

New Jersey Prerogative Court.

The account of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased, of the personal estate and debts of the said deceased, made to procure an order to sell lands.

AMOUNT OF ESTATE.

1859, Aug. 18,	To the amount the goods and chattels sold for at vendue, sold at a credit of three months,	\$1506 06	
	The appraised value of book account against Wm. Allen, not yet collected,	18 64	10
	The appraised value of Jacob Blanchard's due-bill, not yet collected,	20 40	
		<u>\$1545 10</u>	
	Deficiency, not allowing any sum for the commissions of the administrators or for the expenses of the sale of the land hereafter to be incurred,	7311 03 20	
		<u>\$8856 13</u>	

AMOUNT OF DEBTS.

1859, Aug. 10,	Paid Edward Howell, appraiser,	\$1 00	
" " "	" John Garrigus, do.		
	and proving,	2 00	
" " 11,	" L. C. Vogt, printer, bills for vendue,	1 75	
" " 18,	" Edward Howell, clerk of vendue,	1 50	
" Oct. 17,	" Fred. Dellicker, surrogate's fees,	19 05	30

DEBTS DUE.

10	1859, Oct. 17,	Sarah L. Stewart, for one note of hand, made by intestate, dated Littleton, July 1st, 1858, for \$2000, with interest from date,	\$2000 00
		Interest to October 17th, 1859,	155 33
	" " "	Sarah L. Stewart, for one note of hand, made by intestate, dated Littleton, October 21st, 1857, for \$5000, with interest from date—payable in two years from date,	5000 00
		Interest to October 17th, 1857,	597 50
20	" " "	Jane Caroline Anderson, for note of hand, made by intestate, for \$1000,	1000 00
		Drawing interest, but the amount unknown,	
		Francis Lindsley, bill for lumber, amount estimated,	38 00
		Stephen Fairchild, by bill,	40 00
			\$8856 13

State of New Jersey, Morris county, ss.—John C. Anderson and Jonathan Provost, being duly sworn according to law, did severally depose, and upon their oaths say, that the foregoing is a just and true account of the personal estate and debts of the said Hannah Tuttle, deceased, as far as they can discover the same.

JOHN C. ANDERSON,
JONATHAN PROVOST.

Sworn before me, October 17th, 1859.

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FRED. DELLICHER, *Surrogate.*

To the Judges of the Orphans Court of the County of Morris, in the State of New Jersey.

Your petitioners, administrators of Hannah Tuttle, deceased, respectfully show, that they have discovered that the personal estate of said deceased is insufficient to pay her debts, and

have made and exhibited, under oath, a just and true account of the said personal estate and debts, as far as they can discover the same; and your petitioners request the aid of the court in the premises, and further show, that the said Hannah Tuttle died seized of the following tracts of land, to wit:

Lot No. 1. Being two tracts of land, situate in the township of Hanover, in the county of Morris, and state of New Jersey, containing together fourteen acres and forty hundredths of an acre and eight rods of land; one lot contains $13\frac{1}{2}$ acres and 8 rods of land, and the other lot contains ninety hundredths of an acre of land, be the same more or less, being the same lands described in a deed from Samuel A. Tuttle to William D. Tuttle, dated March 27th, 1848, and recorded in Morris County Record of Deeds, No. 4, pages 14, 15, &c., valued at

\$1200 00

Lot No. 2. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing five acres and forty-eight hundredths of an acre of land, being the same lands described in a deed from Calvin Howell and wife to William D. Tuttle, dated July 19th, 1853, and recorded in the Morris County Record of Deeds, Book C., 5 pages, 1 and 2, valued at

\$150 00

Lot No. 3. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing five acres and forty-eight hundredths of an acre of land, being the same lands described in a deed from Julia A. Tuttle to William D. Tuttle, dated April 21st, 1849, and recorded in the Morris County Record of Deeds, Book R. 4, page 321, valued at

\$100 00

Lot No. 4. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing sixteen acres and twenty-five hundredths of an acre of land, be the same more or less, being the same lands described in a deed from Stephen Vail and wife to William D. Tuttle, dated February 12th, 1851, and recorded in the Morris County Record of Deeds, Book W. 4, page 144, &c., valued at

\$200 00

Lot No. 5. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing two acres and thirty hundredths of an acre of land, being the same lands described in a deed from George S. Corwin and

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wife to William D. Tuttle, dated January 8th, 1850. Recorded in the Morris County Record of Deeds, Book R. 4, page 323, &c., valued at \$40 00

Lot No. 6. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing twenty-one acres and seventeen hundredths of an acre of land, being the same lands described in a deed from Alfred Johnson and wife to William D. Tuttle, dated April 28th, 1847, and recorded in the Morris County Record [of Deeds, Book L. 4, 10 page 297, &c., valued at \$300 00

Lot No. 7. Being two tracts of land, situate in the said township of Hanover, in the county of Morris, containing together eight acres and forty-nine hundredths of an acre of land, more or less, being the same lands described as Lot No. 1, containing $6\frac{1}{4}$ acres, and Lot No. 2, containing two acres and twenty-four hundredths of an acre, described in a deed from Lewis W. Miller, administrator of Elijah D. Tompkins, deceased, to William D. Tuttle. Recorded in the Morris County Record of Deeds, Book Y. 4, page 494, &c., valued at 20 \$100 00

Lot No. 8. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing fourteen acres of land, being the same lands described in a deed from Isaac Cutler to Daniel L. Tuttle, dated April 24th, 1819, and recorded in the Morris County Record of Deeds, Book H. H., page 429, &c., valued at \$200 00

Lot No. 9. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing seven acres and ten hundredths of an acre of land, more or less, being the same lands described in a deed from Isaac Johnson and wife to Nancy Tuttle, dated November 7th, 1823, and recorded in the Morris County Record of Deeds, Book Q. Q., page 331, &c., valued at 30 \$2500 00

Lot No. 10. Being a tract of land, situate in the said township of Hanover, in the county of Morris, containing seven acres and ninety-two hundredths of an acre of land, being the same lands described in a deed from Charles Vail to Daniel L. Tuttle, dated June 7th, 1822, and recorded in the Morris County Record of Deeds, Book M. M., page 317, &c., 40 valued at \$600 00

Lot No. 11. Being a tract of land, situate in the said township of Hanover, in the county of Morris, supposed to contain six acres of land, situate and lying in or near Troy, in said township, valued at \$50 00

Lot No. 12. Being a tract of land, situate in the township of Rockaway, in the county of Morris, supposed to contain twelve acres of land, lying and being near Horse-pond, in the said township of Rockaway, valued at \$100 00

Endorsed—"Morris Orphans Court, October term, 1859.—In the matter of John C. Anderson and Jonathan Provost, 10 administrators of Hannah Tuttle, deceased.—Debts and credits.—Filed October 17th, 1859. Fred. Dellicker, surrogate. Entered Exhibit Z. 15."

MORRIS ORPHANS COURT,
October term, 1859.

At an Orphans Court held at the court-house at Morristown, in and for the county of Morris, on Monday, the seventeenth day of October, A. D. eighteen hundred and fifty-nine—present Hon. Edward W. Whelpley, President Judge; Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, 20 Judges.

On the application of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased.	} <i>Rule to show cause why there should not be a sale of lands.</i>
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John C. Anderson and Jonathan Provost, the administrators of Hannah Tuttle, late of the county of Morris, deceased, having made and exhibited to this court, under oath, a just and true account of the personal estate and debts of said deceased, as far as they have been able to discover the same, by 30 which it appears that the personal estate of said deceased is insufficient to pay all her just debts, and stating that said deceased died seized of lands, tenements, hereditaments, and real estate situate in the county of Morris, and praying the aid of the court in the premises—therefore it is c

January term, 1860.

- 10 At an Orphans Court held at the court-house at Morris-
town, in and for the county of Morris, on Tuesday, the seven-
teenth day of January, eighteen hundred and sixty—present
Hon. Edward W. Whelpley, President Judge; Ira C. White-
head, Joseph Dalriddle, and Samuel O. Briant, esquires,
Judges.

In the matter of application of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased, for an order to sell lands to pay debts. } *Rule.*

- 20 The order to show cause, made at the October term last, having been advertised and published according to law, for good and sufficient reasons, the court now appoint the twentieth day of February next, at the court-house in Morristown, to hear and examine the allegations and proofs of the said administrators and all other persons interested in the above stated matter.

January term, 1860.

- At an Orphans Court held at the court-house at Morris-
30 town, in and for the county of Morris, on Monday, the twen-
tieth day of February, eighteen hundred and sixty, (as yet of
the January term of that year)—present Hon. Edward W.

Whelpley, President Judge ; Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, Judges.

In the matter of the application of John C. Anderson and Jonathan Provost, the administrators of Hannah Tuttle, deceased, for an order to sell lands. } *Rule.*

John S. Smith, a person claiming to be interested in the lands, tenements, hereditaments, and real estate late of said deceased, having duly filed objections in writing to, and shown cause against any sale of the lands, tenements, hereditaments, 10 and real estate of said deceased for the payment of (alleged) debts—the court do now appoint the nineteenth day of March next, at ten o'clock, A. M., at the court-house in Morristown, to hear and examine the allegations and proofs of the said administrators and the other persons interested ; and it is further ordered, that Sarah L. Stewart and Jane Caroline Anderson, persons claiming to be creditors of the estate of said deceased, and to hold promissory notes given by said deceased, to pay which claims it is alleged to be necessary to sell lands of said deceased, within ten days after service on 20 them, respectively, of a copy of this order, leave with the surrogate, at his office, the notes which they respectively claim to hold against the said estate, that the said notes may be inspected and seen, in the presence of the surrogate, by all parties interested, up to the time of the hearing above appointed.

On motion of V. Dalrimple, attorney and proctor of said John S. Smith.

MORRIS ORPHANS COURT,
January term, 1860.

On the application of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased. } *On rule to show cause 30 why there should not be a sale of lands.*

John S. Smith, a person claiming to be interested in the lands, tenements, hereditaments, and real estate late of said deceased, appears before the judges of the said court, at the

time to which the said rule to show cause is returnable, and shows for cause why the said lands, tenements, hereditaments, and real estate late of said deceased should not be sold to pay (alleged) debts, that the said deceased, at the time of her death, did not owe, upon note or otherwise, to Sarah L. Stewart and Jane Caroline Anderson, named in the account of said administrators filed at the last term of this court to procure an order to sell lands, or to either of them, any sum of money whatsoever; and that the personal estate of said deceased is
 10 more than sufficient to pay all the legal claims and demands against said deceased at the time of her death.

V. DALRIMPLE,

Attorney and proctor of said John S. Smith.

Endorsed—"Morris Orphans Court, January term, 1860. —In the matter of the application of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased, for an order to sell lands to pay debts.—Exceptions filed February 20th, 1860. Fred. Dellicker, surrogate.

MORRIS ORPHANS COURT,

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January term, 1860.

At an Orphans Court held at the court-house at Morristown, in and for the county of Morris, on Monday, the nineteenth day of March, eighteen hundred and sixty, (as yet of the January term of that year)—present Ira C. Whitehead, Joseph Dalriddle, and Samuel O. Briant, esquires, Judges.

In the matter of the application of John C. Anderson and Jonathan Provost, the administrators of Hannah Tuttle, deceased, for an order to sell lands. } *Rule.*

30 For good and sufficient reasons, the court do now appoint the sixteenth day of April next, at ten o'clock, A. M., at the court-house in Morristown, to hear and examine the allegations and proofs of the said administrators and the other persons interested in the above stated matter.

MORRIS ORPHANS COURT,
January term, 1860.

At an Orphans Court held at the court-house at Morristown, in and for the county of Morris, on Thursday, the twenty-sixth day of April, eighteen hundred and sixty, (being as yet of the January term of that year)—present Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, Judges.

In the matter of the application of John C. Anderson and Jonathan Provost, the administrators of Hannah Tuttle, deceased, for an order to sell lands. } *Rule.* 10

The court having commenced the hearing of the above stated matter on the sixteenth instant, and continued taking proofs from day to day till the present time, and the evidence being now closed, the further hearing of the matter is postponed till the next May term of the court.

MORRIS ORPHANS COURT,
May term, 1860.

At an Orphans Court held at the court-house at Morristown, 20 in and for the county of Morris, on Saturday, the second day of June, eighteen hundred and sixty, (being as yet of the May term of that year)—present Hon. Edward W. Whelpley, President Judge; Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, Judges.

In the matter of the application of John C. Anderson and Jonathan Provost, administrators, &c., of Hannah Tuttle, deceased, for an order to sell lands of said deceased to pay debts, } *Decree.* 30
and
John S. Smith, exceptant.

A rule to show cause having been granted at the last October term of the court (*pro ut* the same) requiring all persons interested in the lands, tenements, hereditaments, and real estate whereof the said Hannah Tuttle, deceased, died seized,

to appear and show cause, at the then next term of the court, why the said lands, tenements, hereditaments, and real estate of said deceased should not be sold to pay debts, and at the last January, the then next term of said court, John S. Smith, a person claiming to be interested in said lands, tenements, hereditaments, and real estate appeared, and showed cause why the said lands, tenements, hereditaments, and real estate should not be sold, and such proceedings were thereupon then had that the proofs, as well of the said administrators as of

10 the said John S. Smith and of John Bodine, and George H. Leup and Henry Allen, persons also claiming to be interested in said lands, tenements, hereditaments, and real estate, were duly taken at the last term of this court; and the further hearing of the matter having been duly postponed and continued to the present term of the court, and at this term counsel of all the parties appearing having been fully heard, and mature deliberation being had thereupon, and the court having fully examined the allegations and proofs of all the parties interested, and not finding that the personal estate of said inter-

20 tate is not sufficient to pay her debts, and it appearing that the claims presented against the estate of said decedent by Jane Caroline Anderson and Sarah Louisa Stewart, respectively, are not valid subsisting claims against said estate—it is, on this second day of June, eighteen hundred and sixty, ordered, adjudged, and decreed, that the said rule to show cause should be, and the same is discharged, but without the payment of costs by either of said parties to the other.

MORRIS COUNTY ORPHANS COURT.

30 In the matter of the application of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased, to procure an order to sell lands, upon claims presented by Sarah L. Stewart and Jane C. Anderson, claimants, } *Decree.*

and

John S. Smith, exceptant. }

Sarah L. Stewart and Jane C. Anderson, claimants above named, hereby appeal to the Prerogative Court of New Jer-

sey from the said decree, made on the second day of June last past, deciding, ordering, adjudging, and decreeing that the claims presented by the said claimant were not valid subsisting debts against the estate of the said Hannah Tuttle, deceased, and from the decreeing that no land of the said deceased should be sold.

AUGS. W. CUTLER,
Proctor of the said claimants.

THEO. LITTLE, *Of counsel.*

I conceive there is good cause for the above stated appeal. 10

THEO. LITTLE,
Of counsel with said claimants and appellants.

The said claimants demand the said appeal, and file the above in pursuance of the statute in such case made and provided.

AUGS. W. CUTLER,
Proctor of claimants.

Endorsed—"Morris Orphans Court.—In matter of application of Anderson and Provost, administrators of Tuttle, upon claims of Stewart and Anderson, claimants, and John S. Smith, exceptant.—Appeal, &c. Augs. W. Cutler, proctor. 20
—Filed June 11th, 1860.

FRED. DELLICHER, *Surrogate."*

State of New Jersey, Morris county, ss.—I, Frederick Dellicker, surrogate of the county of Morris, and clerk of the Orphans Court of said county, do hereby certify, that the foregoing are, respectively, true copies of the account, under oath, of the personal estate and debts, commonly called a statement of "debts and credits," to procure an order to sell lands, and the petition, thereto annexed, requesting the aid of the court in the premises, and the endorsement thereon made 30 by John C. Anderson and Jonathan Provost, administrators, &c., of Hannah Tuttle, deceased,—rule to show cause why so much of the said lands, tenements, hereditaments, and real estate of the said intestate should not be sold as will be sufficient to pay his debts—the several rules to set down the hearing from time to time—order that the promissory notes held by Sarah L. Stewart and Jane Caroline Anderson against the estate of said deceased be left with the surrogate for inspec-

tion—exceptions filed by John S. Smith, and the endorsement thereon—decree declaring claims presented against the estate of said decedent by Jane Caroline Anderson and Sarah Louisa Stewart, respectively, not valid subsisting claims against said estate, and discharging the rule to show cause, and order as to costs—notice of appeal, and the endorsement thereon—in the matter of the application of John C. Anderson and Jonathan Provost, administrators, &c., of Hannah Tuttle, deceased, for an order to sell lands of said deceased to pay 10 debts, and John S. Smith, exceptant, as the same remains on the files and records of said court in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at the court-house at Morristown, in said county, this twenty-eighth day of June, in the year of our Lord one thousand eight hundred and sixty.

FREDERICK DELICKER.

Filed July 2d, 1860.

THOS. S. ALLISON, *Register*.

PETITION OF APPEAL.

IN THE PREROGATIVE COURT OF NEW JERSEY.

20 Between

JANE C. ANDERSON and SARAH L.
STEWART, appellants,
and
JOHN S. SMITH, respondent.

} On appeal from
the final determination,
sentence, and
decree of the Orphans
Court of the
county of Morris,
dated May 2, 1860.

*To the Ordinary, or Surrogate General, and Judge of the
Prerogative Court of the State of New Jersey.*

The humble petition of Jane C. Anderson and Sarah L. Stewart, appellants in the above stated cause, respectfully

shows, that your petitioners, each, find themselves aggrieved by a final determination, sentence, and decree, made in the Orphans Court of the county of Morris on the second day of June, instant, in the matter of the application of John C. Anderson and Jonathan Provost, administrators of Hannah Tuttle, deceased, to procure the sale of lands of said deceased to pay debts, upon claims presented by your petitioners.

And your petitioners, claimants as aforesaid, further show, that they presented their claims under oath, as required by law, to the administrators as aforesaid; and that the said administrators, at the term of October, 1859, of the Orphans Court of the county of Morris, presented a statement of debts and credits, as required by law, and took a rule upon all persons interested in the real estate to show cause, at the January term, 1860, of said court, why there should not be a sale of lands. And the said rule having been advertised and published as required, exceptions to the claims of your petitioners were filed at the January term, 1860, of said court by John S. Smith, who claims an interest in said lands. And upon such exceptions such proceedings were thereupon had that the 20 proofs were duly taken, counsel heard, and deliberation had, and it was, on the said second day of June, instant, decided, ordered, adjudged, and decreed, by said Orphans Court, that the said claims presented by your petitioners were not valid and subsisting claims against the estate of the said Hannah Tuttle, and that the said administrators should not sell any lands to pay said claims, or either of them, as by the said determination, sentence, and decree, remaining in the surrogate's office of the county of Morris, more fully appears, and from which determination and decree your petitioners have, severally, duly demanded and taken an appeal to this honorable 30 court. And your petitioners further respectfully show, that they are aggrieved by and complain of said decision, determination, order, judgment, sentence, and decree of the said Orphans Court, for that the same is erroneous, and state, among other grounds of error therein, the following, to wit:

First. The said decree is erroneous, because the said claims presented are valid and subsisting claims against the estate of said Hannah Tuttle, deceased, and that the same ought to have been allowed as such by said court.

Second. The said decree is erroneous, because the court refused to grant an order to sell the lands of deceased to pay all debts of the deceased, as will more fully appear by examination of the proofs taken in this cause.

Third. The said decree is erroneous, because the court ordered and directed that your petitioners shall pay their own costs arising from said investigation.

Your petitioners therefore pray that all the parties interested, and above named, be made parties respondent to this appeal
 10 (except your petitioners who are appellants), and that they may be required to answer this petition, and that a short day may be appointed for that purpose, and that the proceedings, order, judgment, and decree of the said Orphans Court be reviewed by your Honor in this honorable court, and that the same be reversed, set aside, and for nothing holden; and that the said claims, so presented by your petitioners by the order, sentence, and decree of this honorable court, may be determined, decided, and decreed to be valid and subsisting debts
 20 against the estate of the said Hannah Tuttle, deceased; and that the lands of the said deceased may be sold to pay the said debts; and that the costs of the said application and proceedings may be paid by the said exceptant; and that such further judgment, order, and decree may be made in the premises as shall be just and right, and that such further relief may be granted to your petitioners as to this honorable court shall seem meet. And your petitioners, &c.

AUGS. W. CUTLER,

Proctor for and of counsel with appellants.

I consider that there is good cause of appeal in this case.

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THEO. LITTLE,

Of counsel with appellants.

Filed June 23d, 1860.

THOS. S. ALLISON, *Register.*

PREROGATIVE COURT OF NEW JERSEY.

Between

Jonathan Provost and John C. Anderson,	} <i>Appeal from decree of Morris Orphans Court.</i>
administrators, &c., of Hannah Tuttle,	
deceased, appellants,	
and	
John S. Smith, appellee.	

The answer of John S. Smith, appellee, to the petition of appeal of Jonathan Provost and John C. Anderson, administrators of Hannah Tuttle, deceased, appellants. 10

This respondent, now and at all times hereafter saving and reserving to himself the benefit and advantage of exception to the many errors and insufficiencies in the said appellant's said petition of appeal contained, for answer thereto, or unto so much and such parts thereof as this respondent is advised is material for him to make answer unto, he answers and says—that he denies that Jane C. Anderson and Sarah L. Stewart, in said petition of appeal named, presented their claims under oath, as required by law, to the said administrators. And this respondent further answering admits that the said administrators took such proceedings in the said Morris Orphans Court to procure a sale of lands of said deceased as is set forth in said petition of appeal in that behalf, and that thereupon the said Orphans Court made the decree mentioned in said petition, and from which the said appellants claim to have appealed. And this respondent further answering says—that the said decree of the said Orphans Court is not erroneous in the particulars mentioned and set forth in the said petition of appeal, or any of them. And this respondent denies that the said claims of the said Jane Caroline Anderson and Sarah L. Stewart, or either of them, are valid and subsisting claims against the estate of the said Hannah Tuttle, deceased, and saith that the said Orphans Court committed no error in refusing to grant an order to sell the lands of said deceased to pay all the supposed debts against her, and presented to said administrators, nor is the said decree erroneous because the said Orphans Court ordered the said administrators to pay their own costs arising upon said investigation before the said

Orphans Court—all which matters and things this respondent is ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays that the sentence, order, and decree of the said Orphans Court, in the particulars aforesaid, may be affirmed by this honorable court, and that this respondent may be decreed in this honorable court all reasonable costs and charges in this behalf sustained.

V. DALRIMPLE,

Proctor for and of counsel with said respondent.

10 Filed August 16th, 1860.

THOS. S. ALLISON, *Register.*

PREROGATIVE COURT OF NEW JERSEY.

Between

Jonathan Provost and John C.
Anderson, administrators of
Hannah Tuttle, &c., appel-
lants,

and

John S. Smith, appellee.

} *Appeal from decree
of Morris Orphans
Court.*

- 20 The said appellants having filed in this court their petition of appeal and a transcript of the proceedings in the court below, on motion of Augustus W. Cutler, proctor of said appellants—it is ordered, that the said appellee answer the said petition of appeal within twenty days after the service of a copy of the said petition of appeal and notice of this order, or that the appellants be heard *ex parte*.

July 17th, 1860.

Filed July 18th, 1860.

THOS. S. ALLISON, *Register.*

MORRIS ORPHANS COURT,
January term, 1860.

At an Orphans Court held at the court-house at Morris-town, in and for the county of Morris, on Monday, the sixteenth day of April, eighteen hundred and sixty, (being as yet of the January term of that year)—present Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, Judges.

In the matter of the application of John C. }
Anderson and Jonathan Provost, the adminis- } 10
trators of Hannah Tuttle, deceased, for an }
order to sell lands to pay debts, } *On trial.*
and }

John S. Smith, exceptant.

Theodore Little and *Augustus W. Cutler*, esquires, proctors of administrators.

Vancleve Dalrimple and *Henry C. Pitney*, esquires, proctors of exceptant.

The above cause being called, and no witness present, the court adjourned until Tuesday morning, the 17th instant. 20

Tuesday morning, April 17th, 1860—present Joseph Dalrimple and Samuel O. Briant, esquires, Judges.

Dr. Stephen Fairchild, called and sworn on the part of the administrators.—I was acquainted with Mrs. Hannah Tuttle in her lifetime; I had known her forty years or more; I have had business transactions with her; I have seen her write more than once—several times.

[Notes here shown witness, marked—No. 1, dated October 21st, 1851, at two years, to Sarah L. Stewart, for \$5000, with interest; No. 2, dated October 21st, 1857, at two years, for 30 \$1000, to James C. Anderson, with interest; No. 3, dated July 1st, 1858, at one year, to Sarah L. Stewart, for \$2000, with interest.]

In my opinion, I should take the signatures to those notes to be in the handwriting of Hannah Tuttle; I form that opinion from the knowledge I have of her handwriting.

Cross-examined.—I was her family physician for many years; I was the administrator of her daughter Nancy, and the executor of William Winters, a relative; I was her physician in her last illness. I first saw those notes week before last; I was requested to call in town and look at them; they were in the surrogate's office. I do not know in whose handwriting the body of the notes is written; I do not think it is in the handwriting of Hannah Tuttle; I do not remember of seeing Daniel Tuttle write; I do not remember of seeing Louisa
 10 Stewart or Mrs. Anderson write; I do not know in whose handwriting the endorsements on the notes is. I have seen Mrs. Tuttle's signature many times; I do not know but that I have seen her make an *e* in that way, with the end of the *e* turning down.

Proctors for exceptant here offered to show to the witness all the signatures he has seen Mrs. Tuttle make within the last six years, and then to ask him if, upon examination of those signatures now, he is still of opinion that the signatures to her notes in question are the genuine signatures of Hannah
 20 Tuttle.

