannot say. 10

Q. He appears by the record to have signed the affidavit before you did, does he not?

A. There is none of those our handwriting.

Question repeated.

A. Certainly, *there*—his name is above mine there in some other person's handwriting. 20

Q. Being shown the minutes of January 8th, 1867—Were you present at the annual election there spoken of, and if so did you vote for Jacob S. Vough as a director?

A. I presume I did.

Q. Did you take such oath at or about that time as is copied on the next two pages of the minute book?

A. I presume I did.

Q. Were all the directors sworn in at the same time on that occasion?

A. I don't remember. 30

Q. Just look at the entry directly under your affidavit, and say whether that entry is true?

A. I can't say of my own knowledge.

Q. Please look at the entry of the minutes of January 14th, 1868, say whether you attended that meeting, and the annual election held that day?

A. I don't remember of my own knowledge, only what is shown in the minutes.

Q. Please look at the copy of the affidavits found between the entry of January 27, and February 3d, 1868, and say 40

whether you, Jacob S. Vough and William W. Strader, made such affidavits as is there copied?

A. I don't remember.

Q. Was there ever a year while you were a director that you did not take such an oath?

A. I presume not—I don't remember.

Q. When did you cease to be a director in this Bank?

A. At the last annual election in January, 1871.

Q. Just tell us how, that is by what means, the five thousand dollar note which you and Vough and Canfield gave the complainant, was paid—that is, what went to make up the five thousand dollars you paid complainant?

A. The check of about three thousand dollars, I don't remember the precise amount—the seven hundred dollar note, which we three signed, I think one or two small notes, and the balance was arranged between Vough, Canfield and Young—I don't know how.

Q. The note which we three signed was a note for six hundred and eighty dollars and eighty-nine cents, instead of seven hundred dollars, was it not?

A. I don't remember the exact amount of the note.

Q. Before that note was given, and after the five thousand dollar note was given, had not Mr. Vough used some seven hundred dollars of the money that had been received from the sales of the mules, for his own private use, instead of depositing it in the Bank to the credit of yourself, Vough and Canfield?

A. I don't know—I never could find out much about it; those three men done the business and lived like Dukes—I was not with them.

Q. Did not you and Canfield insist that inasmuch as Vough had had seven hundred dollars out of the mule trade for his own private use, that he must provide by himself that seven hundred dollars, to help pay off Young's five thousand dollar note?

A. No sir, for I never knew he had the money; you might say then that I never knew that he *used* the money instead of *had* it, for I believe he acted as cashier.

Q. Do you want to be understood as testifying that those mules were sold out without your knowing what was got for

them, and where the proceeds of sale went to, and that Young's five thousand dollar note was paid without your knowing with what and by whom it was paid?

A. I wish to be understood as saying this: That the five thousand dollar note was paid as I before stated, what price the mules sold for I don't know; if there was any surplus I don't know where it went to, and I have had to pay seven hundred dollars besides.

Q. State who you paid that to?

A. It was placed in the hands of I think, Daniel Thompson, of Newton, to abide the result of a hearing or suit in regard to that joint note, which I contend was paid for at the Iron Bank of Morristown, by John Canfield. 10

My impression is that the note was sued upon in the name of the Iron Bank of Morristown.

Q. At or near the time Jacob S. Vough subscribed for the thirty shares of stock now in question, did he not give a promissory note for the price of those shares, or for a considerable part of those shares?

A. Never, for one dollar. 20

Q. Were you present when he made the subscription for those shares?

A. I don't remember.

Q. Did he not give to Judge Hann, or whoever acted as cashier or treasurer of the banking association, a promissory note for the price of his shares, at or near the time he subscribed for them?

A. Not to my knowledge.

Q. At or near the time you paid for those shares, did he not make and give to you his promissory note, or memorandum check for three thousand dollars? 30

A. Never gave me a scratch of a pen for it, except the deed of trust.

Q. At or near the time he was elected a director, did he not say to you in substance, that he couldn't take the oath of a Director without perjury, unless he gave a note or check or something else which would show that he had bought and owned those shares, which he would have to swear he was the owner, if he became a director?

A. He did not. 40

Q. Did you not know that he could not qualify himself as a director without owning the stock, or else committing perjury?

Objected to by Mr. Shipman.