[Question overruled by court, who decided that the evidence was incompetent at the present time, and not a proper matter of cross-examination.]

My knowledge of her handwriting is founded upon seeing her make her signatures—I think exclusively so—I cannot tell exactly within what time. I think I have seen her write once earlier than 23d day of August, 1854; I think I had her name on a subscription earlier than that, but I may be mistaken; I saw her write a receipt earlier than that—I think it was
 30 before the 8th of August, 1854; I am not certain that I saw her write more than once before the 8th of August, 1854; my opinion is founded upon all of the signatures that I saw her write. I wrote two receipts, one for her and one for William; he signed one, and she signed the other; I delivered one to him and one to her, and that is the last I saw of them. I believe I have seen her write a great many times, but I can't say for certain at what times; I can't recollect certainly of seeing her write more than once or twice before writing the bond of indemnity dated August 8th, 1854.

Sworn and subscribed, in open court, this 17th day of April,
1860.

JOS. DALRIMPLE,
S. O. BRIANT.

John C. Anderson, called and sworn on the part of administrators, says—I am one of the administrators of the estate of Hannah Tuttle. [Notes marked No. 1 and No. 2 shown to witness.] The claims on those notes were filed with me in the latter part of August, 1859; there were no endorsements upon the notes at that time; they were presented, but not filed 10 at that time, by Sarah L. Stewart; she presented a copy of both of them to me. I think the endorsement upon the note No. 2, was placed there in September, by Sarah L. Stewart—I saw her write her name. [Note marked No. 3 shown witness.] This note was presented at the same time with the others, but there was no affidavit made—there has been an affidavit made since. [Affidavit here shown witness.] I think the affidavit was presented yesterday. The endorsement was not upon the note when first presented to me—both endorsements were made in September—I saw them made. 20

Cross-examined.—Two of the notes were presented by Sarah L. Stewart, *viz.*, the one for \$5000 and the one for \$2000; she presented them in the latter part of August, I think the 27th or 28th; she presented a copy of the notes with the affidavits; I first saw the notes in July previous—it was the latter part of June or the first of July; Mr. Cutler had them there; that is the first time I ever saw the two notes for \$5000 and \$2000; I saw the other one the day the first claim was presented; Mrs. Stewart gave it to my wife that day; this is the claim for \$1000—I never saw it before that day. Mrs. 30 Stewart is a sister of my wife, and a daughter of Mrs. Hannah Tuttle; she lived with Mrs. Hannah Tuttle; I then lived at Caldwell. My wife took that note that day; she has had it ever since until it was endorsed, or I held it for her, some time in September. The handwriting of the body of the endorsements is mine; I got the form of the endorsements from my head; I had no form or instructions. The \$2000 note was passed to my wife, and the \$1000 note was passed to Mrs. Stewart. I did not see Mrs. Stewart get anything for the

difference between the \$1000 and \$2000 notes—I do not know of her getting anything. Jane Caroline Anderson is my wife—we have been married a little over seven years. These two claims are the only ones that have been presented to me on these notes. Mrs. Tuttle died on the 14th day of June last—she was said to be about sixty-five years old.

Mrs. Stewart did get some consideration in the exchange of the notes, but I do not know what it was; I believed that she did; I do not know that she did. There was something talked
10 about at the time, but I do not know what it was; I can't recollect what the talk was about the consideration; I did not say anything, nor did my wife—if she did, I don't recollect it, or what it was.

JOHN C. ANDERSON.

Sworn and subscribed, in open court, this 17th day of April,
1860.

JOS. DALRIMPLE,
S. O. BRIANT.

Proctors for administrator here offered in evidence three
20 notes, marked No. 1, No. 2, and No. 3, with the endorsements marked thereon, and also the claims presented to the administrators thereon, marked No. 4 and No. 5.

Dr. Stephen Fairchild, recalled on part of exceptant, says—Mrs. Hannah Tuttle was in her last illness about two weeks—her disease was palsy; she was helpless, nearly so, after she was taken; I do not think she was able to transact any business; I saw her daily or every other day; I don't remember that any one else composed her family except Daniel, her son, and Mrs. Stewart and Mrs. Stewart's children.

30 *Question.* After the old lady was taken down, did you hear Mrs. Stewart say anything in reference to her condition, if her mother should die without being able to make a will?

Answer. I never heard anything said about a will, that I know of; I heard Mrs. Stewart say what amounts exactly to this—I can't remember the very words: Mrs. Stewart said it would be, or what amounts to her saying that in my mind, it would be dreadful to be turned out of house and home. I told her that she could not be turned out of house and home,

because she would have one-third of that estate ; she made no answer to that. These are the only words I heard her express on the subject.

Quest. Did she ask you, at any time during her last illness, whether she was fit to make a will, or any disposition of her property ?

Ans. She did not. I don't recollect of it.

Quest. Did any one else ask you that in her presence ?

Ans. I think not exactly as that question is put. I have no recollection of hearing the word *will* used at all ; but I re- 10
collect of hearing Daniel say something, but not in the presence of Mrs. Stewart or Mrs. Anderson.

I do not recollect of Mrs. Stewart's saying anything besides what I have stated ; I think I have stated the substance of that, as nearly as I can recollect. When Mrs. Stewart made this observation, I should think it was very near the old lady's decease, perhaps the day before ; the old lady was very low.

Papers offered in evidence by counsel for exceptant as follows, marked A. (with one signature of Hannah Tuttle).—I saw her sign this, B., with four signatures ; I saw her sign the 20
two last ; C., I saw her sign her name to this ; D., I saw her sign this ; E., I saw her sign this.

I never considered myself a very good judge of writing—sometimes I cannot tell my own.

Paper marked F., signed by Hannah Tuttle, also offered in evidence ; also papers marked G. H. and I., signed by Mrs. Hannah Tuttle. These signatures admitted to be her handwriting by proctors of administrator. Exhibit B.

I paid her the money mentioned in the receipt upon Exhibit B.

STEPHEN FAIRCHILD.

30

Sworn and subscribed, in open court, this 17th day of April, 1860.

JOS. DALRIMPLE,
SAMUEL O. BRIANT.

Tuesday afternoon, April 17th, 1860—present Joseph Dalrimple and Samuel O. Briant, Judges.

Charles C. Rockwood, called and sworn on the part of the exceptant, says—

[Note.—The counsel for the proctors objected to the introduction of papers proved by Dr. Fairchild and to all evidence of comparison of handwriting, or of the opinion of comparison of handwriting, or of the opinion of experts who have no acquaintance with Mrs. Tuttle's handwriting.]

I live at Newark; I am cashier of the Newark Banking Company; I have been engaged about fourteen years as cashier and teller in the banking business. I have had occasion, as cashier, to examine frequently the question of genuineness of signatures; I have been engaged in other places besides Newark. I never have been teller, excepting in banks where the cashier acted as teller.

Witness here shown notes marked No's 1, 2, and 3,—says, I have seen them before—I have seen them twice to-day, and once before.

Quest. Have you compared them carefully with these other genuine signatures in the case?

Ans. I have compared them, and I recognised them as the same that I saw.

20 *Quest.* Did you use any magnifying glass in examining them?

Ans. I did.

Quest. What is the result of that examination? [Objected to; and objection overruled.]

Ans. I detected, in one of them at least, by the magnifying glass (the \$1000 one), and to some extent in the \$5000 note, the evidence that the strokes have been the results of several strokes of the pen—painted, as it were, instead of being clean letters made by one stroke of the pen—they look as though
30 they were made with several strokes, as if it were made to imitate.

Quest. Do you see anything peculiar in the letter *e*, in the word Tuttle, in the thousand dollar note?

Ans. There is a difference in the character different from those in the genuine papers; the stroke of the *e* extends out, and runs downward, with reference to the letter *e*—I speak of all three notes. I do not observe the same character in any of the genuine signatures. It seems to me the character of the handwriting and the manner in which the pen is carried
40 will not allow of such a stroke; there seems to me to be a

difference in the character of the handwriting all the way through; there is a freedom in some of the strokes on the notes which I don't think the handwriting on the genuine papers is capable of; the slope, too, of the strokes on the notes is slightly greater than that on the other papers—on the genuine papers the curves at the bottom of the letters are very cramped and stiff, and mostly painted, while on the notes they are more round and easy; in the genuine, she takes off the pen nearly uniformly, but not always, before she carries the upward stroke to the next letter, while on the notes the strokes 10 are, some of them, carried freely up to the top of the next letter. I notice, on the \$1000 note, the stroke from the letter *a*, in the Hannah, runs directly up to the top of the letter *h* in one continuous stroke.

Quest. Do the various characteristics of the signatures, on the various papers alleged to be genuine, indicate that Mrs. Tuttle was in the habit of writing much or little?

Ans. Little.

Quest. How about the signatures to the three promissory notes in that respect? 20

Ans. They look, to my eye, more like a freer hand purposely cramped.

Quest. Do the signatures of the notes look as though they were written by as old a person as those called genuine?

Ans. I should think they were written by a younger person. The signatures of the notes look as though they had been written slowly and filled out. A person who wrote a name that he was used to the letters would be unconstrained. I notice on some of the genuines that the strokes have been repeated, but the hand there does not strike the same place the 30 second time, while on the notes, to the naked eye, they look like one stroke, but appear, under the glass, to be the result of several strokes with a steady hand. The letter *e* in the \$1000 note shows very evidently painting to the naked eye.

Quest. As the result of the whole examination of these various signatures, are the signatures to the notes, in your opinion, as a matter of opinion, written by the same person as the signatures called genuine signatures?

Ans. My opinion would be that they were not. I should

have more doubt about the \$2000 than about the others—I mean to say my opinion would be less reliable.

Cross-examined.

Quest. During the time that you have been acting as cashier, has your attention been directed more particularly to the examination of handwriting and signatures or to the detection of counterfeit bank bills?

Ans. More to the detection of counterfeit bank bills, because we take a great many more bank bills than we see signatures.

Quest. Are they detected more generally by the signatures, or by the general appearance of the bill, and other indications about it?

Ans. Detected by both—by everything about the bill; the signatures, as a means of testing, are not equal to all the others.

Quest. Do you know, sir, the handwriting of one half of the officers of the banks whose bills come under your notice?

Ans. Yes.

20 *Quest.* Do you know anything more than the general characteristics?

Ans. I am sufficiently familiar with them to recognise them as a test.

Quest. If the bill of a new bank, such as you have never seen before, were handed to you, do you think that you could form a very reliable opinion as to whether the signatures were genuine, having had no previous acquaintance with them?

Ans. In many cases I could, in others I could not. I had no acquaintance with Hannah Tuttle; I saw, some few days ago, 30 some of her handwriting that was recognised as hers; Mr. Pitney showed those to me for the purposes of this trial; they were shown to me in Newark; these notes were shown to me at the same time by Mr. Pitney—there was no one with him; I was told that there was a controversy about these notes; I was told, at that time, that they were supposed not to be genuine signatures of Mrs. Tuttle; it would depend upon the circumstances of her particular case whether it would be more difficult to detect the handwriting of one who wrote very rarely or otherwise.

40 *Quest.* Does the fact, that a person is a bad writer, and

writes rarely, increase the difficulty, or not, of detecting genuine from false or feigned signatures?

Ans. In most cases it would increase it.

Quest. To an ordinary observer examining the signatures with the naked eye, would there appear to be any appreciable difference between all the signatures of Mrs. Tuttle that have been shown to you?

Ans. I think there would, unless the inspection was very casual.

Quest. Will you state in what that difference consists—in 10 examining it with the naked eye particularly?

Ans. I think that the genuine hand is rather more up and down and the curves are more sharp and pointed, cramped; the whole character of the genuine handwriting don't seem to me to admit of a stroke like that at the end of the *e* in Tuttle, which is thrown off to a distance to the right and downwards, while the whole management of the pen in the genuine would tend to point that stroke upwards; the hand seems to move mainly up and down, and not to be capable of such stroke.

Exhibit D shown witness.—The *e* in this signature is thrown 20 off a little, but not downward.

Exhibit I shown witness.—The hand in this signature has been unsteady, and the strokes have been repeated.

Exhibit Z shown witness.—The character of the *e* shown here is the same as that in the genuine; I think both of the signatures are genuine. Those signatures are both more open and larger than the genuine signatures, yet I perceive the characteristics of the genuine signature.

Quest. Would your opinion, as to the genuineness of these signatures, be at all shaken, after the comparison you have 30 made by the evidence or opinion of persons who knew Mrs. Tuttle's handwriting, that they were her genuine signatures?

Ans. It would depend altogether upon whether they had better opportunities of judging than I had; if they had better opportunities of judging, then my opinion would be shaken; if I could see in one signature movements of the pen which the other signature showed the hand that wrote it to be incapable of, I should hold to my own opinion against the mere opinion of another.

Quest. Would your confidence in your opinion be shaken 40

by the evidence of a reputable person who saw her make the signatures?

Ans. I certainly should not hold an opinion against proved facts.

Quest. What evidence do you find in those signatures that they were written by a younger person than the others?

Ans. There is a firmness and smoothness about some of the strokes that I don't see in the other hand; the *T* in the \$1000 note, and the smaller letters in the word Tuttle, particularly the two *tt*'s look to me smoother and more round; the letters in the \$5000 note are more round at the bottom; with the exception of that peculiar *e*, I see less difference in the \$2000 note than in the others. I should still be of opinion that that was written by a different hand, but I speak with less confidence than with regard to the others.

Re-examined.—I should think it was more easy to imitate the hand of a person who writes seldom, and more difficult to detect in most cases. In *I*, the letters do not present the same appearance of painting that the signatures in the notes do—
20 it comes more under the description of what I spoke of a little while ago, that the hand did not find the same stroke the second time; this would show a want of steadiness of the hand in the signature in *I*, and in the notes it would show a comparative steadiness—in the one it is making the letter over, but it is not painting the strokes, that is, I mean the check or in *I*.

CHAS. G. ROCKWOOD.

Sworn and subscribed, in open court, this 17th day of April, 1860.

JOS. DALRIMPLE,
SAMUEL O. BRIANT.

30 *Edward F. C. Young*, called and sworn on part of exceptant, says—I reside in Jersey City. I am teller in Hudson County Bank; I have acted as teller for five or six years; I have acted as paying teller for about three years—since July, 1857. My attention has been called to signatures and to the examination of counterfeit bank notes. I pay moneys upon a great many different checks during the day; in taking them, it

is my habit to scrutinize the signatures; I have been engaged in no other bank besides the Hudson County Bank; I saw these notes once before to-day—I saw them yesterday; I have seen them to-day on the table; I have examined a portion of the signatures of these papers called genuine.

Quest. Is it, or not, your opinion that the signatures to the notes are the same handwriting as the signatures to the papers presented as genuine?

Ans. My opinion is that they are not, that is to say, if any one of the genuine signatures should be left with me, and 10 either of these three notes presented, I would not pay them, if there was a balance in the bank to pay them, on the ground that the formation of a majority of the letters are more round and written with a freer hand.

Quest. Suppose either one of these genuine signatures to be left with you as a sample of the handwriting, and the signature to the notes was presented at your counter, do you think you would be able to detect the difference, giving the same scrutiny to the check that you do in case of an account newly opened? 20

Ans. I think I would. Persons always in the cities leave in the bank specimens of their signatures, and then, if I have any doubt, it is my daily habit to compare the signatures on the checks with those that are left; I have some hundreds in my possession of those specimens. In almost all the letters in the word Tuttle I notice the difference; they have been gone over twice; this is in the \$1000 note—the party who has gone over it had a pretty steady hand. The \$5000 note—portions of it have been gone over a second time. There is a peculiarity in the capital letters *H* and *T* and the letter *e*; I observe 30 this more in the \$2000 and \$1000 notes, but in fact in all. In the letter *H* the whole letter is apparently made without taking the pen off, in the genuine it is not so, that is my opinion. The *T* is formed, apparently, in the same way, without taking the pen off; there is also a round curl at the bottom of the *T*, which the genuine has not. The letter *e* has a long stroke after the formation of the letter; the direction of that stroke in the letter *e* differs from the genuine, in that it runs down. I never saw these notes until I was subpoenaed here yesterday. Mr. Smith has not spoken to me about the 40 trial before I came here.

Cross-examined.—I had no acquaintance with Hannah Tuttle; I have no acquaintance with her handwriting.

EDW. F. C. YOUNG.

Sworn and subscribed, in open court, this 17th day of April, 1860.

JOS. DALRIMPLE,
S. O. BRIANT.

Albert Baldwin, called and sworn on part of exceptant, deposeth and says—I reside in Newark; I am cashier in the
10 City Bank. I think it is about ten years that I have been employed in the banking business; for the first six years I was employed as receiving and paying teller mostly—for the last three years I have acted as cashier. While cashier, I was also paying teller. My business has made it necessary to inspect signatures, and pass upon their genuineness.

Notes marked No's 1, 2, 3, shown witness. I have seen them before; I have compared these notes with the signatures supposed to be genuine.

Quest. In your opinion, as a matter of opinion, are they
20 written by the same person?

Ans. I think there is a difference between these and the others—in the first place, in the *e*, in the end of the name, there is a mark downward; in the others there is a dash—it appears to be up on the Hannah; the first *a* seems more distinct on the notes than in the others, and the last *a* does not appear to be as distinct in the notes.

Quest. Which would you think was written by the older person—or is there any perceptible difference in this respect?

Ans. I don't think there is any difference, but that they
30 were written by a person of the same age, that is the notes; I think the signatures of the notes were written by a person older than the one who wrote the others.

Quest. Do you observe anything peculiar about the signature of the \$1000 note?

Ans. One thing—the letters have the appearance of being marked over or painted; the others, that is the genuine, appear to look about alike.

Quest. Look at the signature of the \$5000 note, and say

whether or not you observe any appearance of painting in the signature of that note?

Ans. Yes, I should.

Quest. Why do you think the three notes were written by an older person?

Ans. They have that appearance—they don't look as though they have been written by so steady a hand.

Cross-examined.—I never knew Hannah Tuttle—I never saw her handwriting; I have examined the signatures carefully under a glass; Mr. Pitney showed me the notes about 10 a week ago in the bank; he told me that their genuineness was disputed.

Re-examined.—I told Mr. Pitney my impression at that time.

A. BALDWIN.

Sworn and subscribed, in open court, this 17th day of April, 1860.

JOS. DALRIMPLE,
SAMUEL O. BRIANT.

Oscar L. Baldwin, called and sworn on the part of except- 20
ant, deposeth and saith—I live at Newark; I am assistant
cashier of the Mechanics Bank; I have been employed in
banking about thirteen years; my business has led me to judge
of the genuineness of signatures.

Various signatures shown witness.—I never have seen these
until this time; I have now examined them.

Quest. The three promissory notes, 1, 2, 3, were they, in
your opinion, written by one person or by different persons?

Ans. I should think they were written by the same person.

Quest. Have you compared them with the other papers 30
lying on the table alleged to be genuine?

Ans. I have.

Quest. What is the result of that comparison?

Ans. I can see some difference between one set of signatures
from the other; I should think it was in the general character-
istics; I think there is more uniformity in these three signa-
tures, 1, 2, 3, than between any of the others.

Quest. How about the ease with which they were written
showing the party accustomed to writing, or otherwise?

Ans. I should say they were written by a person more accustomed to writing than the others—they are better signatures; I should notice the difference more particularly in the name of Tuttle—it appears to be written very uniformly; I should think the *T* was written more uniformly in the three notes, but differently from that in the others; they appear to be written more boldly, and the termination is different; and the letter *e* in the termination of Tuttle, is written decidedly different from any of the others. I think I observe the appearance of painting in one of the notes—the \$1000 note.

Quest. Do you, or not, observe any in the \$5000 note?

Ans. I think there is.

Quest. Can you tell which set of signatures was written by the older person, as a matter of opinion?

Ans. I should think the notes were written by the best writer; the other, or genuine signatures, may have been written by an old or a young person—I cannot tell.

Quest. As a matter of opinion, were the three notes written by the same person as the other signatures?

20 *Ans.* I should not think they were, if they were written anywhere near the same time.

Cross-examined.—I did observe the painting of the \$5000 note before my attention was called to it; I think the painting is the more distinct upon the \$1000 note, and this is the reason why I did not mention it when asked if I observed any painting; I think it would have been possible for the one who wrote the three notes to write the others.

Re-examined.

30 *Quest.* You have said that it is possible that the person who wrote the three notes may have written the other signatures—how about the reverse of that proposition?

Ans. I should not think it so probable.

OSCAR L. BALDWIN.

Sworn and subscribed, in open court, this 17th day of April, 1860.

JOS. DALRIMPLE,
SAMUEL O. BRIANT.

Wednesday morning, April 18th, 1860—present Joseph Dalrimple, Samuel O. Briant.

John A. Wilson, called and sworn on the part of the ex-
 ceptant, deposeth and says—I live in Newark; my business is
 travelling. I have paid attention to penmanship; I was a
 teacher of penmanship for a number of years, and made it my
 study; I have always lived in this county until the last two
 weeks; I was engaged about seven years in teaching penman-
 ship, and studying it as a science. The subject of penmanship
 has always been a subject of peculiar interest to me. I have
 examined these notes and genuine signatures; I saw them in
 the surrogate's office on the 29th day of March, the day of 10
 Acker's execution—I have not seen the notes since; I saw the
 specimens exhibited here yesterday as genuine; when I saw
 them in the surrogate's office I applied the magnifying glass
 to them—I don't know that any one suggested to me to do so;
 I always carry it. There was no one present but the surro-
 gate when I first examined it; I afterwards examined it in
 the presence of Mr. Smith.

Notes 1, 2, 3, and Exhibits A, B, C, &c., here shown witness.
 I think I find a marked difference in the signatures of the notes
 from those said to be genuine in several particulars. The first 20
 that I notice with the naked eye is the termination of the word
 Tuttle; the termination of the *e* droops on every one of the
 signatures on the notes, while the *e* in all the other signatures
 rises at the termination. The next difference that I find is in
 the capital *H*—in the genuine, the last part of the *H* is almost
 invariably carried as high as the first part, and made without
 the usual loops at the top, while in the notes it is not carried
 as high as the first part; on the \$2000 note the loop is perfect,
 and on the other two there is an attempt to make the loop,
 but it is blotted—I mean the loop in the last part of the *H*. In 30
 the genuine signatures the writing is angular—I mean by that
 the bottoms of the *w*'s and *l*'s are quite sharp, while in the
 notes they are quite round, evidently the effect of the lateral
 movement of the hand. In the \$1000 note I find, by the glass,
 that the word Tuttle has been painted, or amended with the
 pen; it appears that, having first been written, it has been
 gone over with the pen—I only detect it in the \$1000 note in
 the Tuttle. I don't detect any painting in those called genuine.
 I see where the pen has gone over the letter in the genuine,
 but there has almost invariably been two marks.

Quest. That making the mark the second time in the genuines, would you call it painting or not?

Ans. I would not. These are all the discrepancies I observe.

Quest. Is it, or not, your opinion that the general character of the handwriting in the two sets of signatures is the same? [Objected to, and objection overruled.]

Ans. I don't know as I understand the question.

10 *Counsel* for the exceptant here desired the surrogate to read the question anew—and the question being amended, it was read to the witness anew.

Ans. I don't want to answer that question, not fully understanding the meaning of it.

Quest. What I mean is this—is it, or not, your opinion that the general style of the handwriting on the notes is the same as the general style of the handwriting of the signatures called genuine, and whether the two sets were made by the same general movement of the hand.

Ans. No.

20 *Quest.* Give the reasons for your belief?

Ans. In the hand and arm of a young person there is more elasticity, and there would consequently be more lateral movement in the formation of letters than there would be in writing executed by an older person.

Quest. Have the genuines the appearance of any lateral movement of the hand, or capacity for it?

Ans. They do not to me—they appear to have been made entirely with the fingers, without any lateral movement of the hand or forearm.

30 *Quest.* How, in that respect, about the notes?

Ans. The round curves in the notes at the bottom of the letters indicate a combined movement of the fingers, hand, and forearm.

Quest. Have you noticed the \$5000 note, as to whether the signature has been painted or not?

Ans. I did not observe it in the \$5000 note.

Quest. Did you examine it with that view?

Ans. I had not examined it particularly before with that view, and I can't say even now that it is painted.

Quest. Does it require your glass to see that the letter *e* on the \$1000 note has been painted?

Ans. It does not.

Quest. Is it, or is it not, your opinion that the signatures of the three notes are all of the same handwriting?

Ans. I think they are.

Quest. In your opinion, are the signatures to the notes in the same handwriting as the signatures in the specimens shown to you as genuine?

Ans. I think they are not.

10

Quest. Which set of signatures, in your opinion, shows the better penman?

Ans. Those in the notes.

Cross-examined.

Quest. Look at Exhibit C, and say whether there is a loop to the second part of the letter *H* in the name of Hannah?

Ans. There is not.

Quest. Look at the \$1000 note and the endorsement, and say if there is any evidence of painting in any part of the endorsement?

20

Ans. I don't detect any in the endorsement.

Quest. Look at Exhibit F, and say whether there is a loop to the second part of the letter *H* in the word Hannah, and whether the word Tuttle is written angular or not?

Ans. There is no loop to the *H*—the word Tuttle is written angular in parts—in the bottom part of the letter *t* it is quite round.

Quest. Do you observe in any other of the letters that compose the word Tuttle whether they are round or angular?

Ans. I should pronounce all the rest angular.

30

Quest. Look at Exhibit 2, and say whether the termination of the letter *e*, at the end of the word Tuttle, is up or down?

Ans. Up.

Quest. Is it rounding or angular?

Ans. It is neither; the bottom of the pen is made by drawing the pen sideways and upwards. In this *e*, spoken of in Exhibit I, I am unable to determine whether these lateral strokes are a part of the signature, or have been added purposely since.

Quest. What is your impression?

40

Ans. My impression is that it was done at the same time that the signature was written.

Quest. What evidence have you of that?

Ans. The ink appears to be the same.

Quest. What made you doubt it in the first place?

Ans. The reason why I doubted it is because these two lateral strokes appear to cross the *e*, and form no part of the letter.

Quest. Look at Exhibit E, and say if you observe any difference in that name and the other signatures on Exhibits from A to I, and if so, where?

Ans. I think it is written by the same hand that the others are written by, but not so well written—the letters forming the name are not so distinct.

Quest. You speak of the difference between the notes and the signatures called genuine, in that the latter part of the letter *H* is made in the genuine without the usual loop—do you think that an important difference between the signatures?

Ans. I esteem it an important difference.

20 *Quest.* Look at the signature now shown to you—is there a loop in the latter part of the letter *H* or not?

Ans. There is—but that the pen was taken off at the top—it is not strictly clear and distinct.

Quest. What renders it indistinct, if anything?

Ans. As I said before, there are two breaks in it; it appears to have been attached to the letter after the letter had been written.

Quest. Is that, in your opinion, a genuine signature or not?

30 *Ans.* I should call it genuine—there is but one marked difference between that and the genuine, the upper loop of the *H*. I wish to make an amendment. I find an attempt, in the last *h* of the word Hannah, to form a loop at the top of the letter, which I do not observe in the genuine signatures.

Quest. Upon the whole examination you can make, is it, or not, a genuine signature?

Ans. I have great doubts of it—my doubts are such that if it was a check for \$50 I would not pay it.

Quest. Look at the signature now shown you, and say whether it is genuine or not?

40 *Ans.* I have the same opinion in regard to this as the last.

Quest. Is there, or not, a loop in the letter *H*, then, clear and distinct—the capital *H*?

Ans. Yes, there is.

Quest. Look at the word Tuttle in that name, and tell us whether it is written angular or rounding—the bottom of the letters?

Ans. The bottom turn of the last part of the *u* is somewhat rounding, and so with the bottom of the *l*.

Quest. How is the *e*?

Ans. The *e* is quite flat, but angular in the left-hand bottom 10 corner.

Quest. Would you call it angular writing—the word Tuttle?

Ans. I should.

These papers are marked Exhibits Z and Z 2.

Re-examined.

Quest. These signatures that have been shown you have so been folded and arranged that you saw nothing but the bare signatures?

Ans. That is all I saw.

Quest. You could not tell whether they were upon one 20 piece of paper or upon two pieces of paper?

Ans. I could not.

Quest. Have you no information as to the time when they were written?

Ans. I have not.

Quest. Have they, or not, been written by a pen making a finer mark and by paler ink?

Ans. My opinion is they have been written by a finer pen and a steadier hand, and written with an ink that runs freer 30 in the pen.

There is an appearance of genuineness about the first signature, except the letter *H*, which is looped.

Quest. Is not the general characteristics the same in these as in those shown to you to be genuine?

Ans. As a casual observer, I should have pronounced them genuine, both of them; but upon a particular and minute examination of them I had strong doubts.

My business never has been to detect counterfeits; my busi-

ness in travelling now is selling grain cleaners; I have been travelling five years, off and on.

J. A. WILSON.

Sworn and subscribed, in open court, this 18th day of April, 1860.

JOS. DALRIMPLE,
SAMUEL O. BRIANT.

Elizabeth Massacre, a witness called and sworn on the part of the exceptant, says—I live down in Somerset county, near 10 Baskingridge; I lived on Mrs. Tuttle's place, as it was called; I lived there three years ago this summer; it is two years ago this spring since I left; I lived there fifteen months, as nearly as I can recollect.

Quest. Did you ever hear Mrs. Tuttle say, while you lived there, on what terms or in what capacity her daughter, Louisa Stewart, was living with her? [Question objected to, and the court received the evidence subject to a further consideration.]

Ans. I heard Mrs. Stewart and her mother say her husband, Mr. Stewart, was paying her board; I don't recollect exactly 20 how much a week, but I think it was \$3 for her and her two children.

Quest. When they told you that, were they together or were they separate?

Ans. Mrs. Tuttle was at my house when she told me; I think I heard Louisa say it in her mother's house.

Quest. Just state the words that passed between you and Mrs. Tuttle, as near as you can recollect them?

Ans. As near as I can recollect, Mrs. Tuttle was at my house. Saying she was very tired, I put the question to her, 30 whether Louisa did not help her; her answer was, she could not expect her to work, as she was receiving pay from her husband for her board; she said nothing more at that time. As near as I can recollect, this conversation took place in July—I think it was after that that I heard Louisa speak of it. I could not say how long after.

Quest. State the conversation between you and Louisa Stewart, as near as you can recollect the words which were used?

40 *Ans.* I don't remember distinctly how it did come; I think

I asked her how much he was paying—she told me, as near as I can recollect, it was \$3 per week for her and her children; she told me, at that time, that Mrs. Stewart was paying her board. I think my daughter, Rachel Fredericks, was present when she told me this. I can't tell exactly what season of the year it was—I don't think it was a great while after; I don't recollect that Louisa ever told me this more than once; I don't recollect when Louisa went to live there; she lived at her mother's when I moved there; I never talked with the old lady at any other time about Louisa's boarding there. 10

Cross-examined.—I moved to Littleton three years ago last February; I moved away two years ago this April—I moved from Troy, in this county; I moved from Littleton to Parsippany; I lived in Parsippany one year; I then moved to Baskingridge, where I now live. I have lived there one year this first day of April; my husband's name was Abraham; he is dead—he will have been dead a year the 18th day of next month.

Re-examined.—The July I spoke of was during the year I lived there. 20

Her
ELIZABETH X MASSACRE.
mark.

Sworn and subscribed, this 18th day of April, 1860, in open court.

JOS. DALRIMPLE,
S. O. BRIANT.

Rachel Fredericks, called and sworn on the part of the ex-
ceptant, says—I am the daughter of the witness last sworn;
I lived with my mother when she lived on the Tuttle place;
I was six weeks away from home—I lived with my mother
pretty much all the time. I was milking at Mrs. Tuttle's for 30
about nine months, while I lived there, night and morning.

Quest. Did you ever hear Mrs. Tuttle or Louisa say any-
thing about the terms on which Louisa was living there?

Ans. Yes, sir. I frequently heard Mrs. Tuttle and Mrs.
Stewart say that Mr. Stewart was paying her board, at \$3 per
week; I was at Mrs. Tuttle's house; it was while I was doing
the milking there; I commenced in April to go there to milk—

I quit in January ; I don't recollect when I heard Mrs. Tuttle say this ; I have heard them say it at different times ; it was along in the summer, I think.

Quest. Was it at the first or the last that you heard them say about it ?

Ans. I never heard them say anything about it in cold weather.

Quest. Did you ever hear Louisa say whether she got behind for board any ?

10 *Ans.* No, sir. I have stated all I heard him say about it.

Quest. Were you present when the deed was given to Mrs. Tuttle for Mrs. Anderson's share in some property ? [Question objected to as irrelevant, and the evidence received subject to further consideration.]

Ans. I was not present.

Quest. Did you hear from the parties, or see anything in respect to the payment of money to Mrs. Anderson for her interest in the land ? [Objected to as irrelevant. Proctor for administrators objected to anything that was said not in the
20 presence of Mrs. Anderson.]

The witness directed not to say anything that was not said in the presence of Mrs. Anderson, one of the claimants, by counsel for exceptant.

Ans. I saw Mr. Daniel Tuttle pay her some money—I did not know how much—I did not see it counted ; Mrs. Tuttle and Mrs. Anderson, Daniel, myself, and my brother Thomas were present at the time ; Mrs. Stewart was also present. They did not say what the money was paid for ; they said they would come down the next day, and make out the writings.

30 *Quest.* Did Daniel make any remark when he handed the money to Mrs. Anderson ?

Ans. I can't recollect that he did. I don't recollect whether Mr. Anderson was there that day at Mrs. Tuttle's.

Quest. Was there anything said that day upon the subject of Mrs. Anderson's selling her right in any land to Daniel or to Mrs. Tuttle ?

Ans. No, sir.

Quest. Did you hear Daniel or Mrs. Tuttle, either, say anything afterwards in the presence of Mrs. Anderson about the
40 purchase of the land from Mrs. Anderson ?

Ans. No, sir; nor in the presence of Mrs. Stewart. It was in the fall that this money was paid by Mrs. Tuttle to Mrs. Anderson—the fall that my mother lived there.

Quest. Was there anything said by them then that day before they separated about their being even?

Ans. I don't recollect.

Cross-examined.—I live in Parsippany; my husband's name is William H. Fredericks; I am in my nineteenth year.

Re-examined.

Quest. Did they say where they were coming to make out 10 the writings?

Ans. Down to Morristown.

RACHEL FREDERICKS.

Sworn and subscribed, in open court, this 18th day of April, 1860.

JOS. DALRIMPLE,
S. O. BRIANT.

Thomas F. Massacre, a witness called and sworn on the part of the exceptant, says—I lived with my mother at the time she lived on Mrs. Tuttle's place. I am the son of Eliza- 20 beth Massacre.

Quest. While living there, did you hear Mrs. Tuttle or Mrs. Stewart say how Mrs. Stewart was living with Mrs. Tuttle?

Ans. I heard Mrs. Tuttle and Mrs. Stewart say that Mr. Stewart was paying Mrs. Stewart's board and the children; I think I have heard them say it frequently—several times. I worked Mrs. Tuttle's farm on shares; I boarded at home. I was present when the money was paid to Mrs. Anderson—it was in the spring; I think Mr. Tuttle, Mrs. Tuttle, Mrs. Stewart, Mrs. Anderson, myself, and Mr. Anderson, I think, 30 and my sister Rachel were present; I don't recollect of any one else. There was money paid then—I don't know how much; if I remember right, Mr. Daniel Tuttle paid it out; it was said that it was paid for Mrs. Anderson's share in land, if I can recollect.

Quest. Do you, or not, recollect that that was said at the time by any of the persons present?

Ans. I do not positively.

Quest. Do you recollect of Daniel's saying anything when he handed the money to Mrs. Anderson?

Ans. If I recollect right, Mr. Tuttle said that that made it right, or something to that purpose; he said nothing more.

Quest. Was there anything said about coming to Morristown?

Ans. I believe Mr. Tuttle said that they would go down to Morristown the next day, and make out the writings. I rather think the money was counted there that day; Mr. Tuttle, I
10 think, counted it and Mr. Anderson; it was in bills, what I saw of it; I did not hear them say how much there was when they counted it.

Quest. Can you tell anything about the number of bills?

Ans. I could not.

I do not recollect whether they started to come to town the next day, or not. Mrs. Anderson lived at Caldwell at that time.

Quest. Did you hear Louisa say anything about the sale of this land afterwards while you lived there? [Objected to by
20 counsel for proctor, and objection overruled.]

Ans. I did not.

Cross-examined.—When I saw this money paid it was the first spring I lived there; I moved there three years ago this last February; I am in my twenty-fifth year; I live now in Somerset county with my mother. What makes me think it was paid in the spring is because, if I recollect right, I was about ploughing for corn. I was down at Mrs. Tuttle's letting my team rest; I was in the house when the money was paid; I can't tell what time of day it was—it was in the afternoon;
30 I was ploughing in the orchard down below Mrs. Tuttle's house. I was not ploughing for winter grain in the fall—I did not sow any winter grain. I am sure Daniel was there when that money was paid; he lived at home at that time. I did not go to Caldwell that day—I did not start to go there; I did not start to go anywhere driving a cow, that I recollect of.

Re-examined.—Re-examination of the witness upon new grounds or new matter objected to.

Quest. Did you ever hear Mrs. Tuttle say anything about assigning his, Daniel's, property over to him or his creditors if
40 he did not behave himself or treat her better? [Question ob-

jected to on three grounds—first, re-examination upon new and distinct matter ; second, it is irrelevant to the issue ; third, it is hearsay ; fourth, that the evidence goes to prove that Mrs. Tuttle was the trustee of Daniel, over which this court has no jurisdiction.] Objections sustained.

His
THOMAS F. ✕ MASSACRE.
mark.

Sworn and subscribed, in open court, this 18th day of April, 1860.

JOS. DALRIMPLE,
S. O. BRIANT. 10

Austin McClennan, called and sworn on the part of the exceptant, says—I knew Hannah Tuttle in her lifetime; I was acquainted with her eight or nine years; I lived in this county at that time. I have done business with her; I have seen her write about, I should think, three times; it is about seven years ago last fall when the writing was done—I boarded with her at that time; she wrote very slow, and made principally one letter at a time.

Quest. Did she write with ease or difficulty?

Ans. She wrote with difficulty.

20

Quest. Did she make the whole of a letter at a time, or did she make one stroke up, and then one down?

Ans. I did not notice particularly enough to describe; but she wrote very slow, and made one letter at a time.

I saw her write her name to a receipt, or rather a receipted bill—the other was a small receipt for some money; I only saw her write her name.

Quest. Have you sufficiently distinct recollection of the character of that handwriting to enable you to form an opinion as to whether the signatures to these notes in question are 30 genuine?

Ans. There is one which has a similarity to her handwriting, that is the \$2000 note; the other two notes do not look to me natural, that is they do not look like what I saw her write.

Cross-examined.—These receipts were given to me; I cannot find them; I suppose I have them; I have not seen them

in three or four years. I boarded at Mrs. Tuttle's seven years ago; the receipts were given to me for payment of board; I recollect of two receipts—I might have had more than two. I never saw her write her name to any other papers. I think I paid more attention to her writing because she wrote slow; the signature to the \$2000 note resembles her signature more than the signature to the other two notes in the word or name "Tuttle." The name "Tuttle," on the \$2000 note differs from the other notes in the letter *T* and *u*—I do not ob-
 10 serve any other difference.

AUSTIN MCCLENNAN.

Sworn and subscribed, in open court, this 18th day of April,
 1860.

JOS. DALRIMPLE,
 SAMUEL O. BRIANT.

Thursday morning, April 19th, 1860—present Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, Judges.

Anson G. P. Segur, being sworn on the part of exceptant,
 20 said—I am cashier of the Union Bank at Dover, and live at Dover. I have been engaged in banking about seven years successively; my business renders it necessary for me to become familiar with the comparison of signatures for the detection of forgeries.

Exhibits A to I and the three notes in question shown to witness. (Witness having examined the signatures of the three notes and of the others, and compared them,) says—I should say, if it was a case brought before me in the bank in my official capacity, that the three signatures to the notes in con-
 30 troversy were not written by the same hand as the other signatures; I should judge that the signatures to the three notes themselves were written by one hand; could not state the reason of my opinion on minute grounds, but it is the general character of the two hands, as I have been accustomed to judge of other signatures.

Quest. Can you characterize that difference in descriptive language?

Ans. The hand of the alleged forged signatures seems to me to be more free than of the genuine.

Quest. Which shows the more skilful penman?

Ans. I can hardly say which was the best penman, but I should say that the three signatures to these notes were written by one more accustomed to using the pen. I do not know as I notice anything else particular. The hand to the signatures of the three notes seems to gradually fall to the right more evenly and generally. The stroke at the termination of the letter *e*, in the last word, seems to be brought downwards 10 more gradually and generally.

Quest. Have you observed any of that painting spoken of by the other witnesses?

Ans. Yes, sir; on the \$1000 note it seems to be in the whole name *Tuttle*.

Quest. Look at the others, and see if you see any signs of it in them?

Ans. In the \$5000 note, I think the letter *u*, in the word *Tuttle*, has been painted.

Quest. Look at Exhibit I?

20

Exhibit I shown witness—he says he has seen it before. The first time I saw it, it must have been at our bank; I paid that check; I delivered it to John S. Smith, but only temporarily—I loaned it to him. It belongs to the bank as a voucher. When I paid, I made the endorsement “paid to Stephen R. Gould.” There is one characteristic that I have noticed; since sitting here, I notice that the crossing of the two *t*’s in the \$1000 and \$5000 notes seems to be a more graceful mark than in the genuine—the genuine seems to be a sudden nervous scratch. I first saw these notes in the surrogate’s office one 30 evening, and next in the court-room.

Witness being *cross-examined* said—Never saw Mrs. Tuttle write. Being asked to look at the three notes alleged to have been forged, and asked to tell which of the three signatures resemble the genuine, the said witness says—I can hardly tell; the genuine signatures are so different themselves that I can hardly make them agree with each other; I should say that the \$1000 note has most of the characteristics of the genuine hand. Exhibit C shown witness, he says, the crossing of letters

t's is more of a sudden scratch than of the two notes I have spoken of.

Signature to Exhibit Z 1 and 2 being shown, witness was asked if he thought these genuine signatures, he says—I couldn't swear whether they are genuine signatures or not.

Another signature being shown witness, he says—I can't say that it resembles any signatures shown here, and I couldn't form any opinion whether it is genuine or forged; I think it
10 looks more like the signature on Exhibit I. If my check is genuine, I am willing to think that the signature shown is genuine. [This Exhibit is marked Z 3 in this cause.] I think that resembles more the signature to my check.

Quest. Have you more difficulty in detecting whether a signature is genuine by comparison by not knowing the party's handwriting than in detecting the genuineness of a signature of a person with whose handwriting you are familiar?

Ans. I never thought of that, and I couldn't say. I think the difficulty would be greater.

20 \$1000 note, with endorsement, was shown witness, and he was requested to look at it and say whether he observed any painting in the endorsement. He said—I think the word *pay* is partially painted—that is all I can testify to.

Exhibit Z 2 being again shown witness, he says—The crossing of the letters *t*, in the name *Tuttle*, are not very graceful—it is a movement of the hand without form or proportion.

Quest. Look at Exhibits from A to I, and say whether you find any *t*'s crossed in the same way as in Exhibit Z 2?

Ans. Now that resembles very near—the one on the check
30 is the nearest.

Quest. Do you find any crossed in that way?

Ans. No, sir.

Being *re-examined*, witness, being shown Exhibit D 2, was asked what his impression was regarding that signature, comparing it with the other signatures, says—I should think it was genuine, after looking at the signatures again; I cannot alter what I said before regarding Exhibit Z 1.

ANSON G. P. SEGUR.

Sworn and subscribed, in open court, 19th April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Thomas Logan, a witness called on the part of exceptant, being duly sworn, says—I live at Boonton; I knew Mrs. Tuttle in her lifetime; recollect of hearing of her death; I lived in Boonton then; she lived at Littleton; I was at Littleton on Sunday, a week or two after her death—I don't recollect whether it was the first or second Sunday after her death.

Quest. What did you go down to Littleton for?

Ans. I went down to see Dr. Bonton; he lived with his father, Henry Bonton; Henry Bonton lived right across the way from Mrs. Tuttle; went to Mr. Bonton's house, and there was no one home. I then went over to Mrs. Tuttle's; there was nary one there only Mrs. Stewart and the two children.

Quest. What did you go over there for?

Ans. I went over to see if the doctor had been over there.

Quest. What was the condition of Louisa when you went 20 in?

Ans. She was crying; I axed her about her mother being dead, and she said yes. I asked her if she made any will; she said no, she didn't leave the scratch of a pen. I then came out and came on home.

Quest. Did she say anything about how she was left?

Ans. She said she was left without anything.

Quest. Did you ask her, before you left, if she had seen the doctor?

Ans. She said she hadn't seen him.

Being *cross-examined*, witness said—This was along in the afternoon on Sunday. I had seen Mrs. Stewart before, but was no ways particularly acquainted with her; I had never talked with Louisa before. I lived to Boonton at that time; I was engaged in no particular business at that time—I was working round, and had worked in the rolling mill for some ten or twelve years before; I was not working for any person in particular at that time; I had the rheumatism, and hadn't been working for anybody the week before; I hadn't done any work of any account for two years before. I left Boonton 40

- between nine and ten o'clock that morning; I stopped at John Smith's a few minutes, but don't know as I went in the house. I don't know as I saw Mr. Smith that day; I saw Mr. Smith's son when I stopped at his house—no one else as I know of; I had always been in the habit of stopping at Mr. Smith's when I went down, having lived amongst them; don't recollect stopping when I went back; I didn't go in at all when I went back, and did not see his son, as I know of; don't recollect whether I saw any of his family or not. I didn't see Dr. Bonton that afternoon; he had promised to come up in the spring and give me some medicine for the rheumatism, and not coming up I went down to see him. I did not see Dr. Bonton for some time after—I don't recollect how long; I didn't go down to see Dr. Bonton again at that time; I didn't go as far as Dr. Bonton's again that winter—down to Parsippany was as far as I had been. I had this conversation with Louisa some time in June. John Smith and I had been talking about landed property, and that is the way I came to make mention of the conversation to him; John Smith and I
- 20 had this conversation about landed property at his own house; it was some time, I believe, along last winter; I don't recollect how long it was after I had had the conversation with Louisa; I don't recollect what time in the winter it was—it was this last winter.

Quest. Do you know when Mrs. Tuttle died?

- Ans.* She died in June—I don't recollect what time in June it was, nor whether it was the first or second Sunday that I was there after the death. I heard of Mrs. Tuttle's death at John Smith's—I heard them talking about it; I heard it there
- 30 some five days after she died; I don't recollect how soon after I heard at John Smith's that she was dead that I had this conversation with Louisa—I can't say whether it was a week, or more or less. I went to Mr. Bonton's house that Sunday, and there was no one home; I knocked, and could get no answer; I didn't see any other person about there before I went into Mrs. Tuttle's, as I recollect of—didn't pay any particular attention. I don't recollect of seeing any one else at Mrs. Tuttle's house except Mrs. Stewart and her children; Mrs. Stewart was in the kitchen part of the house; she had two

children with her—I believe there was a boy and a girl with her.

Quest. State the whole conversation you had with Mrs. Stewart that day?

Ans. I went there to know if the doctor was there—she said no; she was crying at the time that I went in; I spoke to her about the death of her mother, and asked her if she made any will—she said no—she didn't leave the scrawl of a pen to take care of her; I believe that is all the conversation that passed. I came out, and went home. I did not go back 10 to Dr. Bonton's.

Re-examined.—I knew William Tuttle and Daniel Tuttle, but was not so well acquainted with Daniel as with William. I worked in the Boonton mill till I had to stop on account of the rheumatism.

Re-cross-examined.—I had seen Daniel at Mr. Bonton's, and was on speaking terms with him; I had seen him frequently, but had no particular conversation with him.

THOMAS LOGAN.

Sworn and subscribed, in open court, 19th April, 1860. 20

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
SAMUEL O. BRIANT.

John T. Kent, a witness called on the part of the exceptant, being duly sworn, says—I have lived at Mrs. Hannah Tuttle's; I lived there eight months; I left there the 20th day of January, 1859. Mrs. Stewart and her children lived there while I did—so did Daniel L. Tuttle.

Quest. Did you hear, while living there, Mrs. Tuttle say anything to Louisa about her going away? 30

Ans. Yes, sir; she said she wished Adolphus Stewart would come and take her away, and take care of her and her children—she told that to Louisa Stewart; I heard her tell Louisa that some few times during the season I was there.

Quest. What reply, if any, did Mrs. Stewart make?

Ans. I did not hear as she made any.

Quest. At any of those times did Mrs. Tuttle say why she wanted Adolphus Stewart to come and take her away?

Ans. Because, she said, she would never get any pay for keeping her.

Quest. Have you stated all that you ever heard between Mrs. Tuttle and Louisa on that subject—if you can recollect anything else state it?

Ans. Mrs. Tuttle said Stewart was a poor worthless fellow.

Quest. Did Mrs. Tuttle say anything to Louisa about her being able to take care of her?

Ans. Mrs. Tuttle said she couldn't afford to do it.

10 *Quest.* Did you ever hear Daniel say anything to Louisa about living there or going away? [Question objected to by proctor for applicant, and objection overruled.]

Ans. Yes, Daniel said she had better go where she belonged. Louisa said she had as good a right there as he had.

Quest. Did he, or not, say in the same conversation, why he wished she would go where she belonged? [Question objected to by proctor for applicant, and objection sustained and question overruled by the court, on the ground that Daniel L. Tuttle is not a party concerned here in this matter, the way it

20 now stands—and also that it is hearsay evidence.]

Quest. Did you, or not, ever hear Daniel L. Tuttle say to Louisa that she had no business there—and if so, state any reply that Louisa made to it, if she made any? [Question objected to.]

The court, without overruling or sustaining the objection, then decided that any answer made by Louisa to Daniel L. Tuttle, or any other person, may be given in evidence, but will allow nothing to be given in evidence that may have been said by Daniel L. Tuttle to Mrs. Stewart.

30 *Quest.* Did you hear a conversation between Sarah Louisa Stewart and Daniel L. Tuttle in reference to Mrs. Stewart's living at Mrs. Tuttle's, or going away from there?

Ans. I have heard the one I told you of.

Quest. Now state fully what that conversation was, and the whole conversation between Daniel and Mrs. Stewart? [Question objected to as irrelevant.]

The court overruled so much of the above question as requires for an answer anything to be received in evidence that may have been said by Daniel L. Tuttle to Mrs. Stewart.

40 The counsel for exceptant now proposed to prove what

Daniel L. Tuttle said, for the purpose of rendering what Mrs. Stewart said intelligible.

Counsel for applicant excepted to this offer, and the offer was overruled by the court.

No cross-examination.

JOHN T. KENT.