A. I never gave it a thought.

Q. You had read the act of Congress authorizing National Banks; had you not, before you engaged in organizing this Bank?

A. I have never read the whole of it.

10 Q. Which part of it have you not read?

Objected to by Mr. Shipman.

A. It is impossible for me to say.

Q. Prior to the record of June, 1868, did you ever make any written protest or any kind of a protest to the First National Bank of Washington, against Jacob S. Vough acting as a director of that Bank?

A. I never did.

And being re-examined by counsel for the defendant Mat-
20 tison, witness saith :

Q. Do you know in whose handwriting the minutes are kept, in the book No. 1, to which your attention has been called, at the several places to which you were referred by complainant's counsel?

A. Judge Hann's.

The one of May 22, 1865, is in John Woodruff's handwriting—I don't know the handwriting which is signed Jas. K. Swayze, Pres't.

30 The oath of Jacob S. Vough as director the first time is in John Woodruff's handwriting. The writing of January 15, 1866, is in Judge Hann's handwriting, except the signature, Jas. K. Swayze, Pres. per J. A. Swayze, that is not Judge Hann's—I don't know whose handwriting that is in.

The proceeding of the election of directors in 1867 and 1868, is in the handwriting of Judge Hann, except the name Jas. K. Swayze, Pres't., per J. A. Swayze.

40 Q. Was your name on the original certificate of organization for the two hundred and fifty-five shares you spoke of for which you had subscribed?

A. I presume it was.

Q. Was Jacob S. Vough's on for the thirty shares in question, or did he take the balance of the thirty shares of other persons, except what appears there in his own name?

A. He took it from other persons.

Q. Refer to the minutes and then state at what time the installments of stock subscribed for were to be paid in, and whether persons had the privilege of paying the whole subscription up or not, and getting interest on it?

A. The first installment of sixty per cent was to be called 10
in on the 15th day of February, 1865; those paying in more the full par value, were to be paid six per cent. on the forty per cent.

Q. I understand you that you paid up for these thirty shares standing on the Stock Ledger to Jacob S. Vough, the whole amount, on the 15th day of February, 1865, am I correct in that?

A. You are.

Being shown Exhibit D, on the part of the defendant, J. V. 20
Mattison, is asked:

Q. Is that the check you gave Mr. Jacob S. Vough, to pay for those thirty shares of stock?

A. It is.

Q. I see by that check it is drawn in the name of Catherine Mattison, per J. V. Mattison; explain how that happened, and whose money it was?

A. I had money deposited in her name in the Hacketts-
town Bank, it was my money. 30

Q. You spoke that Mr. Jacob S. Vough had signed a paper acknowledging that he held the stock for you, and that you are unable to find the original—can you tell about what time you missed that paper.

A. Some time after this transfer was made.

Q. Did you give diligent search then after you missed it to find it, and have you since searched without being able to find it?

A. I have.

Q. When, as nearly as you can tell, did Vough sign and seal that original paper? 40

- A. A short time after the organization of the Bank.
 Q. Did you have a copy of the paper he signed?
 A. I did.
 Q. Where had you got the copy?
 A. I took a copy from the original.
 Q. Who drew the original, do you know?
 A. J. G. Shipman, Esquire.
 Q. After you could not find the original which Mr. Vough had signed, did you get Mr. Vough to sign and seal a duplicate of the original?
 10 A. I did.

Witness being shown Exhibit E, on the part of Mattison, is asked :

- Q. Is that the duplicate he signed and sealed?
 A. It is.
 Q. About what time did he sign and seal it, state as nearly as you can?
 20 A. Within a short time after I was unable to find the other.
 Q. Is that a true copy of the original paper which Mr. Vough signed and sealed?
 A. That is a true copy.
 Q. Whose handwriting are the four lines written across it?
 A. Jacob S. Vough's.
 Q. Did he put them there at the time he signed and sealed that paper?
 A. He did.

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JNO. V. MATTISON.

Sworn before me the 29th day of November, 1871, and subscribed Nov. 30th, 1871.

WM. H. MORROW,
 M. C. C.

Exhibits A, B, C, D and E, on the part of defendant Mattison, offered in evidence.

WM. H. MORROW,
 M. C. C.

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At this point the further taking of depositions on the part of the defendant John V. Mattison, was postponed by consent of parties, to Thursday, the 14th day of December next, at nine o'clock in the forenoon, at the same place.

WM. H. MORROW,
M. C. C.

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