Sworn and subscribed, in open court, 19th April, 1860.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

S. O. BRIANT.

10

The counsel for exceptant then offered in evidence a deed from Samuel Vanness, sheriff of Morris county, to John S. Smith, dated 27th November, 1859; acknowledged 7th December, 1859; recorded 18th January, 1860, for several tracts of land sold by virtue of several executions against Daniel L. Tuttle.

A judgment in Morris Circuit Court, recovered by John Bodine against Daniel L. Tuttle, signed 23d February, 1856—\$2333.25; recorded Book G. 43.

Another judgment in Morris Circuit Court, recovered by 20 Horation N. Ferris and others against Daniel L. Tuttle, signed September 10th, 1859, for \$142.55—recorded Book H. 124.

Another judgment in Morris Circuit Court, recovered by George H. Leupp and Henry Allen, against Daniel L. Tuttle, judgment for \$223.64 besides costs. Entered 6th October, 1857.—This judgment not having been recorded, the counsel for exceptant offered in evidence the rough minutes of the court.

Writ of execution on Bodine judgment, returned 28th February, 1859—returnable May term, 1859—returned with levy 30 annexed.

Another execution on same judgment, issued 9th June, 1859—returnable October term, 1859, against goods and lands—returned with levy annexed.

Execution on judgment in favor of Leupp and Allen, dated 21st June, 1859—returnable October term, 1859, against goods and lands—returned with levy annexed.

Another execution on judgment in favor of Bodine against

Daniel L. Tuttle—issued 1st November, 1859—returnable January term, 1860—returned with levy annexed.

Execution in favor of Leupp and Allen against Daniel L. Tuttle, dated 4th October, 1859—returnable January term, 1860—against goods and land.

The admission of the foregoing papers just offered in evidence are here objected to.

John C. Anderson and wife to Hannah Tuttle. Deed dated 4th May, 1857—recorded May 13th, 1857, in N. 5, for the 10 consideration of \$500.

Adolphus Stewart and wife to Hannah Tuttle. Record of deed dated 25th May, 1857—acknowledged January, 1859—recorded 2d September, 1859—consideration \$500.—Recorded T. 5, 415.

John C. Anderson, being recalled by counsel for exceptant, was shown check marked Exhibit I, and said—I saw Mrs. Tuttle sign her name to that; Mrs. Tuttle left three children living I believe, named Sarah Louisa Stewart, Jane Caroline Anderson, and Daniel L. Tuttle. None of her children had 20 died and left children. I knew a man by the name of Richardson; I don't know what his first name was; he lived about Littleton; I have understood that he is now at the South somewhere.

Witness being shown the three notes in controversy, was asked if he knew in whose handwriting the body of those notes was; he said he did not, but it was his opinion they were written by Mrs. Stewart. Witness further said, I never saw Mrs. Stewart write her name or anything else, but have seen her writing.

30 Being *cross-examined*, witness says—I am mistaken when I say I never saw Mrs. Stewart write her name; I saw her write her name to the assignment on the back of note No. 3; I have seen Mrs. Hannah Tuttle write. The three notes in question being shown witness, he was asked in whose handwriting the signatures to those notes was. [This question was objected to by counsel for exceptant, and question overruled by the court.] Mrs. Tuttle was a widow when she died.

JOHN C. ANDERSON.

Sworn and subscribed, in open court, 19th April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Counsel for administrators admit that the signature of Hannah Tuttle to Exhibits G and H are genuine.

Counsel for exceptant proposed to offer in evidence the final account of Augustus W. Cutler, administrator of William P. Tuttle, and all the papers relating to that estate, and the deed from Augustus W. Cutler, administrator to Hannah Tuttle, 10 and to show that Hannah Tuttle's claim, allowed and settled by that estate, was a false and fraudulent claim, made for the purpose of covering up the property of Daniel L. Tuttle, and keeping it from his creditors. [This offer was objected to, and objection sustained.]

George D. Baldwin, a witness produced by exceptant, being duly sworn, says—I live in New York. I had been up the railroad and stopped on my way down; I never heard of this case till I came here. I called to see Mr. Pitney on business; never saw you to know you before to-day; I don't know a 20 soul in the court-room; I have been out of the state of New Jersey for thirty-odd years; I am a bank note engraver, and been engaged in that business nearly fifteen years; that business has led me to the practice of scrutinizing handwriting and engraving. Various exhibits, from A to I, and the notes in question being on the table before the witness, he was asked if he had examined those, and replied that he had with the naked eye and the glass.

Quest. The three promissory notes by themselves, were the signatures to them all written by the same person or by different persons, in your opinion? 30

Ans. Well, I should judge it was one handwriting; I don't think the signatures to the three notes were made by the same persons the others were; I think there is a dissimilarity in the hand. When a signature is written there is a character about it, and there doesn't appear to be the same character in the notes as in the genuine.

Quest. Do you observe anything like re-writing or painting on any of those promissory notes?

Ans. My glass discovers it, sir; this one of \$5000 and this one of \$1000 discovers it, and it is evident with the glass. It strikes me that those documents called genuine are done with the natural touch, and those called spurious are gone over, that is two of them, in part of them.

Witness being *cross-examined*.—Being shown the three notes, was asked which one of the signatures resembled the genuine the most, and replied—neither of them seem to have the natural touch.

10 *Quest.* Which one of those signatures resembles the genuine the most?

Ans. I think the remark I made bears upon them all. There doesn't seem to be the natural grace about any of them. About a signature there is a natural touch that almost always discovers itself.

Quest. Examine the body of endorsement on the back of note No. 1, and say whether there is any evidence of painting?

Ans. I don't see a double line there, except where the bottom of the *f* and the *l* come together; I see no evidence of
20 painting in the word *pay*—can't say it hasn't been painted, it looks thicker—I should think it done subsequently to the rest.

Quest. Look at exhibits from A to I, then at the signature to Exhibit Z No. 1, and tell me whether that is a genuine signature or not?

Ans. I think it does not look dissimilar, although it is written evidently with a lighter hand—it is nearer to genuine than the signatures to the notes.

Quest. Look at signature to Exhibit Z No. 2, and say
30 whether the same is genuine or not?

Ans. The lady was not a first rate penman, but I should think that might be her signature.

Z No. 4 being shown witness, he says he should want some corroborating evidence before he took it for genuine. I was going to remark, as to Z 4, that when you look at the signature to a note or check, or any such document, if it is in a different ink, or there is anything extraordinary about it, we look at the document that accompanies it—that is what I mean when I say I should want some corroborating testimony.

40 *Quest.* Look at Z No. 3, and tell me whether the same is genuine or not?

Ans. This is evidently done with a more unsteady hand than some of these others that are genuine. I should want to know what document it was to, if it was presented to me—still I think it might be genuine; I would not denounce the signature, sir. The same would apply to this as to the other—it is a little different in some parts of it.

Quest. Look at exhibits from A to I, and say whether the signatures “Hannah Tuttle” are similar or dissimilar?

Ans. It seems to me that they are similar, in that they present a natural appearance; they were written at different 10 times. I observe another dissimilarity—they were written with different colored ink; I observe no other dissimilarity.

GEO. D. BALDWIN.

Sworn and subscribed, in open court, 19th April, 1860.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

S. O. BRIANT.

Friday morning, April 20th, 1860—present Joseph Dalrimple and Samuel O. Briant, esquires, Judges.

Adolphus Stewart, a witness called on the part of the ex- 20 ceptant, was objected to by the counsel of the administrators, on the ground that he is the husband of Mrs. Stewart, the claimant under two of the three notes in controversy in this application. The court refused to allow the exception, and permitted the witness to be sworn, who says—I am the husband of Sarah L. Stewart; I have seen her write. Being shown three notes, witness was asked in whose handwriting is the body of these notes?

Ans. My wife’s—all of them.

Quest. When did you first see those notes?

30

Ans. About two weeks ago I saw them first—it was here in the court-house.

Quest. Did you, or not, know before Mrs. Tuttle’s death that either your wife or Mrs. Anderson had any such notes?

Ans. My wife hadn’t any about six weeks before the old lady’s death—so she told me herself; she told me she hadn’t any writings.

Quest. Did she say anything about what her mother intended to do, or would do?

Ans. She said that her mother was going to make a will.

Quest. Where did she tell you this?

Ans. At Mrs. Tuttle's house.

Quest. State how your wife came to mention this to you?

Ans. I called there on Sunday; she asked me for some money, and I told her she ought to look to the old lady for her money; that I had signed my right over to the old lady, and
10 she had also. I asked her then if she had any writings to show her rights; she said she had not, she expected her mother to make a will in a short time. She then said it would be all right when her mother made her will; I think this was the latter part of April or the first of May, prior to Mrs. Tuttle's sickness. At that time I hadn't heard anything of either of these notes.

Quest. What did you refer to when you said that you and your wife had signed off to her mother?

Ans. I meant that we had signed off the right in the pro-
20 perty in a deed; I had signed a deed before that time to Mrs. Tuttle—I signed that deed before Mr. Cutler.

Quest. Did you get any consideration for signing that deed?

Ans. No, I didn't get nothing then.

Quest. Was there any understanding between you and the old lady about your signing off to settle up the board of your wife and children? [Question objected to by counsel for the administrators, and objection overruled.]

Ans. Yes, sir; Mrs. Tuttle asked me for pay for the board of my wife and children; I told her I couldn't settle it then;
30 a short time after that she sued me, or had sued me then, and the summons was served a short time after that for \$1500. I then finally concluded to sign off to satisfy her, that was the understanding, to satisfy her for my wife's board; I came to town here with Daniel and signed it; I think it was in 1858; I don't recollect whether it was the same winter the summons was served, or the winter after.

Quest. What did the old lady say she sued you for?

Ans. The board of my wife and children. My wife went there to board in the fall of 1856, in November or September,
40 I think. I was at Plainfield when she went there; I took her

home on a visit, and she remained there; I was at Millstone, in Somerset county, that winter.

Quest. Was Daniel L. Tuttle at Millstone that winter? [Question objected to by counsel of administrators—question overruled.]

Quest. Was there any separation between you and your wife, anything more than she boarded in her mother's family, and that you and she didn't keep house up till shortly after you and she had signed the deed?

Ans. Nothing more than that her mother wanted her to remain home. 10

Quest. Did the old lady ever ask you for board before she sued you?

Ans. Yes, sir; I presume she did, for this reason, she asked me to settle the board twice before she sued me.

Quest. Do you know whether your wife had any separate property of her own independent of her right in William's property and her right in the lands there?

Ans. No, sir; I don't know of any.

Quest. Had your wife signed the deed when you signed it? 20

Ans. I don't know; I didn't notice she signed it at all; she was not with us at the time I signed it.

Quest. Did you, at any time before or after that, sign or acknowledge it with her?

Ans. No, sir; my wife was boarding at her mother's at the time I signed the deed; I don't think I was in any business at that time. I think it was after Daniel and I had left Millstone.

Quest. How long after the old lady's death was it that you first heard of these notes? 30

Ans. A very short time, within a month I think, that is the first knowledge I had of them.

Quest. In that conversation that Sunday that you have spoken of, did, or not, your wife tell you how much, or what, she was to have for signing off?

Ans. She did not tell me what she was to have.

Quest. Where were you the summer of 1857?

Ans. At Millstone. I came up to Mrs. Tuttle's about once a month; sometimes I came up with Daniel—sometimes I came up alone; most generally I came up with Daniel. I was 40 working for Daniel Tuttle.

Quest. You were not present when Mrs. Anderson gave the deed?

Ans. No, sir.

Counsel for exceptant proposed to prove by this witness that Mrs. Tuttle admitted that she had about \$4000 of Daniel's property in her hands, and that if Daniel didn't behave himself that she would give it up to his creditors; and that she said that she had settled with William in full of all accounts in September previous to his death in March, and passed receipts; and that the claim presented by her against William's estate was done for the purpose of keeping Daniel's property from his creditors; and also the precise articles of personal property which she had in her possession which belonged to Daniel, and that some of them are inventoried in this case; also, that Mrs. Stewart and Mrs. Anderson both knew of the state of things existing between Daniel and Mrs. Tuttle. [This offer was objected to by counsel for administrators, and the offer overruled by the court.]

Quest. Have you had anything to do with the presentation of these notes against Mrs. Tuttle's estate? [Question objected to by counsel for administrators, and objection overruled.]

Ans. Not anything, sir.

Quest. Do you know of Mrs. Tuttle's being engaged in any business by which she became indebted, and run up accounts?

Ans. I do not.

Quest. How old was she?

Ans. I don't know how old she was when she died—I think about sixty-six years; she was a pretty smart old lady.

Quest. Do you know whether she was in the habit of going on the cash principle in her dealings, or letting accounts run?

Ans. Generally she cashed up—I always thought she did.

Quest. From whom did your wife acquire the rights which you and she signed away in that deed? [Question objected to by counsel of administrators,—question waived.]

Quest. What was you wife's father's name?

Ans. Daniel, I think. He died a good many years ago; I never was acquainted with him.

Being *cross-examined*, witness said—I left Millstone in the 40 fall of 1857, I think—I think in November. The summons

was served on me after I came back from Millstone—I am pretty certain of that. I made my home at Mrs. Tuttle's for a short time after I left Millstone; I left her house in January following—I went there occasionally after I left in January, but didn't live there.

ADOLPHUS STEWART.

Sworn and subscribed, in open court, 20th April, 1860.

JOS. DALRIMPLE,
S. O. BRIANT.

Henry C. Pitney, a witness produced on the part of the 1 exceptant, being duly sworn, says—I am counsel for Mr. Smith in this case; took the three notes from the surrogate about a fortnight since, in the morning, by his permission, and showed them to some experts there in the city of Newark, and brought them back at night, and handed them to the surrogate. They were not altered or touched with a pen or pencil while in my possession, nor were they out from under my possession and eye from the time I took them till I returned them; that is the only time I've had them out of the surrogate's office.

20

H. C. PITNEY.

Sworn and subscribed, in open court, 20th April, 1860.

JOS. DALRIMPLE,
S. O. BRIANT.

Counsel for exceptant then again offered in evidence a summons in case of *Hannah Tuttle vs. Adolphus Stewart*, issued 28th December, 1857—returnable 1st January, 1858—in assumpsit—demand \$1500.

Also the record of a judgment in assumpsit in the Morris Circuit Court, by confession, in case of *Hannah Tuttle vs. 30 Daniel L. Tuttle*—entered 8th April, 1855, for damages \$514.36.

Also three executions on the above judgment—1st, issued 8th April, 1855—returnable 1st Tuesday of May, 1859—levied on Daniel L. Tuttle's interest in the lands of William Tuttle, deceased; 2d, alias execution, issued January 22d, 1856—re-

turnable 1st Tuesday in May, 1856; 3d, pluries execution, issued 1st April, 1857—returnable 1st Tuesday in May, 1857.

Also the record of a deed from William W. Fairchild, sheriff, to Hannah Tuttle, dated 7th January, 1856—recorded O. 5, 312—for consideration \$60.

The counsel for the administrators objected to the admission of all the documents and records just above offered in evidence.

The court admit the summons in the above stated case in 10 evidence, but reject all the other documents just offered.

The counsel for exceptant offered in evidence a note for \$15, given by Mrs. Tuttle to Dr. Fairchild, the signature to which has been proved, but the endorsement to which has not been proved, but was admitted to be in Dr. Fairchild's handwriting by counsel for administrators.

Frederick Dellicker, a witness produced on part of exceptant, being sworn, says—I am surrogate. The three notes in question shown witness, and he says they were left with him; the \$1000 and \$5000 notes were left at my office 8th January, 1860; they were left there, in my absence, with John Stanburrough; the \$2000 note was left the 15th March, 1860—20 I think it was left by Mr. Anderson, but won't be certain. At the time of making the statement of debts and credits by the administrators to procure sale of land, they hadn't the \$1000 note, nor any claim there by which the amount of interest could be ascertained. The amount of the note was put in the statement, and the amount of interest left blank.

FRED. DELLICKER.

Sworn and subscribed, in open court, 20th April, 1860.

30

JOS. DALRIMPLE,

S. O. BRIANT.

Counsel for exceptant here rested their evidence.

Counsel for claimants here called as witness—

Uzal P. Tompkins, who, being sworn, says—I live in a place called Littleton—have resided there thirty years. Knew Hannah Tuttle in her lifetime; have known her about as long

as I've been at Littleton; didn't live over one hundred and fifty yards from her; I have had business transactions with her; have seen her write—not very often though; I have seen her writing. Witness being shown the three notes in question, was asked if he had seen these notes before, and he said, I think I have, sir; I first saw them in the surrogate's office last week some time; John S. Smith was with me at the time. I should say the signatures to these notes were in Hannah Tuttle's handwriting; I so informed Mr. Smith when I examined them in the surrogate's office; I went there to examine them at Mr. Smith's request. 10

Witness being *cross-examined*, said—I couldn't state the number of times I've seen Mrs. Tuttle write, but it wasn't a great number, perhaps not over three or four times; I recollect seeing her write more than once. I told Mr. Smith at the time that I only recollected seeing her write once, but I have since recollected seeing her write other times, and I have her handwriting also; the once I referred to in talking to Mr. Smith was a number of years ago—it must be twelve or fourteen years ago. I have seen her write since that time—I think it was five or six years ago; I can't say for certain that I saw her write at any other time. I saw her write once before she signed that receipt, twelve or fourteen years ago; it was, I think, in the year 1838 or 1839; never saw her write anything more than her name. She was not a ready writer; she always seemed to me to write with difficulty. Those are the only three cases I am sure of. I haven't these signatures in my possession now. The first one was given to Nicholas F. Cook—I never had that at all. The receipt given twelve or fourteen years ago was given to John Mann; don't recollect whether I had it in my hand or not; it was never in my possession; I looked at her, and saw her write it. The signature written five or six years ago was to a receipt to me; I have it about the house somewhere; I saw it, I think, two years ago last April—haven't seen it since. I have hunted for it, but couldn't find it. 20

Quest. You say you have seen her writing, was it writing you saw her do, or some writing called hers?

Ans. I have seen her writing, and have seen that called hers shown to me by you and Mr. Smith—that is what I mean by 40

saying I've seen her writing. There were two signatures that Mr. Smith and Mr. Dalrimple showed me. Being shown Exhibit I, witness says, that looks like one of them. Being shown Exhibit F, he says, that looks like the other one showed me; the writing I saw her do I have already mentioned.

Quest. Which of these notes do you think is the best specimen of Mrs. Tuttle's handwriting?

Ans. The signature on the \$2000 note looks a little the most like her handwriting—but they are so different; I never
10 saw two of her signatures that looked alike. In the signature to the \$1000 note the *e* doesn't exactly correspond, but I should take it to be hers. I am friendly to both parties in this controversy. I farmed Mrs. Tuttle's land last year and year before; I am a farmer; I don't write a great deal myself—just what my business requires; my business requires me to write oftener than once a week.

U. P. TOMPKINS.

Sworn and subscribed, in open court, 20th April, 1860.

JOS. DALRIMPLE,
S. O. BRIANT.

20

John Garrigus, a witness called by claimants, said—I live in Rockaway village at present. I knew Hannah Tuttle in her lifetime—had known her altogether, I should think, fifty years; I have lived, since she lived in Littleton, one and a half or one and three-quarters miles from her until this spring. I lived in the upper end of Hanover township—lived there for thirty years. Had business transactions with Mrs. Tuttle during that period; have seen her write—not very frequently; don't think she wrote very often nothing more than her signature;
30 I have seen her write her signature; don't know that I have ever seen any writing that I knew to be hers, except as I saw her make her signature, until I saw it in the surrogate's office.

Witness being shown three notes, was asked if he had seen them before, and he says, I think I have—I saw them in the surrogate's office on Wednesday of this week. From what I have seen Hannah Tuttle write, I shouldn't have any doubt

but what the signatures to these notes were in her handwriting.

Being *cross-examined* by counsel for exceptant, he said she was not a ready writer; she wrote very slow—sometimes more slowly than at others; the movement of her hand was very clumsy; she usually wrote her name by making one letter at a time.

Being shown the \$1000 note, the witness was asked if, in his opinion, the person who wrote that signature wrote it by writing one letter at a time? 10

Ans. It doesn't look like it—but I think it is in Mrs. Tuttle's handwriting.

Quest. Did you not say, after you had seen the note in the surrogate's office, that you couldn't form any opinion as to whether they were Mrs. Tuttle's genuine signatures or not?

Ans. I did not. [Witness here desired to explain what he did say, and proceeded as follows]—I said to Mr. Smith that I could see nothing to lead me to believe that they were counterfeits—they looked so much like hers—that I never saw two of her signatures alike. I have none of her signatures that I 20 saw her write with me, and none at home; I examined my docket this morning, thinking I might have some on it, but could find none. It is some four or five years since my commission as justice of the peace expired. I possess none of Mrs. Tuttle's handwriting now, that I know of. Didn't tell Mr. Henry Broughton that I couldn't and wouldn't form any opinion regarding those signatures to the notes.

Quest. Which of these signatures to these notes do you think most resembles Mrs. Tuttle's handwriting, or are they about alike in that respect? 30

Ans. I am not a critic—the \$1000 and \$5000 notes resemble her handwriting most. The signature to the \$2000 note is written straighter than I've seen her write. The signatures to the \$1000 and \$5000 notes are not alike, but I can't tell which one of them most resembles her handwriting. The last four years I have been on my farm; the five years previous to that I was keeper of the Morris county poor-house. I have been justice of the peace for twenty years; I was justice of the peace while keeper of the county-house.

Sworn and subscribed, in open court, 20th April, 1860.

JOS. DALRIMPLE,

S. O. BRIANT.

Edward Howell, a witness produced on the part of claimant, said—I live at Littleton, on the road to Rockaway; have lived there since my birth; I am fifty-six years old. Knew Hannah Tuttle in her lifetime; lived about three-quarters of a mile from her; I had known her, I think, since the year 1812; have transacted but little business with her. I can't
10 positively say I ever saw her write; I think I had her signature on a subscription, and have seen her signature on a petition for a tavern license—don't recollect of ever having any other of her signatures in my possession. I have seen her signature to writings recognised and acted on by her; saw her signature to an agreement with George Bond for the occupancy of a house, and she acted upon it. Don't recollect of any other signatures that I've seen of hers that she recognised as hers. The petition for tavern license I've spoken of was not signed by me.

20 The three notes being shown witness, he said, I've seen them before; Mr. Cutler showed them to me in the courtroom, and I saw them in the surrogate's office on Wednesday morning, at the time Esq. Garrigus and Mr. Smith were looking at them. I didn't go to the surrogate's office to look at them at Mr. Smith's request.

Quest. From your knowledge of the handwriting of Hannah Tuttle, are the signatures to these notes in her handwriting or not? [Question objected to by counsel for exceptant, on the ground that witness is not an expert, and has no know-
30 ledge of Mrs. Tuttle's handwriting—objection overruled.]

Ans. I should judge the signature Mrs. Tuttle's from my knowledge of her writing. The subscription that I spoke of was to raise salary for the support of a minister; I think I carried it to her—I can't positively say that I saw her sign it. She authorized me, a number of times, to put her name down, but my impression is, that once she did not, and put it down herself. I think Mrs. Tuttle's son William presented me the tavern petition; I did not sign it. According to the best of my recollection, the signatures to these three notes resemble the
40 signatures to the papers I have spoken of.

Being *cross-examined*, witness said—I can't fix the year when the tavern license petition was presented to me—it was at the close of her keeping tavern; think she quit ten years ago; don't think she kept tavern after the Morris and Essex railroad extension to Dover, which was in 1848; the petition was in her name; I didn't hesitate long considering whether I would sign it or not; I think there were some names to the petition—think William Shelly's was one; I think there were some others to it besides. The subscription was circulated for the benefit of the minister of the Baptist church of Morris- 10 town; I think the minister was Mr. Tustin; it must have been, I think, some dozen years ago; don't recollect whether it was before or since my father-in-law's death; my father-in-law died, I think, in 1838, and there is nothing to connect them, so that I could tell whether it was before or after. Mr. Tustin came here about 1839; I think he staid five or six years; I think this subscription was about the middle of Mr. Tustin's ministry here.

EDWARD HOWELL.

Sworn and subscribed, in open court, 20th April, 1860. 20

JOS. DALRIMPLE,
S. O. BRIANT.

Saturday morning, 21st April, 1860—present Joseph Dalrimple, Samuel O. Briant, and Ira C. Whitehead, esquires, Judges.

Mary Cameron, a witness produced on the part of the claimants, said—I live at Littleton—it is seven years this April since I moved there. I never knew Mrs. Tuttle, only as I passed when she kept public house, till I moved there; I lived three years within ten rods of her—I shouldn't say it 30 was more than that; I have lived ever since I went into Littleton, excepting one year, within a mile of her. I was in the habit of being at her house—there wasn't a day in the year but what I was there; her family was sick, and I was called in. There was a good deal of sickness in her family during the seven years I lived at Littleton; she lost three children and an uncle during that time; Nancy was not sick long, but

William and old Mr. Winters were sick a good while. Never saw Mrs. Tuttle write but the once—that was when she signed the \$5000 note to Louisa. [The counsel of exceptant here objected to the claimants proving the execution of the \$5000 note by Mrs. Tuttle in the presence of Mrs. Cameron by this witness at this stage of the case—the court overruled the objection.]

Quest. State what you know about it?

Ans. Why I went in, as I generally do; she was in the 10 other room, and I went on in; she was writing, and I asked her what she was doing, if she was writing her will; she said no, she was signing a note to Louisa. Said I, Mrs. Tuttle, I wish you owed me half as much. Well, said she, I wouldn't care if I did, if I had wherewith to pay with. I stood at her back, and looked over her shoulder till she signed the note; she signed it, and handed it to Louisa—that's all I see of it. Nobody was in the room but Louisa; there was nobody about the house except Louisa, her children, and her mother; Daniel 20 was at Millstone. The note was for \$5000; it was signed in the dining-room; it was in October, three years this October coming.

Quest. How did you know the amount of the note?

Ans. Mrs. Tuttle read it aloud.

Being *cross-examined*, witness said—Before I lived at Littleton I lived at Green Village; I moved from there to Littleton; lived at Green Village twenty years; the one year during the seven I lived at Walnut Grove.

Quest. Whose house did you live in when you first moved to Littleton?

30 *Ans.* George Looker's; I lived there nine months.

Quest. Where did you move then?

Ans. I moved to Walnut Grove.

Quest. How long did you live there?

Ans. I lived there fifteen months.

Quest. Did you then go back to Littleton?

Ans. Yes, I went back.

Quest. To whose house?

Ans. To George Looker's.

Quest. How long did you live there then.

40 *Ans.* Two years.

Quest. Where did you then move?

Ans. To Charley Atno's, about a mile from Littleton.

Quest. How long there?

Ans. Three years.

Quest. Then where?

Ans. I moved back to Littleton.

Quest. When?

Ans. This April.

Quest. In whose house?

Ans. Hannah Tuttle, deceased.

Quest. Who did you rent it of?

Ans. I didn't rent it of nobody.

Quest. Did your husband?

Ans. A man that oversees taking care of my husband rented it of the executors.

Quest. Was the bargain made with the executor or with Daniel L. Tuttle?

Ans. We spoke to Daniel, and he applied to the executor, I suppose.

Quest. Did this man ever speak to the executor except 20 through Daniel?

Ans. I don't know nothing about what their writings were back and forward; they wrote back and forward.

Quest. How long has your husband been sick?

Ans. Five years, part of the time confined to his bed.

Quest. He is not confined to the bed much of the time, is he?

Ans. No.

Quest. Isn't it over a mile from Mrs. Tuttle's to Mr. Atno's?

Ans. I shouldn't say it was.

Quest. What day of the month was it when you saw Mrs. 30 Tuttle write?

Ans. Oh! I don't know what day it was.

Quest. Can you tell whether it was in October or November?

Ans. Why, it was in October; Mrs. Stewart's baby was but a month old—that was born in September, but I don't know what day in September.

Quest. Can you tell what time in September the baby was born?

Ans. About the middle.

Quest. What time in the day was it when you went in there, and saw this writing?

Ans. Betwixt two and three o'clock in the afternoon.

Quest. Did you see Mrs. Tuttle write the whole of her name, or only part?

Ans. I see her write the whole of it.

Quest. Are you sure of that?

Ans. Yes, for I stood and looked over her shoulder.

Quest. Did you see her make the first letter of her name?

10 *Ans.* Yes, sir, I did.

Quest. Do you recollect what letter she first made?

Ans. Why "H" is generally the first letter, and I saw her make the "H" first.

Quest. Do you read writing?

Ans. Yes, a little; I could read Mrs. Tuttle's writing where ever I see it; I can read part of this that you show me—I havn't got my spectacles with me. Exhibit G shown witness—she was asked to look at the signature of the subscribing witness to that document, and said that is Mrs. Tuttle's name
20 —on looking at it again, and after counsel had said it was Dan'l L. Tuttle's, she said the name to that document is "Daniel D. Tuttle."

Quest. an you read the writing of any other person besides that of Mrs. Tuttle?

Ans. Not much—I can't unless I study.

Quest. Can you write?

Ans. I can write my name; I used to write, but have not written any for a good many years but my name.

Quest. How comes it that you can read Mrs. Tuttle's writing
30 ing better than that of any other person—is it because she writes plainer?

Ans. It's because I've seen her handwriting in the house, and read it.

Quest. When did you see it in the house and, read it?

Ans. Why often when I was there—to pass away the time I picked up papers and read it.

Quest. Papers in Mrs. Tuttle's writing, do you mean?

Ans. On the newspapers and on letters she sent to her children.

40 *Quest.* Did you see her write those on the papers and letters?

Ans. No, I didn't see her write these, but I could compare them with others they said their mother wrote.

Quest. What others did they say she wrote with which you compared these letters and papers?

Ans. Why they was letters.

Quest. To whom?

Ans. To her children.

Quest. Which children?

Ans. Why, Mrs. Anderson and Mrs. Stewart.

Quest. How many letters did she show you that she had 10 written to Mrs. Anderson?

Ans. I can't recollect, three or four may-be.

Quest. How many did she show you which she had written to Mrs. Stewart?

Ans. About two or three.

Quest. Did she read these letters to you, or did you read them yourself?

Ans. No, I didn't read them, nor she didn't read them—she said she had just looked at them, and handed them to me.

Quest. What did she hand them to you for? 20

Ans. I took them to the post-office several times.

Quest. How long ago was it you took them to the post-office?

Ans. Four years ago.

Quest. What post-office?

Ans. Why here in Morristown. I didn't bring any for Mrs. Anderson, I brought them for Mrs. Stewart; there was three for Mrs. Stewart at different times.

Quest. Do you know what she did with those she wrote to Mrs. Anderson? 30

Ans. She sent them to Parsippany post-office.

Quest. Where were these letters sent to Mrs. Anderson directed to?

Ans. Plainfield.

Quest. Have you compared the writing you saw on papers and newspapers there at Mrs. Tuttle's with these letters, and in that way became acquainted with Mrs. Tuttle's handwriting, is that so?

Ans. Yes.

Quest. Would you know that \$5000 note if you should see 40 it again?

Ans. I don't know as I would.

Quest. Don't you think that you would know Mrs. Tuttle's name to that particular note, as you say you saw her write it all?

Ans. I don't know as I should know that any more than any other.

Quest. You never saw her name to more than the one note, I suppose?

Ans. No, never but the one.

10 *Quest.* You say that Mrs. Tuttle was writing when you went into the room, is that so?

Ans. Why she was scrabbling on some papers—I don't know as she was writing anything of any consequence—I suppose she was just trying her pen.

Quest. Did she say she did it to try her pen?

Ans. Yes, I believe she did, pretty much to the amount of that.

Quest. Did she, or not, say it was a good pen?

Ans. Why, she threw it down, and took another one.

20 *Quest.* Did she make any remark when she threw this pen down?

Ans. No, sir.

Quest. Did she try the second pen before she wrote her name to the note?

Ans. No.

Quest. Were they quills or steel pens?

Ans. They were steel pens.

Quest. How many of them were on the table altogether?

Ans. I didn't see but two.

30 *Quest.* Did she mark over the letters more than once, or just write her name, and then stop?

Ans. She crossed the *t*'s wherever they wanted it—that is all.

Quest. How many times did she cross the *t*'s?

Ans. I can't tell how many times.

Quest. More than once?

Ans. I can't tell anything about that.

Quest. Did she read the note before she signed it, or afterwards?

40 *Ans.* Afterwards.

Quest. Did she read it before or after you said you wished she owed you so much money?

Ans. She read the note before I said it.

Quest. Did she say how she expected to pay Louisa this \$5000?

Ans. She said she expected to leave property enough to pay it.

Quest. Did she say that she wanted to give Louisa something for her support after her, Mrs. Tuttle's, death?

Ans. No, she didn't say so; she said her sisters had left 10 property in her hands for Louisa to have to support her and her children.

Quest. Whose children?

Ans. Louisa's.

Quest. Whose sisters?

Ans. Mrs. Stewart's sisters, who had died.

Quest. Did she say which sisters?

Ans. Nancy and Eliza.

Quest. Did she say how much they had left?

Ans. No, the amount of it she didn't say.

20

Quest. Did she say that Nancy and Eliza had left this in her hands by a good will?

Ans. She didn't say anything about a will—she said they left it in her hands.

Quest. Did she say whether she got Nancy's and Eliza's property before their death, or after?

Ans. She got it before their death.

Quest. Did she say how long before?

Ans. No.

Quest. Did she say whether they had given her money, or 30 land, or loose property?

Ans. She said they had given her land and money.

Quest. Did she say how long ago it was that Nancy and Eliza had left this property?

Ans. She didn't say how long it was—but just before their death.

Quest. At the time Mrs. Tuttle signed the note, what was Louisa then doing?

Ans. She was round the house—she wasn't doing much of anything; she wasn't able to work.

40

Quest. I want to know what Louisa was engaged in when the old lady wrote her name to the note?

Ans. She sat at the table nursing her child.

Quest. Was she doing so when you first went in?

Ans. Yes, she was.

Quest. How long did you remain in the room after Mrs. Tuttle finished writing her name?

Ans. About an hour, I should say.

Quest. What was Louisa engaged in during that hour?

10 *Ans.* Taking care of her children.

Quest. Anything else?

Ans. No.

Quest. What was Mrs. Tuttle engaged in?

Ans. She wasn't engaged in anything herself—she was resting herself.

Quest. Did she seem fatigued?

Ans. Yes, she was tired.

Quest. Did she complain of being tired?

Ans. Yes, she said she was tired.

20 *Quest.* Did she say what she had been doing that day before she signed the note?

Ans. She didn't say in particular what she had been doing—she said she'd been seeing to her things around.

Quest. Did anybody come there before you went away?

Ans. No.

Quest. How long before Mrs. Tuttle was bound to pay this \$5000 note?

Ans. I don't know, I didn't take any notice of that at all.

Quest. Do you recollect whether it was to draw interest?

30 *Ans.* I believe it was, as near as I can remember.

Quest. Was the interest to be paid yearly?

Ans. I don't know nothing about it—I didn't take any notice of that.

Quest. How came you to go up and look over Mrs. Tuttle's shoulder while she was doing her own private writing—were you requested to do so?

Ans. Yes.

Quest. Who requested you?

Ans. Mrs. Tuttle.

40 *Quest.* What reason did she give for requesting you to do so?

Ans. She didn't give any reason.

Quest. Tell us the words in which she made that request, as near as you can recollect them?

Ans. Why, says she, stand by and see me write it; that is all she said.

Quest. Did she not say that she wanted you as a witness to the note, because you were frequently there, and knew her well?

Ans. No, sir, she did not.

Quest. Did any one sign the note so as to be a witness to it? 10

Ans. No, sir, not in my presence they didn't.

Quest. Which died first, Eliza or Nancy?

Ans. Nancy died first.

Quest. When did Eliza die?

Ans. Three years ago last February.

Quest. Did she say which left the most property in her hands, Eliza or Nancy?

Ans. No, sir.

Quest. Did she say that William had left any property in her hands for Louisa and her children? 20

Ans. Yes, she did.

Quest. Did she say how much?

Ans. No.

Quest. Did she say that she gave the note for that, as well as for Eliza's and Nancy's property?

Ans. She didn't say anything about that.

Quest. Did she speak of William's having left property in her hands at the same time that she spoke of Eliza and Nancy having left property?

Ans. Why, I think she did. 30

Quest. Did you mention to any one before Mrs. Tuttle's death that you had seen this large note signed?

Ans. No, I didn't.

Quest. Did you mention it after Mrs. Tuttle's death to any one outside of Mrs. Tuttle's own family?

Ans. No, I didn't.

Quest. Did you ever see so large a note as this \$5000 note before?

Ans. Yes, I have.

Quest. How much more? 40

Ans. I have seen double it.

Quest. Any higher notes than \$10,000?

Ans. I don't know that I have.

Quest. Where was it that you saw the \$10,000 note?

Ans. In Pennsylvania and in the Morris Bank.

Quest. Whose note was this in the Morris Bank?

Ans. It was one that Mr. Isaac Meeker, of New Providence, put in the bank; this was ten or fifteen years ago; it was his wife's note that he put in; he got the money for the
10 note out of the bank; Mr. James Wood was then living. I don't know whose note it was I saw in Pennsylvania—it was a Dutchman's; it was at Easton; the Dutchman got the money on it; don't know as I've ever seen any other large notes above \$5000.

Quest. Was this note in the Morris Bank a note which Isaac Meeker's wife gave to him, or a note of somebody else given to Isaac Meeker's wife?

Ans. It was a note her father gave to her to draw money out of the bank—her father's name was Daniel Wilcox.

20 *Quest.* Why did you not mention to some one that Mrs. Tuttle had given this note?

Ans. Because I thought it was none of my business to mention it.

Quest. Had you no other reason for not mentioning it?

Ans. No, I had no other reason.

Quest. Did you know what it was that Mrs. Tuttle was going to sign before she commenced writing her name?

Ans. Yes, she said she was giving her note to Louisa—she owed her.

30 *Quest.* Did she say what she owed her for?

Ans. She owed her for the legacies that belonged to her; she did not owe her anything else besides these legacies.

Quest. Had you forgotten when Mrs. Tuttle died, that she had made this provision by the note for Louisa and her children?

Ans. No, I had not.

Quest. Did you say, after the old lady's death, that you guessed Daniel's property would go now, for you didn't believe she had left anything to secure her property to the girls,
40 or anything to that effect?

Ans. No, I don't think I did.

I know Stephen Garrigus—I have seen him.

Quest. Did you ever say that to him?

Ans. I don't think I ever did.

Quest. Have you any doubt about it in your own mind at this time?

Ans. I don't think I ever had.

Quest. What became of the pens and ink after Mrs. Tuttle signed the note?

Ans. She left them on the table; they were there when I 10 left the house.

Quest. Do we understand you to say that there was not a day in the year that you were not at Mrs. Tuttle's house?

Ans. I think there was not many.

Quest. For how long a time before Mrs. Tuttle's death did you pursue that practice?

Ans. When I first went into the neighborhood.

Quest. What did you go there for on the day when you say she signed the note?

Ans. To see how Mrs. Stewart was—she was not well. 20

Quest. Was it a clear bright day or a cloudy stormy day?

Ans. We don't generally wash on stormy days; I was in the neighborhood washing—it was a clear day.

Quest. For whom were you washing that day?

Ans. For Jacob Garrigus' wife; I was in the habit of washing for Mrs. Garrigus—it was Squire Garrigus' son Jacob.

Quest. Where did he live at that time?

Ans. He lived in Mr. Cutler's house at Littleton.

Quest. When you went that day from Mrs. Tuttle's where 30 did you go?

Ans. I went home.

Quest. Who took care of Mrs. Stewart at that time, as her nurse in her confinement?

Ans. Her mother took care of her, and I done her washing.

Quest. Did not Rachel Massacre take care of her?

Ans. No, I guess she did nothing for her; she did the work down stairs when Louisa was confined.

Quest. Was she not there that day?

Ans. No, she was not—for Mrs. Stewart was up and around the house.

Quest. Did you see Rachel Massacre that day?

Ans. No, I did not.

Quest. When you asked Mrs. Tuttle if she was writing her will, and she said no, as you state it, did you suppose the old lady was then drawing up her last will and testament?

Ans. I did not know as she was.

Quest. Why did you ask her that?

10 *Ans.* It happened to come into my head, and I just asked her.

Quest. Did they say that they would prefer not to have you mention this family arrangement to any one else?

Ans. No, they did not say anything about it.

Quest. What did Louisa do with the note when Mrs. Tuttle handed it to her?

Ans. She took it and put it in her pocket-book.

Quest. Where did she get her pocket-book from?

Ans. It was in her pocket; she put it back in her pocket.

20 *Quest.* What kind of a pocket-book was it?

Ans. It was a light kind of a smooth one; there was a catch on the top—pretty much like the one shown witness.—(Mr. Dalrimple's portmonaie).

Quest. Did you see that pocket-book again that day?

Ans. No, I did not.

Quest. Who did you first mention the giving of this note to, after Mrs. Tuttle's death, outside of the Tuttle family?

Ans. I never mentioned it to anybody; I told Mr. Cutler—he asked me, and that's all.

30 *Re-examined.*—I am in my sixty-seventh year. Mrs. Tuttle was a middling spare woman, not very stout.

Re-cross-examined.—I came here on Monday for the first, as a witness, and have been here every day; Mr. Anderson has brought me down and carried me back.

Re-examined.—I went and came in company with Mrs. Stewart and Mrs. Anderson.

MARY CAMERON.

Sworn and subscribed, in open court, this 21st day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Monday morning, April 23d, 1860—present Ira C. Whitehead, Samuel O. Briant, Joseph Dalrimple, esquires, Judges.

Sarah L. Stewart, a witness called and sworn on the part of the administrators, deposeth and saith—

Counsel for exceptant objected to swearing this witness— 10
objection sustained. Counsel for administrators excepted to the ruling of the court.

Counsel for administrators then offered witness to prove the signing of the note given to Mrs. Anderson—objected to by counsel for exceptant—objection sustained, and the ruling of the court excepted to by counsel for proctors.

Counsel for administrators then offered to prove by Mrs. Stewart that she has no interest in the claim on the \$2000 note, but that it belongs in good faith to Mrs. Anderson, her sister, who claims the amount due thereon—court overruled 20
the offer, and sustained the objection of the counsel for the exceptant made thereto.

Counsel for Mrs. Anderson then filed a claim with the administrators for the \$2000 note. Court then admitted Mrs. Stewart as a witness for Mrs. Anderson, in respect to the \$2000 note.

Counsel for exceptant objected to Mrs. Stewart being a witness—first, because she is the wife of Adolphus Stewart, in whom the right of action is upon the \$2000 note; second, if the legal right of action is in her, and not in her husband, she 30
is the party, and cannot be at law or in this court a witness, though the beneficial interest in this suit or proceeding is in another person, Mrs. Stewart being a necessary party to the record—and the note not being negotiable.

Witness says—I am the daughter of Hannah Tuttle; I am the wife of Adolphus Stewart, the person who was sworn in this suit. I lived at Littleton with my mother at the time of my mother's death; I came home three years ago last fall

—the fall of 1856; I am living separate and apart from my husband—I have lived separate and apart from him for more than two years. [Exhibit No. 3, it being the note for \$2000, here shown witness.] The body of the note is in my handwriting; the signature is in my mother's handwriting; the handwriting of the body of the endorsement is brother-in-law's; the handwriting of the signature to the endorsement is my own; I saw my mother sign this note; the note was signed in our front room, the room in front of the kitchen at
10 my mother's house; it was signed in July, the day it bears date—July 1st.

Quest. What was the note given for?

Ans. It was for my share in the land.

It was land belonging to my eldest brother, Ira; I am not positive, but I think he died about the year 1842 or 1843; I think that was all the deed shows.

Quest. Did you have a sister Eliza?

Ans. Yes, sir; she died three years ago last February

Quest. Did you have an interest in her share of the lands
20 or not?

Ans. I think that was mentioned in the deed, but I am not positive. There was only one deed made. This note was for my interest in the lands conveyed to my mother by that deed. I signed that deed after my husband.

Quest. Did you sign that deed before or after the suit was brought against your husband?

Ans. After the suit was brought.

Quest. Can you tell about how long after?

Ans. I am not positive, but I should think about five or six
30 months after.

Quest. At the time you signed the deed, state whether your husband's name was signed to it?

Ans. It was.

Quest. To whom did your mother give that note when she signed it?

Ans. To me.

Quest. What did you do with it?

Ans. I laid it in my portmonaie, or pocket-book; I kept the note until my mother's death.

Quest. When did you assign that note over to Mrs. Ander-
40 son?

Ans. I don't recollect the exact time; it was after I presented my claim to her administrators.

Quest. Did you have any talk with your mother in reference to purchasing land of her—if so, state when, what land, and how was it to be paid for? [Question objected to, and objection overruled.]

Ans. Yes, sir; at different times she spoke of it—the upland—the land around Littleton—I have reference to those lots above our place. I was to give my mother up those notes, and she would give me a deed for all of the upland, with the 10 exception of the lower orchard.

Quest. What notes were you to give her up?

Ans. The \$5000 note and the \$2000 note.

Quest. Witness being shown Exhibit No. 2, it being the \$5000 note—is this the note you refer to in your last answer? [Objected to by counsel for exceptant, and objection sustained.]

Quest. Look at the signatures to Exhibits No. 1 and No. 2, they being the \$5000 and \$1000 notes, and say in whose handwriting they are? [Objected to, and objection sustained.]

Quest. Did you see those notes signed? [Objected to, and 20 objection sustained.]

Quest. What was the consideration for which they were given by your mother? [Objected to by counsel for exceptant, and objection sustained.]

Cross-examined.

Quest. Did not your brother Daniel draw that \$2000 note?

Ans. No, sir.

Quest. Was he not present when it was written?

Ans. No, sir.

Quest. Was he not present before you put it in your port- 30 monaie?

Ans. No, sir.

Quest. Was he not present when your mother signed it?

Ans. No, sir.

Quest. Who was present besides yourself?

Ans. There was no one present, to my recollection, besides my children.

Quest. What time of day was it that your mother signed it?

Ans. I could not say what time of day.

Quest. Was it in the forenoon or afternoon?

Ans. I rather think it was in the afternoon.

Quest. What makes you think that it was in the afternoon?

Ans. For this reason—in the morning we generally had our morning's work to do, and we had no leisure time.

Quest. What day of the week was it?

Ans. That I could not say.

Quest. To whom did you show this note before your mother's death outside of your own family?

10 *Ans.* I have no recollection of showing it to any one.

Quest. Did you not show it to Daniel before the first of April, 1859?

Ans. No.

Quest. Did you not show it to Mr. or Mrs. Anderson before your mother's death?

Ans. No, sir.

Quest. Did you recollect whether it was a stormy or clear day, the day your mother signed that note?

Ans. I could not say whether it was clear or stormy—I
20 don't recollect.

Quest. Is the front room that you have spoken of sometimes called the dining-room?

Ans. Yes, sir, it is.

Quest. Did your mother write with a quill or metal pen when she signed this note?

Ans. I don't recollect positively as to that.

Quest. Did she use the same pen with which you wrote the note?

Ans. I could not say.

30 *Quest.* How long after you wrote the note was it that she signed it?

Ans. As near as I can recollect, it was immediately after it.

Quest. Have you ever been engaged in any business for yourself or any other person?

Ans. I have done sewing, at what they call southern work; I have lived away from home at work—that is all I recollect of.

Quest. Where did you get the form for this note?

Ans. I have understood writing notes ever since I went to
40 school.

Quest. You mean to say that you learned at school how to write a promissory note?

Ans. I knew from going to school and from seeing other notes.

Quest. Did you, or not, know that the words order or bearer were necessary to make a complete note, so that it could be signed away?

Ans. Yes, sir; I knew that notes were written in that way owing to circumstances.

Quest. Why did you not put one of those words in this note, 10 if it was given to you for land that you sold your mother?

Ans. Because I preferred having it in this manner.

Quest. Did not your mother, at that time, request you not to put them in?

Ans. I don't recollect that she did.

Quest. What was the whole amount that your mother was to give both you and your husband for the land mentioned in the deed?

Ans. I don't think that she told my husband; she told me that she would allow me \$2000. 20

Quest. Did she tell you how much she would allow your husband over and above the \$2000 which she allowed you?

Ans. No, sir; she never told me that she would allow him anything.

Quest. What were the whole lands mentioned in that deed worth, in your opinion?

Ans. I don't know what the real worth of them was.

Quest. What share did you own?

Ans. The share that I have made mention of—it was the share left by my brother Ira, which did not come from my 30 father; these were lands that he owned in his own right.

Quest. What other share?

Ans. I suppose the deed will show.

Quest. Do you not recollect what shares you were to convey under the bargain with your mother without referring to the deed?

Ans. I don't think I could give a definite answer as to that.

Quest. Can you be any more definite about that from re- 40 collection than you have already been?

Ans. I don't know—perhaps I might after some recollection—I could not give any more definite answer at present.

Quest. What undivided share or divided share had you in the lands of your brother Ira?

Ans. I don't know as I can give you the particulars of that—there are papers that will show.

Quest. Did you hear the deed which you signed read over, or were its contents stated to you by Mr. Cutler, when you were before him?

10 *Ans.* I could not say positively about that; I think it was read over by Mr. Cutler.

Quest. Can you tell why \$500 was mentioned in the deed, if you were to have \$2000?

Ans. Yes, sir; because my sister's was made out \$500, my mother said mine must be made the same.

Quest. Was it not a year ago last January that you signed the deed in the presence of Mr. Cutler?

Ans. I could not say.

Quest. What is your impression about that?

20 *Ans.* I could not say positively about it; I guess I acknowledged it then.

Quest. Did you sign it some time before you acknowledged it?

Ans. I think I did.

Quest. How long before?

Ans. I could not say.

Quest. Who was present when you signed it?

Ans. I don't recollect now.

Quest. Who witnessed it, if anybody, when you signed it?

30 *Ans.* Mr. Cutler was present when I signed it.

Quest. Did you defer the acknowledgment to another time, and if so for what reason?

Ans. I don't recollect that I did.

Quest. Then do you not now recollect that you signed it and acknowledged it at the same time before Mr. Cutler?

Ans. No, sir.

Quest. Do you recollect that you signed and acknowledged at different times?

Ans. I think I do.

40 *Quest.* Was Mr. Cutler present on both occasions?

Ans. Yes, sir, I think he was.

Quest. Where did you sign the deed?

Ans. At Mr. Cutler's office.

Quest. Why did he not then take the acknowledgment?

Ans. I don't recollect—I suppose because it had not been signed by both of us.

Quest. Both of whom?

Ans. Stewart and myself.

Quest. Was not Mr. Stewart's name to the deed when you signed it? 10

Ans. I thought it was, but since I think it was not.

Quest. What has induced you to change your mind on that subject?

Ans. I have been thinking of the subject, and I think I was mistaken.

Quest. When did you first come to that conclusion, before or since the meeting of the court this afternoon?

Ans. I thought of it before leaving the court this morning.

Quest. Did you think of it before court adjourned?

Ans. I did. 20

Quest. Why did you not mention it this morning?

Ans. I had not an opportunity of recalling it, and I thought there would be time before the examination closed.

Quest. Was your husband present when you did acknowledge the deed?

Ans. I could not say positively whether he was or not.

Quest. Have you any impression as to that?

Ans. I could not say, as I said before—it rather seems to me that he was not.

Quest. Where did you acknowledge it? 30

Ans. At Mr. Cutler's office.

Quest. Who was with you?

Ans. I don't recollect now.

Quest. Was not Daniel with you?

Ans. I think not; it rather seems to me that I came to town alone that day.

Quest. Did not Mrs. Anderson get more than \$500, the sum mentioned in your deed, in money for her land?

Ans. No, sir.

Quest. Were you present when it was paid? 40

Ans. I was.

Quest. Was it just \$500 in cash that was paid at that time to Mrs. Anderson for the deed?

Ans. No, sir, it was not \$500 in cash.

Quest. How much cash was paid to Mrs. Anderson or her husband at that time, if any?

Ans. I could not tell you to a dollar, but I think it was some hundreds—can't say now.

Quest. Who paid the cash at that time?

10 *Ans.* My mother paid it—it was laid on the table, and Mrs. Anderson took it up; they were both present.

Quest. Did not Daniel count out that money, and lay it on the table?

Ans. I don't know but Daniel might have counted it over; my mother laid it on the table.

Quest. After or before Daniel counted it, did your mother lay it on the table?

Ans. After.

Quest. Who were present when the \$2000 note was as-
20 signed by you to Mrs. Anderson?

Ans. I think Mr. Anderson and Mrs. Anderson, both of them; I don't recollect of anybody else.

Quest. Was not Daniel there?

Ans. I could not say; I don't recollect of his being there.

Quest. What did you get for this \$2000 note?

Ans. I got my sister's share of the property after the estate is settled, my sister Jane Caroline.

Quest. Did you get anything else?

Ans. I got the \$1000 note.

30 *Quest.* Did your sister or her husband give you any writing to show what this arrangement was, or did you depend on each other's word of mouth?

Ans. Of course I believed what she said; she said she would give me one, but none has been given.

Quest. Are you to have all the share of your sister after the estate is settled up, if that share should amount to more than the amount of the \$2000 note?

Ans. After she gets \$2000 out of the estate, and the estate is settled, I have her share—what would be her share.

40 *Quest.* In case her share does not amount to \$1000, or the

difference between the two notes, whatever it may be, to whom do you look, if to anybody, for the difference there was between the two notes at the time of the assignment?

Ans. It will be my loss if it does not amount to that.

Quest. Did you not know that there would, in all probability, not be as much as \$1000 coming to your sister after the estate was settled up, and these notes and the other debts were paid?

Ans. No, sir, I did not take that view of it—I thought I would be perfectly safe in doing it.

10

Quest. Was Mr. Anderson present when this arrangement was made?

Ans. No, sir, he was not.

Quest. Was the bargain made the same day that these assignments were made?

Ans. I think it was.

Quest. How long before the assignments were drawn?

Ans. I do not recollect particularly about that.

Quest. Did Daniel advise you to give up this \$2000 note to Mrs. Anderson under this arrangement? [Question objected 20 to by counsel for claimant, and objection overruled.]

Ans. My sister made the proposition, and I accepted it; I did not accept upon Daniel's advice.

Quest. Did you upon the advice of any one?

Ans. No, sir.

Quest. When was it that your sister made that proposition to you first, that day that the assignments were written, or was it before?

Ans. I think it was that day.

Quest. Were you living apart from your husband at that 30 time?

Ans. Yes, sir, I was; I did not live with him.

Quest. Who wrote the deed from you to your mother?

Ans. Mr. Cutler, I suppose.

Quest. Where is it now?

Ans. I presume it is safe; I can't tell you just where it is; I have not seen it very lately myself.

Quest. When did you last see it?

Ans. I think the last time I saw it, it was in the possession of my mother.

40

Quest. When was that?

Ans. It was after it was signed and acknowledged—I could not say when.

Quest. How long before her death?

Ans. I do not recollect.

Quest. How long after it was acknowledged?

Ans. I could not say.

Quest. Have you seen it since your mother's death?

Ans. No, sir, I have not.

10 *Quest.* Did you know of its being recorded at the time it was recorded, or about that time?

Ans. I did.

Quest. Who got it recorded?

Ans. Mr. Cutler, I think.

Quest. How do you know that?

Ans. I think I spoke to him in reference to it, and I think he said either it had been recorded, or he would have it recorded.

Quest. What was done with the deed when you acknowledged it?

Ans. I don't recollect about that—I think it was left with Mr. Cutler.

Quest. When did your mother get it?

Ans. I could not tell you about that.

Quest. Are you certain she ever had it before her death?

Ans. Yes, sir, I think she had.

Quest. Are you certain about that?

Ans. I think she had; I could not say anything further.

Quest. How old were you when your father died?

30 *Ans.* I think I have heard mother say I was about four years old. His name was Daniel L. Tuttle.

Quest. Name the children that he left, beginning with the oldest?

Ans. Ira H. Tuttle, Nancy L. Tuttle, William D. Tuttle, Jane Caroline Tuttle, Sarah Louisa Tuttle, Daniel L. Tuttle, Eliza Tuttle—there were only six of us at father's death; Eliza was born after his death.

Quest. Was there any understanding between you and your mother, at the time she gave you this note at one year for
40 \$2000, that you were not to collect it as soon as it became due, but were to wait until after her death?

Ans. There was nothing said about it.

Quest. Were you living on friendly relations with your husband when this note was given, the first of July, 1858?

Ans. I was not.

Quest. Was there not some arrangement by which you agreed to wait for the money due upon this note until some time after it became due?

Ans. No, sir, I don't think there was.

Quest. Do you recollect what your mother had been doing just before she signed this note?

10

Ans. No, sir, I don't recollect now.

Quest. Was her hand unusually steady in her writing that day, or about as common?

Ans. I don't know as I noticed her so particularly as to tell whether it was more steady or more tremulous.

Quest. So far as you saw, did she write it in about her ordinary way of writing?

Ans. I don't know as I examined it particularly, and if I did, I don't know what my opinion was of it at that time.

Quest. How long after you stated to the counsel this morning a second time that you signed the deed after your husband, was it that you recollected you signed it before he did?

20

Ans. It was during the time I sat here—I could not say exactly at what time it was.

Quest. When did your mother and you first speak about your taking the uplands for this \$2000 note?

Ans. I don't recollect that she spoke at any particular time of my taking the land for the \$2000 note.

Quest. Did you not speak of giving that note to her in payment for, or in part payment for the lands?

30

Ans. No, sir.

Quest. Were you not then mistaken this morning in saying that you were to give her the \$2000 note for the upland?

Ans. No, sir.

Quest. Did you not say this morning that you were to give your mother up those notes, that is a \$5000 note and this \$2000 note, if she would give you a deed for all of the upland, with the exception of the lower orchard, and that she spoke of it at different times?

Ans. Yes, sir, I said she said she would give me a deed for 40

all of the upland, with the exception of the lower orchard, if I would give her those notes, viz. \$5000 and \$2000 notes.

Quest. Then she did say, or didn't she, that she would take the \$2000 note, and you might take the land, and the \$2000 note should go in part payment of the land?

Ans. Yes, sir.

Quest. When did she first mention that?

Ans. I said, before that, she did not mention at any particular time the \$2000 note—I meant to say that note alone—
10 that is without speaking of the other at the same time.

Quest. Did she, when speaking of the notes, mention the \$5000 note or the \$2000 note, or say those notes?

Ans. She said those notes, and then made mention of the particular sums.

Quest. Didn't she sometimes speak of them differently from that?

Ans. I don't recollect that she did.

Quest. What was your grandmother's name on your father's side?

20 *Ans.* Nancy Tuttle—she died after my father.

Quest. Did you and your brothers and sisters inherit some lands from her, given by will?

Ans. Yes, sir, two of my brothers, Ira and William. Those that were willed to Ira is the place where we now live; I don't recollect that he got any other. William got meadow land—it lies on the road to Whippany; I don't know as I can describe it.

Quest. What uplands was your mother to convey to you for the \$5000 and \$2000 notes?

30 *Ans.* The homestead place and all the land she owned right in Littleton, with the exception of the lower orchard. There was seven acres in the homestead, in the first place; the land that she proposed to convey to me was all the land that she owned around the homestead.

Quest. Describe what lands they are?

Ans. As I said, it was this homestead place where mother lived and the land belonging with it, the upper place formerly owned by my cousin Samuel, afterwards by my brother William. I do not know how to describe the place to you so that
40 you will know it. Some of the land had been owned by Al-

fred Johnson; my brother bought it—I don't know how to make it plainer to you. All the uplands she owned, except the lower orchard.

Quest. Was she to convey to you all the lands that your brother William owned when he died?

Ans. I could not say how much my brother William did own; but I thought I had explained what lands my mother was going to convey to me.

Quest. Was she to convey to you all the lands that William owned when he died? 10

Ans. I suppose I can give you an answer to that—she did not, because she owned meadow lands.

Quest. Was she to convey to you a lot deeded by Samuel A. Tuttle to William D. Tuttle?

Ans. She was to convey to me a lot that Samuel had owned, and conveyed to William.

Quest. Was she to convey to you a lot that your brother William bought of Calvin Howell?

Ans. No sir, I think not; I don't think William ever bought any upland of Mr. Howell. 20

Quest. Was she to convey to you a lot that Julia A. Tuttle conveyed to your brother William—about five and a half acres?

Ans. No, sir.

Quest. Has she a lot conveyed by Judge Vail and wife, to William?

Ans. No, sir, I think not; I don't know of any land she was to give me of that name.

Quest. Was she to convey to you any lot of about sixteen and one-quarter acres? 30

Ans. No, sir.

Quest. Was she to convey to you a lot that George L. Corwin and wife sold to William, containing about two and a half acres?

Ans. Yes, sir.

Quest. Was she to convey a lot that Alfred Johnson and wife sold to William, containing twenty-one seventeen hundredths acres?

Ans. Yes, sir.

Quest. Was she to convey a lot that William bought of Mr. 40

Tompkins' estate, Elijah D. Tompkins, containing eight forty-nine hundredths acres?

Ans. No, sir.

Quest. Was she to convey a fourteen acre lot that Isaac Cutler sold to your father in his lifetime?

Ans. No, sir, I think not—I think that was a meadow lot.

Quest. Was she to convey a seven acre lot that Isaac Johnson conveyed to your grandmother Tuttle?

Ans. Yes, sir. I am not sure, but I think that is the place
10 where we lived.

Quest. Was she to convey an eight acre lot that your father purchased of Charles Vail?

Ans. I don't know that she was; if she was, I don't know it by that name.

Quest. Was she to convey a tract of six acres near Troy?

Ans. No, sir.

Quest. Was she to convey a lot lying near Horse-pond, in the township of Rockaway?

Ans. No, sir.

20 The description of the Charles Vail lot being read to the witness from the sheriff's deed, she says that is the lower orchard.

Quest. When your mother spoke of conveying these lots to you, did she say what they were all worth?

Ans. I don't recollect that she did.

Quest. Were you to receive for these notes anything besides this land you have mentioned from your mother?

Ans. Of course I was to have the buildings—nothing else.

Quest. When did you and your mother first speak about
30 this conveyance of land from you to your mother?

Ans. I don't recollect.

Quest. Where did you live when you and your mother first talked of having this conveyance made—the conveyance from you to your mother?

Ans. I said I did not recollect.

Quest. Did you not live at that time with your husband at Plainfield?

Ans. I could not say.

Quest. How much were you to have in the whole for the
40 share of the land which you conveyed to your mother?

Ans. Two thousand dollars.

Quest. Was it the contract for you to convey the share which descended to you from your brother William?

Ans. I had no share from my brother William.

Quest. Were you to convey the share which descended to you from your sister Eliza? [Objected to by counsel for claimant, and objection overruled.]

Quest. As you understand it, was the deed made according to the original contract between you and your mother?

Ans. Yes, sir; I speak of the lands conveyed. 10

Quest. Did it convey all the shares that you agreed to convey for the \$2000?

Ans. If I understand you right, I say I think it did.

Quest. Which of your brothers and sisters died first?

Ans. My brother Ira, then my brother William, then Nancy, and then Eliza?

Quest. Did you consider the interest which you had in your sister Eliza's and Ira's lands and in your father's land worth \$2000, or more or less?

Ans. I don't know what it was worth—I accepted that for 20 it?

Quest. Did you not make any inquiry as to the value before you conveyed it away?

Ans. I don't recollect about that, whether I did or not; I knew who was buying it.

Quest. Was \$2000 your mother's offer, or was it what you asked?

Ans. It was what I asked.

Quest. Did you fix the price to ask yourself, or did you do it after consultation with some one? 30

Ans. I don't recollect about that—I might—I don't remember.

Quest. Can you tell what season of the year it was when you signed this deed before Mr. Cutler?

Ans. I don't recollect now.

Quest. Do you not know that this deed remained in the possession of Mr. Cutler from the time that you acknowledged it up to the time that Mr. Cutler took it to the clerk's office to be recorded?

Ans. I can't say that I did know it? 40

Quest. What was your mother doing with it when you saw her have it?

Ans. I don't recollect about that—that might have been a mistake of mine about my seeing her have it.

Quest. Are you not now satisfied that it was a mistake?

Ans. No, sir, I can't say that I am satisfied—I can't be positive about it.

Quest. How came you to speak to Mr. Cutler about getting it recorded?

10 *Ans.* I don't recollect about that, but I think it was a request of my mother's.

Quest. How long before her death did she make that request?

Ans. I could not say about that now.

Quest. Do you recollect what season of the year it was?

Ans. No, sir, I don't.

Tuesday morning, April 24th, 1860—present Joseph Dalrimple, Ira C. Whitehead, and Samuel O. Briant, esquires, Judges.

20 *Cross-examination* of Sarah Louisa Stewart continued.

Quest. In case your mother conveyed these lands to you for the two notes, as you have mentioned, was the conveyance to be made to you in your own name, or to your husband, or to some one else in trust for you?

Ans. It was to be in my name. I was to give her a writing that she should have the use of it as long as she lived, but it should be deeded to me in such a manner that I could will it to my children.

Quest. Did you and your mother consult any lawyer as to
30 the form of this proposed conveyance?

Ans. No, sir, I did not.

Quest. Can't you tell us this morning how long it was before your mother's death that you talked of this?

Ans. Yes, sir, I can tell you very nearly the time—I think it was in May some time, the May before her death.

Quest. Why was it not done?

Ans. I don't know of any other reason at present than that we were very busy in making preparations to accommodate

people that were going to attend the Baptist association in town; we were to come down the next week, as mother was taken with the palsy on the Saturday before.

Quest. Where were you to come?

Ans. To Mr. Cutler's, I suppose.

Quest. Was he to do the writing?

Ans. I supposed he would do the business that was to be done?

Quest. Were you to give just the notes, and nothing more, for these lands?

10

Ans. That was all.

Quest. Was not your mother to give you something besides the land for these notes?

Ans. No, sir.

Quest. Did Daniel, or your sister Caroline, or Mrs. Cameron, or any person living at your house, or working there, hear this arrangement between you and your mother?

Ans. Yes, sir. My brother Daniel was present at the time; I think at the time we were talking about it Mr. Bond, one of the neighbors, came in; I don't think there was any one 20 else.

Quest. Did Mr. Bond see the notes, or either of them, at that time, or before or afterwards?

Ans. That I could not say.

Quest. Were the notes out at the time?

Ans. Yes, sir. I could not be positive that the notes were out during the time Mr. Bond was in; they were out during the conversation; they were out when Daniel was present—he saw them.

Quest. Was not that the first time that Daniel ever saw 30 them?

Ans. Yes, sir.

Quest. Fix the time that Daniel first saw them as nearly as you can, and whether it was in March, April, May, or June?

Ans. I should say, according to my recollection, it was some time in May.

Quest. Did Daniel see them in your mother's presence?

Ans. He did. It was at mother's request that I got the notes—brought them down.

40

Quest. What did she want of them?

Ans. For the purpose of reckoning and seeing about what it would amount to—the notes and the land.

Quest. Was Daniel present when she requested you to get the notes?

Ans. I could not say positively about that.

Quest. Did Daniel express any surprise on seeing these notes?

Ans. I forget first the remarks he did make.

10 *Quest.* Don't you recollect anything that he said?

Ans. I don't recollect now.

Quest. Had not you or your mother, before Daniel saw the notes, told him that you had such notes?

Ans. I don't recollect about that.

Quest. Did Daniel know before that that you had these notes?

Ans. That I could not say.

Quest. Did you leave the notes, or any of them, with the surrogate or with the young man in the clerk's office?

20 *Ans.* I took them there—the two notes—the \$5000 and the \$1000; Mr. Dellicker was not there; I left them with the young man there—my brother was with me.

Re-examined.

Quest. Do you know Thomas Logan?

Ans. No, sir.

Quest. When is the first time that you recollect of seeing him, and where?

Ans. Here in this court-room, to my recollection—since this trial came on.

30 *Quest.* Did you hear his evidence given before the court in reference to his conversation with you?

Ans. Yes, sir.

Quest. Did you have any such conversation with him, or any conversation at any time with him?

Ans. No, sir.

Quest. Did you hear him in this court-room inquire of any person which was Mrs. Stewart?

Ans. Yes, sir.

Quest. Where was you sitting?

40 *Ans.* I was sitting near the stove.

Quest. Where was he sitting?

Ans. He was sitting in the middle side—seat next the stove.

Quest. Did you know the person of whom he inquired?

Ans. I don't know as I could say positively.

Quest. Who did you think it was?

Ans. I rather think it was Joseph Smith.

Quest. Was your husband, at the time of the conveyance of your property to your mother, the owner of any property except his interest in your real estate?

Ans. No, sir.

Quest. Was he, or not, at that time a man of very intemperate habits?

Ans. He was.

Quest. Did you ever hear your mother say why she commenced a suit against your husband?

Ans. Yes, sir. Her object was to arrange the matter.

Quest. To arrange what matter?

Ans. It was to get this out of his possession, in order that she might give me this note, as he had attempted to sell the land at different times.

Quest. You said you could not tell, to a dollar, how much 20 was paid in cash to Mrs. Anderson at the time she and her husband made the deed to her mother—was the whole consideration paid to Mrs. Anderson at that time, or not, for the conveyance? [Question objected to by counsel for exceptant, and objection overruled.]

Ans. No, sir.

Quest. What, if anything, was said at that time by your mother, as to her paying a further consideration for that conveyance?

Ans. She said that was all she was able to pay her at that 30 time, but that she should have more; she did not think that was the real worth of her land.

Quest. Do you know what value your mother set on her own real estate? [Question objected to by counsel for exceptant, and question withdrawn.]

Quest. You say you did not make the exchange of the \$2000 note with your sister for the \$1000 note and her share of the estate on the advice of any one—state, then, why you did it, and on whose estimate of the value of the estate, if any one's, you acted? [Question objected to by counsel for 40 exceptant, and objection overruled.]

Ans. From hearing my mother say she valued her place from \$12,000 to \$15,000.

Quest. Who was your mother's attorney?

Ans. Mr. Cutler.

Quest. You were asked the question, whether the time in May, when your mother and yourself conversed about the purchase of the land, was the first time Daniel saw the notes, and whether the notes were then present—state what notes were present at that time? [Question objected to, and objection overruled.]

Ans. The \$5000 note and the \$2000 note.

Quest. You say that Daniel that day saw the notes in your mother's presence. Look at the notes now shown you, being the \$5000 and \$2000 notes in controversy, and say whether or not they are the same ones then present? [Question objected to by counsel for exceptant, and objection sustained.]

Quest. Who was the maker of the \$5000 note shown on the day when Daniel was present, and you had the conversation about the land, and which your mother was to take in part payment for the land? [Question objected to by counsel for exceptant, and objection sustained.]

Quest. Where is the \$5000 note which was present on the day when the conversation took place about the land, and which your mother agreed to receive in part payment? [Question objected to, and objection sustained.]

On the examination being read over to witness, witness wishes to say, that the deed which she spoke of as having been in her mother's possession was the deed from her sister to her mother, and not the deed from her to her mother.

30

SARAH L. STEWART.

Sworn and subscribed, in open court, this 24th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Counsel for claimant offered in evidence the will of Nancy Tuttle, dated March 31st, 1835—proved the 25th of April, 1835—recorded in Liber D. of Wills, page 390.

Daniel L. Tuttle, a witness called and sworn on the part of the claimant, says—I am a brother of Mrs. Stewart and of Mrs. Anderson; my father's name was Daniel L. Tuttle—he died, I think, about twenty-eight years ago.

Quest. Did he die possessed of any lands, and if so, of about how many acres?

Ans. Near forty acres.

There were seven children, Ira, Nancy, William, Caroline, Louisa, Daniel, and Eliza. My brother Ira is dead—he died, I think, in 1842; he left no children nor no wife. My sister 10 Eliza died three years ago last February; she left neither husband or children her surviving; she left no will. There are three children now living, *viz.* Caroline, Louisa, and myself.

Quest. Witness being shown the three notes, Nos. 1, 2, and 3,—have you seen those notes before?

Ans. I have.

Quest. When and where was the first time that you saw those notes, and who were present?

Ans. It was in April or May last—it was at home, at my mother's in Littleton; my sister Louisa, my mother and my- 20 self, and a man by the name of George Bond were present. This is the first time I saw those notes.

The body of the notes is in my sister's handwriting; the signatures are in my mother's handwriting.

Quest. Who brought the notes in the room that day?

Ans. My sister Louisa.

Quest. At whose request?

Ans. My mother's.

Quest. For what purpose?

Ans. To see what they amounted to; she was talking of 30 deeding Louisa certain lands for two notes.

Quest. What lands?

Ans. Lands adjoining the school-house, known as the Alfred Johnson tract—lands that formerly belonged to Samuel A. Tuttle; the third tract was the place my mother lived on; those three tracts was all. There was a two and a half acre lot, which I suppose was called a part of the Johnson tract—it was purchased of George I. Corwin.

Quest. Was there any calculation made of the amounts of the notes?

Ans. There was—the \$2000 note and the \$5000 note.

Quest. Do you recollect what they amounted to at that time?

Ans. The principal and interest was something over \$7500 at that time.

Quest. Was there any calculation made at that time as to the price of the land per acre?

Ans. There was—I think it was \$155 per acre, or near that figure.

10 *Quest.* Why was not the conveyance made at that time?

Ans. There were two or three reasons, I think. My mother was very busy at that time, and it was near court time—one or the other, I don't recollect. She thought there would be a more convenient time. There was a time fixed upon—I don't recollect what time it was.

Quest. When were the writings to be drawn?

Ans. She expected Mr. Cutler to do it.

Quest. Did your mother at that time speak of the consideration of the \$5000 note—and if so, what did she say?

20 *Ans.* She said it was for notes that my sister Eliza and my sister Nancy had given Louisa, including a note that my sister Louisa held against my mother.

Quest. Did she say what the amount of the note was that Nancy had? [Question objected to by counsel for exceptant, upon the ground that the notes given to Louisa by Nancy and Eliza, and the other notes spoken of by him, must be produced to justify secondary evidence of their existence and contents, and objection overruled.]

Ans. She said it was \$1300.

30 *Quest.* Did she say what the amount of the note was that Eliza had?

Ans. She said it was \$1800 or \$1900, or between those sums.

Quest. What was said to be the amount of the note Louisa had?

Ans. I don't recollect.

Quest. Whose notes were they that Nancy and Eliza had?

Ans. They were notes against my mother.

Quest. Look at the \$2000 note—was anything said by your
40 mother what was the consideration of that note?

Ans. That was said to be for land.

Quest. What land?

Ans. Lands my sister held, and hired from my brother Ira. I don't recollect what other lands.

Quest. Which sister?

Ans. Louisa.

Quest. Look at the \$1000 note—state what was said by your mother at that time in reference to that note?

Ans. That was a coming to Caroline, for lands she bought of her.

10

Quest. Were you well acquainted with your mother's handwriting?

Ans. Yes, sir, I have seen her write frequently and often.

Paper here shown witness—I saw my mother sign it, and I witnessed it at the time.—Paper marked Exhibit Z 5—the handwriting in the body of this paper is mine. I found this paper in my mother's papers one day last week.

Witness being shown another paper, marked Exhibit Z 6—

Quest. Where did you find that paper?

Ans. I found it with her papers, at the same time I found 20 the other.

Exhibits Z 5 and Z 6 here offered in evidence. [Objected to by counsel for exceptant, and objection waived.]

Cross examined.

Quest. The time you have spoken of was the first time you ever saw those notes, or either of them?

Ans. To my recollection it is.

Quest. At that time were you in anywise surprised to see that your sister Louisa held notes to so large an amount against your mother?

30

Ans. I can't say that I was.

Quest. Had you ever heard your mother say before that Louisa held those notes?

Ans. I don't know as I ever did.

Quest. You were transacting business to some considerable extent for your mother at that time and before?

Ans. To no great extent.

Quest. Were you engaged in running a boat on the Morris canal for her?

Ans. I was not.

40

Quest. Did you not hire a man by the name of Hathaway to run a boat for her?

Ans. Yes, sir, I did.

Quest. Had she or you charge of that business of boating?

Ans. I done most of my mother's business. I don't know how to answer that question. The man did not drive on boating but two or three weeks. I made the bargain with the man for my mother.

Quest. Who looked after that business and supervised it, 10 after you made the bargain with him for your mother?

Ans. I did, sir.

Quest. Was your mother engaged in buying and selling horses and cattle, or either of them?

Ans. She was.

Quest. Who attended to that business for her?

Ans. I did, sir.

Quest. Was she engaged in buying or selling wood or timber or railroad ties?

Ans. She was, some years ago.

20 *Quest.* How many?

Ans. Three or four, five or six years ago; I attended to that for her.

Quest. During what period of time did you attend to buying and selling horses and cattle for her?

Ans. More or less for the last six or seven years. I traded horses too.

Quest. Did your mother carry on farming?

Ans. She did.

Quest. Did you attend to that for her?

30 *Ans.* I did.

Quest. Did you endorse, as her agent, notes and checks?

Ans. I don't know as I ever did—not to my recollection.

Shown check dated May 5th, 1857, check of John S. Smith for \$150—witness says that is my writing on the back of the check; I don't recollect whether I got that check discounted at the Dover Bank or not; I think I took this to the Dover Bank, am not positive.

Being shown check, Exhibit I, of his mother upon the Dover Bank, witness says—the body of it is in my handwriting, and 40 the signature is my mother's.

Quest. Did you not deposit Mr. Smith's check in the Dover Bank to pay your mother's check of the same date for the same amount, and have you not now a clear and distinct recollection of that fact?

Ans. The particulars I do not recollect.

Quest. Tell us all you do recollect about that transaction in reference to the two checks?

Ans. I recollect taking a paper from John S. Smith's to the Dover Bank—I think it was a note he gave me of some man's; I took that note to the Dover Bank. About the check, I told 10 you all I recollect about.

Quest. What was that check given to Mrs. Anderson for, Exhibit I? [Objected to, and objection overruled.]

Ans. Given for land.

Quest. What land?

Ans. Land that my mother bought of my sister.

Quest. Was that all that was paid at that time to Mr. Anderson or his wife for these lands?

Ans. There was some money besides that.

Quest. How much money?

Ans. I could not say.

Quest. Was it not \$350?

Ans. I think it was.

Quest. Was the money paid to him the same day the check bears date?

Ans. It was given to him the day the check was given to him—I was present when that check was given to him; I think I was in the room.

Quest. You counted the money, did you not?

Ans. I had a hold of it—I think I counted it.

Quest. At that time, that is when the money and check were paid, was it understood that Mr. Anderson or his wife was to have anything more than what was paid that day as a consideration for the land?

Ans. There was something said about more pay.

Quest. State what that was?

Ans. That is about all; I recollect something was said about more pay; but when it was to be paid, or how much, I don't know.

Quest. Can't you recollect?

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30

40

Ans. That is as far as I recollect about it.

Quest. Had your sister Louisa ever told you that she held these notes before they were shown to you that day?

Ans. I don't know as she ever spoke to me previous to that day about those notes.

Quest. Can't you tell what time in April or May these notes were produced?

Ans. I cannot.

Quest. Can you tell whether it was in April or May?

10 *Ans.* I think it was in May.

Quest. When something more was said about paying, as you have stated, did your mother say she would pay more?

Ans. I could not say whether she did or did not.

Quest. Did you retire from that transaction with the understanding or belief that your mother was still indebted to Anderson or his wife for those lands?

Ans. I did not know what their bargain was; I know nothing more than what I have stated; I did not hear them make a bargain, and I did not know what the understanding
20 was.

Quest. I want to know what your impression was as to that matter, if any you had?

Ans. I don't know as I had any impression.

Quest. Did you not have the impression, and have you not so stated, that Anderson has received all that he was to receive?

Ans. I don't know as I have.

Quest. Did you not so state on your examination before Mr. Vanatta, as a commissioner, last April?

30 *Ans.* I don't know whether I did or did not.

Quest. Were these notes shown to you before or after that examination was closed?

Ans. They were shown to me after, if I recollect right.

Quest. How long after?

Ans. I could not say.

Quest. Why were you not surprised to see notes to so large an amount against your mother, which had been in existence for so long a time without the knowledge of you, her business agent, and when you had no impression that anything more
40 was to be paid to Anderson for the land?

Ans. My mother told me about that note—what it originated from; she told me that day.

Quest. What about the other two notes?

Ans. I am speaking about the \$5000 note and the \$2000 note; she told me that she calculated to give Anderson more money for his land—more than what she had paid him.

Quest. Were you surprised to see the notes, until she explained why she had given them?

Ans. This was explained before I saw the notes.

Quest. Then you heard of the notes before you saw them 10
the same day?

Ans. Yes, sir.

Quest. Did you hear of the number of the notes and of their amount?

Ans. I heard what they read.

Quest. Were you surprised when you first heard of them?

Ans. I don't know as I was.

Quest. Can you tell why?

Ans. No, sir; I have no particular reason, as I know of.

Quest. When did you come from Ithaca? 20

Ans. Six or seven years ago this spring, I removed from Ithaca here; I have not lived here ever since all the time—I was away one summer—I was down in Somerset county.

Quest. What were you doing there—were you carrying on business for yourself or for your mother?

Ans. For myself.

Quest. Since you came from Ithaca, was your mother engaged in any business besides boating, dealing in horses and cattle, farming, and buying or selling wood, timber, and railroad ties? 30

Ans. Not as I now recollect of.

Quest. Did she buy some land in that time?

Ans. She did.

Quest. How many different purchases did she make?

Ans. Three, to my recollection.

Quest. Did you take any part in making those purchases, or either of them?

Ans. I helped make one of them—that is all, to my recollection; my mother made the others herself—I suppose she did; I was not present when she made them. 40

Quest. Who were the sellers in those two cases in which your mother made the bargains?

Ans. My sisters Caroline and Louisa.

Quest. Who was the seller in the other case?

Ans. Leander Howell and his mother.

Quest. What lot was that?

Ans. It was a wood lot near Halseytown. I do not know where that deed is; I don't know whether it was ever recorded or not.

10 *Quest.* Who was it handed to after it was executed?

Ans. I went to his house after it, and got it.

I brought it home, and gave it to my mother; I do not know whether I have seen it since or not.

Quest. When was it?

Ans. I think it was four or five years ago.

Quest. Have you been active in endeavoring to sustain the claims upon these notes?

Ans. Yes, sir; I have done something towards it.

Quest. Have you been after witnesses?

20 *Ans.* Yes, sir.

Quest. Were you not present when your mother bought land of Mr. Anderson and his wife?

Ans. I could not say that I was.

Quest. Can you say that you were not.

Ans. I can't; I don't know when she did buy it.

Quest. You counted the money, or some of it, when it was paid to Anderson?

Ans. I was present when the deed was given, I counted some of the money.

30 *Quest.* Were you present when Stewart signed the deed which he gave to your mother?

Ans. I was.

Quest. When Mrs. Stewart signed it, were you present?

Ans. I don't know whether I was present when my sister signed the deed or not?

Quest. Have you not heard Louisa say that she had been paid for her share in your mother's land?

Ans. I don't recollect as I ever have.

Quest. Did you not say, on your examination before Mr.
40 Vanatta, that you had heard Louisa say that she had received her pay for the land?

Ans. I don't recollect as I did.

Quest. What did Stewart get for signing the deed?

Ans. I saw him get some money—I know not how much.

Quest. On what account did he get this money?

Ans. I could not say.

Quest. What did Stewart get for signing the deed—if you know, state?

Ans. He got \$5, I know.

Quest. When?

Ans. The day he signed the deed.

10

Quest. Did you not say before Mr. Vanatta, that when he signed the deed he did not get anything, as you saw?

Ans. I don't know what I said then about it.

Quest. Were the \$5 paid him in Mr. Cutler's office, or before you went there, or after you left?

Ans. I am under the impression it was after I went home.

Quest. Were those \$5 paid to him on the land or for the land?

Ans. I could not say whether it was or was not, or what it was for?

20

Quest. I ask you again if Mr. Stewart got anything, to your knowledge or recollection, by way of consideration for executing the deed—if you do not understand the question, don't answer it until you do understand it?

Ans. I know he got the \$5, but I don't know what he got it for.

Quest. Have you any other answer to make to the last question?

Ans. None that I now recollect of.

Quest. Please state precisely what was said, as near as you can recollect, about the consideration of the \$5000 note, using the words that passed at the time, according to the best of your memory?

Ans. My mother said it was for a note that Eliza had given my sister Louisa against her, and a note that my sister Nancy had given my sister Louisa against her, and she said she had given her something in that \$5000 note for staying with her—I don't recollect the amount.

Quest. Was that as much as \$500?

Ans. I could not say—I think it was more than that.

40

Quest. Was it as much as \$800?

Ans. I think it was.

Quest. Was it as much as \$1200?

Ans. I could not say about the amount.

Quest. Did your mother say that they had come to a settlement of the amount due for board when the \$5000 note was given?

Ans. I don't recollect as there was anything said about the settlement.

10 *Quest.* Did your mother say what she had to show for the board due to her at the time the \$5000 note was given?

Ans. I don't recollect as anything was said about it.

Quest. You stated, on your principal examination, that your mother said there was included in the \$5000 note a note of Louisa's—what did you mean by that?

Ans. I meant by that that my sister Louisa had a note against my mother—that is, I understood it that way.

Quest. What was the amount of that note?

Ans. I could not say.

20 *Quest.* Did you understand that that note had been given for board?

Ans. I don't recollect that there was anything said about board at the time.

Quest. For staying with your mother, when was this amount included in the note?

Ans. I suppose it was for the time previous.

Quest. Was it said that part of the \$5000 note was for another note which Louisa held against your mother when the \$5000 note was given?

30 *Ans.* I think it was said that Louisa had a note.

Quest. To what amount?

Ans. I could not say.

Quest. Was it \$500?

Ans. I could not say; I do not recollect the amount.

Quest. What was then stated to be the consideration of that note?

Ans. I don't know as there was anything said about it.

Quest. Did you not ask your mother, at that time, about that?

40 *Ans.* I don't know but I did—I don't recollect.

Quest. Did you know at that time, of your own knowledge, what the consideration was?

Ans. I could not say whether I did or did not.

Quest. Was it your belief, up to the time when you heard of these three notes in question, that Louisa had such a note as this spoken of as included in the \$5000 note?

Ans. I did believe it.

Quest. Did you suppose and believe that she still retained that note up to the time that you heard of these three notes in question?

10

Ans. I don't know whether I did or not.

Quest. Had you heard that she had given up that note before you heard of these three notes in question?

Ans. I don't know as I knew anything about its having been given up.

Quest. Had you heard that she had passed it away?

Ans. I had.

Quest. Had you heard or known of your mother's paying it?

Ans. I hadn't not.

20

Quest. Then was it not your impression that she still retained it up to the very instant that you first heard of these three notes in question?

Ans. I could not say what my opinion was or belief at that time.

Quest. Did you not state, on your examination before Mr. Vanatta, that Louisa did not hold your mother's obligation or note, that you knew of?

Ans. I don't know what I stated then.

Quest. Did you ever see that note?

30

Ans. The first notes I ever saw were these three—I did not see the note that we have just been talking of.

Quest. What, in your opinion, were Louisa's services worth in the family, from the fall of 1856 to the fall of 1857—how much per week or month?

Ans. I could not say.

Quest. In that period, how many children had she with her?

Ans. Two and three.

Quest. Her last child was born in what month?

40

Ans. I think it was born in October, 1857; I won't be positive as to that—I was not home at the time.

Quest. Did your mother say what the note of your sister Nancy against her was given for?

Ans. I don't know as she did.

Quest. Did she say when it was given?

Ans. I don't know whether she did or did not.

Quest. Did she say what the note of your sister Eliza against her was given for at that time?

10 *Ans.* She did,

Quest. What was it?

Ans. Money, a great part of it.

Quest. How much money?

Ans. I could not say.

Quest. Did she say when it was given?

Ans. I don't know whether she did or did not.

Quest. Did she say where your sister Eliza got the money?

Ans. I don't know as she did.

Quest. How old was your sister Eliza at the time of her death?

Ans. I could not say how old she was—I think about twenty-four.

Quest. In what year did your father die?

Ans. I could not recollect.

Quest. Had Eliza always lived at home with her mother?

Ans. I think she had.

Quest. Did she die at your mother's house?

Ans. Yes, sir.

Quest. How much was the note which Eliza held against your mother—just \$1800 or \$1900, or between the two amounts?

Ans. I could not say; I think she told me the interest and principal was near \$1900.

Quest. Did she say how long it had been running on interest?

Ans. Not as I recollect of.

Quest. Did your mother tell you, at that time, how she came to give Louisa \$500 more for her land than she gave Caroline?

40 *Ans.* She said she calculated to give her more on account of her having such a worthless husband.

Quest. Is that the only reason?

Ans. That is all that I recollect of at present.

Quest. When was the Baptist association convened here in Morristown?

Ans. I could not say.

Quest. Was it held before or after your mother's death?

Ans. It was held before—it was not before her sickness, I think.

Quest. The time they figured up the amount of these lands that your mother was to convey to Louisa, did they amount 10 to more or less than the amount of the notes?

Ans. I could not say; the arrangement was that she was to have those lands for the notes?

Quest. Did you reckon up how much the land would come to at \$155 per acre?

Ans. Yes, sir.

Quest. Didn't you ask Dr. Fairchild, during your mother's last illness, if she was able to make some will or provision for her family, as she had never made any arrangement of that kind, or anything to that effect?

20

Ans. I said nothing of that kind.

Quest. Did you say anything to him about a will?

Ans. I think I spoke to him something about a will; I don't recollect what I said more than I asked him if she could make a will, or something of that kind.

Quest. How long had you known of the existence of this smaller note which Louisa held against your mother, which was included in the \$5000 note?

Ans. I don't know as I knew it previous to the day this \$5000 note was spoken of; I don't know as I had been in- 30 formed that she had this note.

Quest. Did you believe that she had such a note?

Ans. I don't know as I ever thought about it.

Quest. Had not your mother, at the time of her death, in her possession property belonging to you to the amount of \$3000 or \$4000, more or less, which you had placed in her hands to defeat the collection of debts against you, and some of which property you had brought from Ithaca, in the state of New York, when you suspended business there? [Question objected to by proctor for claimant, and objection sustained.] 40

Wednesday morning, April 25th, 1860—present Ira C. Whitehead and Samuel O. Briant, esquires, Judges.

Quest. Did you live with your mother from the time you came from Millstone until her death?

Ans. I did, sir.

Quest. Under wages?

Ans. No, sir.

Shown examination of witness, taken before Mr. Vanatta, commissioner, subscribed April 23d, 1859, witness says—I
10 signed this.

Quest. Was this not read over to you before you signed it?

Ans. I believe it was.

Quest. What time did you come from Millstone?

Ans. I don't recollect—it was in the fall or beginning of winter.

Quest. Were you indebted to your mother at the time of her death?

Ans. I could not say how it was.

Re-examined.

20 *Quest.* Had Mrs. Stewart signed the deed to your mother before Mr. Stewart signed it?

Ans. I think she signed it before.

Re-cross-examined.

Quest. Where did Mrs. Stewart sign it?

Ans. I suppose she signed it in Mr. Cutler's office—I know she went down for that purpose; that is what I speak from.

Quest. When was that?

Ans. Previous.

Quest. How long previous?

30 *Ans.* I could not say how long previous.

Quest. Are you now certain you were not present when she signed it?

Ans. I am not.

Quest. Where did she start from when she went to sign it?

Ans. She started from her mother's.

Quest. Who with?

Ans. I could not say whether she went alone or went with me.

Quest. Do you recollect of her starting on that business?

40 *Ans.* I do very well.

Quest. Can you tell whether she started with you or started alone, if you recollect it very well?

Ans. I could not say.

Quest. Can you tell us how it is you recollect so very well her starting, and yet can't tell whether you started with her or not?

Ans. I have no particular reason.

Quest. Have you a good or a poor memory?

Ans. Well, I don't know whether it is good or poor, I am not a judge. I would like to answer that question so you 10 will all understand it; I was present when Stewart signed that deed, and I know that my sister went down previous to that time—that is all I have to say about it.

Quest. Where were you standing, or sitting, or lying, when your sister started to go?

Ans. I don't recollect where.

Quest. In the house or out of doors?

Ans. I could not say whether I was in the house or out doors.

Quest. What time of day was it?

20

Ans. I am under the impression it was in the afternoon.

Quest. What season of the year was it?

Ans. I think it was in the fall some time.

Quest. What time in the fall?

Ans. I could not say what month.

Quest. How did she go, on foot, on horseback, or in a wagon?

Ans. She went in a wagon.

Quest. Who drove?

Ans. I don't know whether I went with my sister or she 30 went alone.

The evidence being read over to witness, he desires to correct the statement made by him in regard to the birth of Mrs. Stewart's youngest child.—Witness now says it was born in September or October.

H. L. TUTTLE.

Sworn and subscribed, in open court, this 25th day of April, 1860.

IRA C. WHITEHEAD,
S. O. BRIANT. 40

Mrs. Caroline Anderson, a witness called and sworn on the part of claimant, deposeth and saith—

Counsel for exceptant object to this witness being examined in regard to the \$1000 note, because it was not presented until after those exceptions were filed, and because the legal right of action on that note is in her or her husband. [Objection overruled.]

Witness says—My husband's name is John C. Anderson; my mother's name is Hannah Tuttle; my father's name was
10 Daniel L. Tuttle; my grandmother's name, on my father's side, was Nancy Tuttle.

Quest. Did you make a conveyance of any lands to your mother in her lifetime?

Ans. I did.

Quest. What was the consideration of that conveyance?
[Question objected to, and objection overruled.]

Ans. \$500 then, and more at some future time.

Quest. Was the amount at the time of the conveyance, which you was to have at the future time, named?

20 *Ans.* It was not.

Quest. State what your mother said about it?

Ans. It was all she could let me have then; she would let me have more when she could.

Quest. Had you any conversation with your mother in reference to her conveying land to Louisa—if so, when was that conversation, and what did your mother say?

Ans. I had—it was about two weeks previous to her sickness—she said she was about deeding the upland property to my sister.

30 *Quest.* In what way was Louisa to pay for it? [Objected to because it was leading and for other reasons, and objection overruled.]

Ans. She was to give her the two notes that she held.

Quest. Were the amounts named?

Ans. They were.

Quest. What were they?

Ans. The \$5000 note and the \$2000 note.

Quest. Was Louisa present at the time?

Ans. She was.

40 *Quest.* Did your mother, at that time, say anything in reference to your interest that you had conveyed to her?

Ans. She did—she said it was secure in her hands.

Quest. Have you seen your mother write?

Ans. Yes, sir.

Witness shown Exhibits No. 2 and 1, the \$5000 note and \$2000 note.

Quest. Look at those notes—in whose handwriting are the body of those notes?

Ans. My sister's, Mrs. Stewart's?

Quest. In whose handwriting are the signatures?

Ans. My mother's.

10

Quest. Where do you live?

Ans. At Caldwell; it is twelve miles from my mother's—I have lived there over seven years.

Cross-examined.

Quest. Who was present at this time you have spoken of besides Louisa—when you had the conversation?

Ans. There was no one present except myself and Louisa.

Quest. Did she say for what she had given the \$5000 note to Louisa?

Ans. She did not.

20

Quest. Did you know of it before that time?

Ans. I did not know that she held a note for that amount.

Quest. Did you know she held a note for any amount?

Ans. I did.

Quest. What amount?

Ans. I could not say.

Quest. Did you know when she got that note of smaller amount?

Ans. I cannot say.

Quest. Did you know for what she got it?

30

Ans. She let mother have money.

Quest. When?

Ans. At different times—I can't specify the particular times.

Quest. Did you see your mother get the money of her?

Ans. I don't recollect.

Quest. When did Louisa get this money that she let your mother have?

Ans. I cannot tell.

Quest. Was it before or after her marriage?

40

Ans. I think it was after ; she may have let her have money before ; I am not positive as to the time when she got it.

Quest. When was Louisa married ?

Ans. I think it was eight years ago this spring—I am not positive.

Quest. Is she older or younger than you ?

Ans. She is younger.

Quest. What is her age ?

Ans. She is thirty-one or thirty-two, I can't say which.

10 *Quest.* Where did Louisa live before her marriage ?

Ans. She lived in Newark.

Quest. How long ?

Ans. One winter, I think, and part of the spring.

Quest. How long before her marriage ?

Ans. I don't know as I can tell ; it may have been four or five years—that is as near as I can recollect.

Quest. What was she doing there ?

Ans. She was sewing.

Quest. Was she learning a trade ?

20 *Ans.* No, sir ; she made coats.

Quest. For the southern trade ?

Ans. I suppose so.

Quest. Where did she board ?

Ans. She boarded at Miss Vail's, Martha Vail. I was there with her part of the time, engaged at the same work.

Quest. Was that the only time she lived away from home before her marriage ?

Ans. No, sir.

Quest. Where did she live at any other time ?

30 *Ans.* I think she lived with Mr. Tustin, the Baptist minister—I don't recollect how long ; that was when Mr. Tustin lived at Littleton, before he moved to Morristown.

Quest. That was twenty years ago, was it not ?

Ans. I could not say.

Quest. Was that before or since Major Lee's death ?

Ans. I could not say when Major Lee died. I don't know how old she was when she lived there, nor how much she got a week ; I don't recollect whether she got anything more than her board.

40 *Quest.* Did your mother say when she was going to deed the upland property to your sister ?

Ans. I think she set the time ; she told me to come up the next week, or the week after this conversation—that she was going to deed this property to Louisa, and going to make a will and arrange her business, and wished her to come up.

Quest. Did she say how she was going to arrange her business ?

Ans. She said she was going to give Mrs. Stewart a deed for this property, so that she and her children could hold it so that her husband could not interfere with it ; she said she would tell me about my property when I came up ; I don't 10 recollect now that she said anything else.

Quest. Did she say why she intended to secure this property to Louisa by deed, rather than by will ; did she say that her lawyer, Mr. Cutler, thought that the best mode of doing it ?

Ans. I think she did not mention Mr. Cutler's name, nor that of any other lawyer ; she assigned, as a reason for fixing her property by deed, and not by will to Louisa, that she did not wish her husband to spend it.

Quest. Did she say that was the reason why she would do it 20 by deed, and not by will ?

Ans. She said that was the reason.

Quest. Did she say who advised her to that course ?

Ans. She did not.

Quest. Did she say how she intended to leave her property by will ?

Ans. She did not.

Quest. Did she say that she wanted you present when she made the will ?

Ans. She did not use those words.

30

Quest. Anything to that effect more than you have stated ?

Ans. She told me to come.

Quest. What day of the week was this ?

Ans. It was on Monday.

Quest. What day of the week was your mother taken down ?

Ans. It was on Saturday of the week after I was there.

Quest. When were you to go up—was it the same week that you were there, or the next week, or the week after that ?

40

Ans. I am not positive whether it was the next week or the week after.

Quest. Did you go before your mother was taken down?

Ans. I did not.

Quest. Did your mother say how much she would be worth after conveying these lands to Louisa, and paying her debt to her?

Ans. She did not.

Quest. Did she say how much she would leave you by her
10 will?

Ans. She did not.

Quest. Was Mr. Stewart a thriving well-to-do man after he married Louisa?

Ans. I should say not.

Quest. Where did they live immediately after their marriage?

Ans. I think they boarded in Clinton, Hunterdon county, at the end of two or three months after they were married; I think they went there in May, as they were married in March.

20 *Quest.* What was Mr. Stewart engaged in there?

Ans. In baking, I think—I can't say whether as boss or journeyman; they came from there home to my mother's in June or July, I can't say which—I think it was somewhere about the fourth.

Quest. How long did they stay at your mother's at that time, as near as you can recollect?

Ans. Mrs. Stewart remained home until the next November; I cannot say how long he stayed.

30 She was not sick then at this time; she went then to house keeping across the way from our house; I think Mr. Stewart's father owned the house at that time; Mr. Stewart then worked at Madison, when he did work, for Mr. Schenck, the baker.

Quest. How long did they live in that house?

40 *Ans.* I think it was somewhere near the next February, as near as I can recollect. Then they both came home to my mother's; she stayed home until some time the next summer; she was not confined at my mother's; I think they went to Plainfield that summer—Mr. Stewart was engaged in baking for his father then; I can't recollect how long they lived there; she was at home at different times—I cannot say whether it

was two or three or four months at a time—I was not at home; it was so on until she came home to stay.

Quest. Did not Mr. Stewart take good care of and provide well for his family all this time?

Ans. He did not.

Quest. Why did Louisa come home so often to live after her marriage?

Ans. I think he lost his place in Clinton, and was obliged to give up business, or something, I cannot say what; when they were living at Littleton he did not provide for her. 10

Quest. At the time of this conversation with your mother, did she speak of this smaller note?

Ans. I think there was nothing said about it.

Quest. Did you close this conversation with your mother entirely satisfied with your mother's proposed arrangement of her property? [Question objected to, and objection overruled.]

Ans. I can't say I was dissatisfied; I did not know what arrangement she was going to make with me.

Quest. Did she say that you should fare as well, or have as much as Louisa? 20

Ans. I don't think she said that, nor anything to that effect, as I recollect.

Quest. Did she say when the \$5000 note would be due?

Ans. I don't think she did.

Quest. Did she say how much an acre Louisa was to give for the upland?

Ans. She did not.

Quest. Did she say that the notes, or either of them, had been produced before Daniel, and he had cast up the amount due, and reckoned up what the lands would come to, a short 30 time previous to that?

Ans. I think not.

Quest. Did she say she would get Daniel to do that some time when he had leisure, or at any other time?

Ans. No, sir.

Quest. Did she say whether the notes would exactly pay for the land?

Ans. I think not.

Quest. Did she say what she intended to leave Daniel in her will, or otherwise? 40

Ans. She did not.

Quest. Did she say whether she intended to give him anything, in pay or otherwise, for his six or seven years' services in managing her business in its various departments?

Ans. She did not.

Quest. What did Louisa say in this conversation?

Ans. I can't recollect of anything in particular.

Quest. Did your mother refer to Daniel at all in this conversation in connection with the will?

10 *Ans.* I think she did not.

Quest. Or his share of her property?

Ans. She did not say anything about his share of the property at that time.

Quest. Was Mr. George Bond in at that time?

Ans. He was not.

Re-examined.

Quest. You say it was on Monday, about two weeks before your mother was taken sick, that you had this conversation with her—state how you know it was that day and that
20 time?

Ans. It was the only time I had been up previous to her sickness—I had not been home from the October previous until that time.

Quest. What day did you come up?

Ans. On Sunday morning; I returned on Monday, the next day.

Quest. When did you come up again?

Ans. I think it was the Monday or Tuesday after she was taken sick.

30 *Quest.* How long was your mother sick from the Saturday she was taken sick until her death?

Ans. I think it was two weeks and two or three days.

JANE CAROLINE ANDERSON.

Sworn and subscribed, in open court, this 25th day of April, 1860.

IRA C. WHITEHEAD,
S. O. BRIANT.

John C. Anderson recalled on the part of the claimant. Counsel for exceptant objected to the examination of this wit-

ness at this time. The court permit him to testify as to the \$5000 note and the \$1000 note. Witness says—I believe I am acquainted with Mrs. Tuttle's handwriting—I have seen her write.

Quest. Look at the \$5000 and \$1000 notes—say in whose handwriting the signatures to those notes are?

Ans. Hannah Tuttle's.

Cross-examined.

I don't know as there is any difference in regard to which is the best specimen of her handwriting; she wrote what I 10 would call a stiff hand—with difficulty. I was married in December, 1852; I don't think I ever saw her write before my marriage; I have lived at Caldwell over thirty years; I have heard that Mrs. Tuttle kept tavern at one time—I have no doubt of it.

Quest. How long was it after her marriage that you first saw her write?

Ans. I should think it was six months, at any rate.

Quest. What did she write then—the first time?

Ans. I can't answer the question.

Quest. Can you tell what you ever saw her write her name to?

20

Ans. I have seen her write her name to one note for \$20 or \$25—the note was to me—I think it was about four years ago; I never knew her to sign her notes by agents—I never knew Daniel to do it for her. Mrs. Stewart has been here every day since the case commenced, and my wife also.

Mr. and Mrs. Stewart were married before I was—I think some two months before.

I did not see her sign the \$1000 and \$5000 notes.

30

JOHN C. ANDERSON.

Sworn and subscribed, in open court, this 25th day of April, 1860.

IRA C. WHITEHEAD,
S. O. BRIANT.

George Bond, a witness called and sworn on the part of the applicants, deposeth and saith—I live at Rockaway; I lived, during the year 1859, in Littleton, on Mrs. Hannah Tuttle's farm; I had a lease.

Witness being shown a lease, marked Z 7, said—that is the lease under which I rented of her; that is my signature; I saw Mrs. Tuttle write her signature.

I can't exactly say the distance that I lived from Mrs. Tuttle's—it may have been one hundred rods, perhaps more, perhaps less.

I was in the habit of being at Mrs. Tuttle's house.

Quest. Do you remember, shortly after you went there, of your going in her house, and seeing Mrs. Tuttle, Daniel, and
10 Louisa together?

Ans. I have been there on different occasions, and seen them together—can't say as particularly together—all might be in the room or kitchen, as far as I can see.

Quest. When did you move there?

Ans. To the best of my knowledge, it was the 4th day of April, 1859.

Quest. Do you remember, at a time about four or six weeks after you moved there, of going to Mrs. Tuttle's and seeing Daniel, Louisa, and Mrs. Tuttle conversing together in the
20 room?

Ans. I can't say; I don't remember.

Quest. Do you remember of going in, shortly after you went there, and seeing Mrs. Tuttle, Daniel, and Louisa in the room conversing, and Mrs. Tuttle speaking of conveying land to Louisa?

Ans. No, sir.

Quest. Did you ever hear any conversation at their house between them in reference to the sale of lands while you lived there?

30 *Ans.* Yes; I heard them speak of some land they traded or sold, to the best of my knowledge traded, to a man by the name of Blanchard for some other property. I can't say whether it was before I moved there or after I moved there.

Cross-examined.

Quest. Was Blanchard afterwards in possession of that lot?

Ans. I don't know, sir.

Quest. Were you ever at Mrs. Tuttle's when you saw any notes which Mrs. Tuttle had given to her daughter Louisa or Caroline?

40 *Ans.* Never, not to hear of them.

Quest. Were you ever present and heard a bargain between Louisa and her mother, in which Mrs. Tuttle agreed to convey any lands to Louisa for notes which Louisa held against her mother when Daniel L. Tuttle or any body else was present?

Ans. No.

Quest. Or any part of such a bargain?

Ans. No, not in my hearing.

Quest. Did you know, before Mrs. Tuttle's death, that Louisa or Mrs. Anderson held a \$5000, a \$2000, or a \$1000 10 note against their mother?

Ans. No sir, I never heard of it.

Exhibit Z 7, shown witness—The handwriting of the body of the lease is Daniel L. Tuttle's; he is the subscribing witness to it.

GEORGE BOND.

Sworn and subscribed, in open court, this 25th day of April, 1860.

IRA C. WHITEHEAD,
S. O. BRIANT.

20

Testimony of exceptant resumed.

Stephen F. Garrigus, a witness called and sworn on the part of the exceptant, says—I live at Harrisonville; it is called one mile from Littleton. I was born and brought up there, and lived there till I was twenty years old; I then went to Newark till six years ago, then I returned to Harrisonville, and have lived there ever since. I know Mrs. Mary Cameron, who was sworn here in court; she lives near three-quarters of a mile from me; she comes to my house occasionally—she comes there to get letters written and read.

30

Quest. Did you ever have any conversation with her since Mrs. Tuttle's death about Mrs. Tuttle's property, and the manner in which Mrs. Tuttle had disposed of it—if so, state the conversation?

Ans. She said there was no will nor writings left so that Daniel Tuttle's creditors would get their pay—if there was, they must have been made, she believed, since her death.

Quest. Did she state anything else?

Ans. That is about all that was said concerning the property?

Quest. Did she ever speak on that subject more than once?

Ans. She has spoken of it at different times.

Quest. To the same effect?

Ans. The same thing—the same effect.

Quest. When was the last time she so stated?

Ans. Last March, 1860.

10 *Quest.* How do you recollect the time?

Ans. The reason I recollect it, she came there to get me to move her.

Quest. To what house?

Ans. To Daniel Tuttle's house—they call it Daniel's; it belongs to the estate, I suppose.

Quest. Whose house did she live in before that?

Ans. She lived in Mr. Atno's.

Quest. Did she, in any of these conversations about Mrs. Tuttle's property, ever speak of any note or notes given by
20 the old lady to Louisa?

Ans. I never heard her.

Quest. Did she ever speak about this suit?

Ans. She said that she hoped that Mr. Smith would now get his pay.

Quest. Did she say anything further upon that subject?

Ans. That is all that I recollect of now.

Quest. This last that you have sworn to, in which of those conversations did it occur?

Ans. The last conversation, I think.

30 *Cross-examined.*—The last conversation was in March—I think it was.

STEPHEN F. GARRIGUS.

Subscribed and sworn, in open court, this 25th day of April,
1860.

IRA C. WHITEHEAD,
S. O. BRIANT.

Counsel for exceptant here offered in evidence the examination of Daniel L. Tuttle, taken before Mr. Vanatta, a commissioner; signed the 23d day of April, 1859. [Objected to

by counsel for claimants, and objection overruled.] Counsel for exceptant read from bottom of 45th page to the bottom of 46th page, also 49th page and 62d page.

Joseph D. Smith, a witness called and sworn on the part of the exceptant, says—My father's name is William F. Smith; he lives near Parsippany; I live with him; he and John S. Smith are cousins. I know Thomas Logan—I came up to court with him the other morning. I overtook him on the road; he rode with me—he got in about a mile the other side of Littleton; I did not know what his business was here. 10 We came in the court-room together; he came in behind me; I did not then know he was a witness in this case; we both sat in the same seat in the court-room—it was the first seat on the side next to the stove.

Quest. Did he ask you, at any time while sitting there, or at any other place in this court-room, or at any other place that day, who Mrs. Stewart was?

Ans. He did not.

Quest. Did he ask any other person, in your hearing or to your knowledge, who Mrs. Stewart was? 20

Ans. He did not.

Quest. Did he ask you who any person in the court-room was, and if so state what occurred?

Ans. He asked me if I knew the witness then on the stand, and he asked me if I knew Mr. Pitney—if I knew his name; I told him that I knew John A. Wilson, who was then a witness on the stand; that I had gone to school to him when quite a small boy, and had known him for quite a good many years. I told him who Mr. Pitney was—I told him his name—I was not acquainted with him—that is all he asked me 30 about any persons in the court-room. I think I sat there for an hour or more—he went out of the court-room at the time I did. I did not come back again that day; I did not point out Mrs. Stewart to him that day. Thomas Logan worked for my father about twelve years ago, or more—he worked for him about a year—he has not worked for him since. I have known him ever since—he lives in Boonton; he lived with Mr. Boughton some three or four years—Henry Boughton; it is about a mile from my father's.

Quest. What is Thomas Logan's general character for truth and veracity? [Objected to by counsel for claimant, and question waived.]

Quest. Are you acquainted with the character of Thomas Logan for truth and veracity?

Ans. I believe his character to be good.

Quest. Would you believe him under oath?

Ans. I would.

Quest. Do you think he would be believed by a jury of
10 your neighborhood, where he is known?

Ans. I believe he would.

Cross-examined.—I am twenty-six years old. Mr. Boughton lived in Parsippany when Mr. Logan lived with him.

Quest. When did Mr. Logan live with Mr. Boughton?

Ans. He lived with him about ten or eleven years ago; it may be longer than that—I am not positive; it was after he lived with my father; I think he has worked in Boonton since he left Mr. Boughton. I have not lived at home all the time since Logan worked for my father—I have been away five
20 years, I think.

Quest. Where?

Ans. Brooklyn.

Quest. When did you return from Brooklyn?

Ans. Two years ago last January, I think.

Quest. Did you live at Brooklyn the five years before that?

Ans. Most of the time.

Quest. Since then where have you lived?

Ans. At my father's; he lives near Parsippany—about a mile this side of the hotel.

30

JOSEPH G. SMITH.

Subscribed and sworn, in open court, this 25th day of April,
1860.

IRA C. WHITEHEAD,
S. O. BRIANT.

Austin McClennan, recalled on the part of exceptant, de-
poseth and says—I live in Parsippany, between Parsippany
and Boonton, about two and a half miles from Boonton, and
half a mile from Parsippany.

Quest. How often have you been in the habit of being at

Boonton during the last ten years, and what is your business?

Ans. I have lived there eight years previous to living where I do now, and where I have lived five years; my business is a carpenter.

During the last five years since I moved away from there—four years of the time I have been in the habit of being there almost every day, engaged in contracts for building houses. I am acquainted with Thomas Logan—I have known him about twelve years; he has been at work for the Boonton iron company, in their factories, during that time.

10

Quest. Are you acquainted with his character for truth and veracity?

Ans. I believe I am.

Quest. What is that character, good or bad?

Ans. Good, so far as I am acquainted with him?

Quest. Would a jury of his neighbors believe him under oath?

Ans. They would. I would believe him under oath.

Cross-examined.

Quest. Did you ever hear his character for truth and veracity brought in question? 20

Ans. I have always heard him spoken well of.

Quest. Did you ever hear his character for truth and veracity brought in question?

Ans. I don't know as I ever did.

Quest. Is he in the employ of the Boonton iron company now?

Ans. I don't know positively whether he is at work there now or not.

Quest. When was the last that you knew he was in their employ? 30

Ans. Within the last year—I have seen him at work there.

I have had business transactions with him—I have built a house for him.

Quest. When?

Ans. Six years ago.

Quest. Does he live in it now?

Ans. I presume he does—I don't know—he lived in it when I last saw him at Boonton.

Quest. When was that? 40

Ans. I don't know that I saw him before I saw him the other day for three or four months, and I might have seen him three or four times.

Quest. Do you know who owns the property now?

Ans. I heard Mr. Henry Boughton did.

Re-examined.

Quest. Do you know of his being disabled by rheumatism for two or three years past?

Ans. I don't know as I know about it—I have heard about
10 it.

AUSTIN McCLENNAN.

Subscribed and sworn, in open court, April 25th, 1860.

IRA C. WHITEHEAD,
S. O. BRIANT.

Dr. Henry J. Boughton, called and sworn on the part of exceptant, says—I live at Littleton—my father's name is Henry Boughton. I lived, previous to living at Littleton, at Parsippany; I have lived at Littleton about two years; I am a practising physician; I am acquainted with Thomas Logan
20 —he lived in my father's family about four years—I think it is about twelve years ago since he left us; he moved to Powerville at first, and from thence to Boonton.

Quest. Did you see him professionally at any time last year?

Ans. He called at our house about a year ago now, and consulted me professionally in regard to a disease that he had been troubled with—the rheumatism.

I am acquainted with his character for truth and veracity—so far as I know, it is good. I think a jury of his neighbors would believe him under oath—I would believe him under
30 oath; he is still in the habit of coming occasionally to our house. I have been away from home part of the time for four or five years past.

Quest. Do you now recollect whether anything was said between you and Logan, when you saw him professionally, about seeing him again, and giving him medicine, and if so state it?

Ans. I told him that I had not any medicine at that time, but that I would endeavor to get up to his house in Boonton, and prescribe for him. I did not go to see him.

Quest. Do you recollect whether, on any Sunday in last June, your father's family were all away from home?

Ans. I could not fix on a particular Sunday in that month, or any other, but it sometimes happens on Sunday that we are all away.

Cross-examined.

Quest. You say, about a year ago, Logan consulted you professionally; when did you see him next?

Ans. Some few weeks after that, I think.

Quest. When?

Ans. I think the next time I saw him was on a Sunday—I met him near Henry Doremus', on my way to Parsippany. 10

Quest. Did you prescribe for him?

Ans. I had no medicine with me—I did not.

Quest. Did he ask you to prescribe for him?

Ans. Something was said at the time about his old complaint.

Quest. Did he ask you to prescribe for him?

Ans. He did not at that time.

Quest. Was this before or after Mrs. Tuttle's death? 20

Ans. I think it was before.

Quest. How long before?

Ans. I couldn't tell you exactly—it might have been a month or two.

Quest. When did you see him next?

Ans. I could not tell you when.

Quest. Where?

Ans. At our house, I think.

Quest. When was the first time that you prescribed for Logan? 30

Ans. One day last week.

Quest. Tell us, as near as you can, the next time you saw Logan after you met him at Doremus'?

Ans. I could not give you any definite answer as to the time—it might have been two weeks—it might have been a month.

Quest. Was it before or after Mrs. Tuttle's death?

Ans. I saw him several times that spring, both before and after, and I could not say.

Quest. Did you see him more than the once you speak of 40

at your father's house after he first spoke to you to prescribe for him?

Ans. I think I did, sir.

Quest. Are you certain that the first time you prescribed for him was last week?

Ans. Yes, sir.

Quest. You say you have been absent from home some part of the past five years—what portion of that time have you been absent?

10 *Ans.* Near two years in the past five.

I was tending lectures part of the time, and one year in California; I was in California one year before the five years; one winter before that I was absent from home.

Quest. Your acquaintance and knowledge of Logan is derived professionally more than from any other cause?

Ans. It is not, sir, from other causes more.

I am twenty-nine years old; I am not married; I have always lived in my father's family while here in this neighborhood.

20

H. J. BOUGHTON.

Sworn and subscribed, in open court, this 25th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Counsel for exceptant here offered in evidence Exhibit Z 1 and Z 2; also the final account of Augustus W. Cutler, administrator of William D. Tuttle; also a statement of debts and credits, marked Exhibits Z 8 and Z 9; also the final ac-
30 count of Dr. Stephen Fairchild, administrator of Nancy Tuttle; also statement of debts and credits, order to sell, report of sale, and order of confirmation, marked Exhibits Z 10, Z 11, Z 12.

Thursday morning, April 26th, 1860—present Ira C. Whitehead, Samuel O. Briant, and Joseph Dalrimple, esquires, Judges.

Counsel for exceptant here offered in evidence the letters of

administration in this case, August 10th, 1859; and also the letters of administration of William D. Tuttle, granted July 2d, 1855; also letters of administration of Nancy L. Tuttle, September 22d, 1855; also the inventory of the estate of Ira H. Tuttle, amounting to \$12; also letters of administration of Ira D. Tuttle; also the inventory of the estate of Nancy L. Tuttle, amounting to \$87, and the inventory of William D. Tuttle, amounting to \$553.69; also the Book of Minutes L., containing proceedings in the estate of William D. and Nancy L. Tuttle; and the proceedings in the case of Nancy L. Tuttle and Ira H. Tuttle, contained in Book K.; also the claim made by Mrs. Tuttle against Nancy's estate, and the receipt given by her to Dr. Fairchild, administrator of Nancy, for her claim against it, the execution of which are admitted by counsel of claimant; also the record of a judgment confessed by Daniel L. Tuttle to Hannah Tuttle in April 1855, and also the three executions issued, and levies made upon that judgment. [Objected to by counsel for claimant, and objection overruled.]

Also a notice, marked Exhibit Z 13, the service of which is 20 admitted.

The counsel for exceptant called upon Mrs. Stewart, Mrs. Anderson, Mr. Anderson, and Daniel L. Tuttle, heirs at law and legal representatives of Hannah Tuttle, deceased, in open court, to produce all deeds, muniments of title, and any other papers relating to the title to lands from Eliza Tuttle, or Nancy L. Tuttle, or William D. Tuttle, to Hannah Tuttle or any other persons whatsoever to her, and in their possession and under their control, that the same may be used in evidence in this case; also the check from Mr. John S. Smith to Hannah Tuttle, endorsed by Daniel L. Tuttle, marked Exhibit Z 14. [Objected to, and objection overruled.] 30

Dr. Stephen Fairchild recalled on part of exceptant, says—A claim against the estate of Nancy Tuttle, presented by Hannah Tuttle, and her receipt shown witness, witness says—These papers came from my possession—she, Hannah Tuttle, presented them to me, and I saw her sign this receipt. I was acquainted with Eliza Tuttle in her lifetime; she lived at her mother's—I never knew of her living anywhere else; she was

not married. I never knew of her being engaged in any business, moneyed transactions; I never knew of her being engaged in dealing in lands, in buying or selling in any way. She died at home. I don't know as there was ever any administration of her estate.

Quest. Do you know of her ever being possessed of any estate, either in lands or money, except what she inherited from her father and brother or sister Nancy?

Ans. I never had any knowledge of her property at all. I
10 am well acquainted in that neighborhood—I have practised medicine there upwards of forty years. I have attended that family as their family physician, on and off, all their lifetime. I was acquainted with their father and mother before they were married. I have settled considerably upwards of twenty estates.

Quest. How far do you live from Littleton?

Ans. About three and a half miles; it is about three and a half miles from Littleton to Parsippany, and about four miles from here to Littleton.

20 *Quest.* Do you know of Nancy L. Tuttle's ever owning any lands except those you sold as administrator?

Ans. I do not—I delivered a deed for those lands I sold to Mrs. Tuttle—Nancy's land.

Quest. Did Daniel say anything to you, before the old lady's death and in her last illness, about her attending to any business—and if so, state the substance of what he said, as near as you can recollect?

Ans. I remember the word business; the substance was, that he would like to have her attend to some business; I said
30 she could not now—that is about all; he did not say what this business was.

Quest. About the day Mrs. Tuttle died, did Daniel say anything in reference to Mr. John Smith—and if so, state what it was, as near as you can recollect? [Question objected to, and objection overruled.]

Ans. I think it was on the day of her death—at any rate it was at the time when I expressed myself as having no hopes in her case, that Daniel L. Tuttle expressed an uneasiness in reference to John Smith—the very words I cannot re-
40 member.

Quest. Do you recollect in what respect he was uneasy?

Ans. Not from any words, as I remember particularly of his having said; the impression made upon my mind was that he was afraid of John Smith; I had heard from others that Mr. Smith had claims against him, but not from Daniel.

Quest. Pecuniary claims, do you mean?

Ans. I stated that I could not recollect his words; but from what he said, the impression in my mind was that he was afraid of John Smith. The ground of those fears, as the court asked me, was I did not say pecuniary claims; I might have 10 said it—pecuniary claims.

Quest. Do you mean pecuniary claims?

Ans. I did not learn those claims from any expression of Daniel L. Tuttle at that time, but from information that I had previous from others.

Quest. Did Mr. Tuttle, during his mother's last illness, say anything about ruining him if his mother died without being able to tend to business, or anything to that effect?

Ans. He might have used the word ruin—I don't remember—but if he did, it was at that time; he never spoke to me at 20 any other time during her sickness; he might have said ruin, he might not; it may have been only an expression that I had used to Mr. Smith.

Being shown note, Exhibit C, witness was asked—

Quest. What was this note given to you for?

Ans. It is a note that Mrs. Tuttle gave me, on settlement of account, for services as a physician.

Quest. Have you filed a claim on that?

Ans. I have.

Counsel for exceptant offered this claim in evidence, marked 30 Exhibit Z 14.

Being shown Exhibit Z 12, witness says—That valuation of the lands belonging to Nancy was a correct valuation of her interest, as I believed at the time.

Cross-examined.—I was the administrator of Ira H. Tuttle; I think there was no sale of lands then.

Quest. Do you know whether Eliza held any notes against her mother?

Ans. I do not.

Quest. Were you present at the passing of receipts between Mrs. Tuttle and William?

Ans. I was—I wrote the receipts. Really I could not tell the month or the year when it was—it was before I closed up Winter's estate.

Quest. How came those receipts to be given?

Ans. Those receipts were given previous to closing up Winter's estate.

Counsel for claimant withdraws all questions in reference to 10 the receipts of William D. and Mrs. Tuttle.

STEPHEN FAIRCHILD.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Counsel for exceptant offered in evidence a deed from Stephen Fairchild, administrator of Nancy Tuttle, to Hannah Tuttle, dated May 9th, 1856—recorded in Book L. 5, 384.

20 *George H. Looker*, a witness called and sworn on the part of the exceptant, says—I live at Littleton; my business is farming; I have lived at Littleton twelve or fourteen years. I am acquainted with the lands that Mrs. Tuttle owned in her lifetime in that neighborhood—I have seen them, and been on them frequently; I have estimated their value in connection with some of my neighbors, Caleb Tuttle and Hezekiah Miller.

Witness being asked about Lot No. 1, in the administrator's statement, which is marked Exhibit Z 15, witness says—I know the lot—I should think it was worth \$65 or \$70 per 30 acre.—Lots No. 2 and No. 3—I know these lots—they are worth \$20 per acre.—I am not acquainted with lot No. 4.—Lot No. 5—I know that lot—the whole lot contains two and a half acres, is worth about \$150.—Lot No. 6—I recollect that lot—that is worth \$65 per acre; that lot is situate on the north side of the turnpike towards the Morristown road, right in the rear of the tavern house—it adjoins the tavern house lot.—Lot No. 7—I am acquainted with that lot—it is worth

from \$30 to \$35 per acre.—Lot No. 8—I suppose I know that lot—that is worth \$40 per acre.—Lot No. 9—this was worth at the time of Mrs. Tuttle's death, including all the improvements, \$2500.

Quest. Did not Mrs. Tuttle, shortly previous to her death, put on this lot some valuable improvements—and if so, state what they were, and what were they worth?

Ans. There was a new barn built on it—it was worth about \$800 or \$1000; the house was not repaired for two or three years previous to her death; the barn was not completed at 10 the time of her death—they were then working at it.

Lot No. 10—I am acquainted with this lot; this lot was worth \$100 per acre.—Lot No. 11—I suppose this to be the Leander Howell lot—it is a sprout lot, and is worth \$10 or \$15 per acre.—Lot No. 12—I am not acquainted with this lot.

Cross-examined.

Quest. What work has been done upon the barn since Mrs. Tuttle's death?

Ans. There has been considerable done to it; the roof was 20 not finished—the cornice was not finished; it has been painted—the floors have been put in since—that's all, I believe.

Quest. Was it not painted before her death?

Ans. I could not say positively—I think it was partially painted, but it has been painted since.

Quest. What amount, in your opinion, has been expended upon the barn since Mrs. Tuttle's death?

Ans. The lumber was there, but not put in—about \$75 or \$100 has been expended upon it since her death.

The barn is not completed yet.—I own a lot near the four- 30 teen acre lot—there is about four and a half acres in it.

Quest. What is that worth an acre? [Question objected to, and objection sustained.]

G. H. LOOKER.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Hezekiah H. Miller, a witness called and sworn on the part of exceptant, says—I live near Littleton; I am a farmer; I have lived near Littleton nineteen years. I am acquainted with most of the lands that Hannah Tuttle owned in her lifetime—I have seen them frequently—I don't know that I have been over the whole tract.

Exhibit Z 15 shown witness, and he being inquired of as to lots No's 1, 2, 3, 5, 6, 7, 8, 9, and 10, witness says—I am acquainted with all those lots. I have heard the testimony of
10 Mr. Looker; I made a valuation of those lots in company with Mr. Looker and Mr. Caleb Tuttle.

Quest. State generally whether you agree with him in the valuation given by him of those lots, and which you have heard?

Ans. Yes, sir, I do. I don't know anything about the building of the barn. We three agreed upon those figures as a fair valuation.

Cross-examined.

Quest. What is the value of lot No. 9, the tavern property?

20 *Ans.* About two thousand five hundred dollars—its real value is worth that; it might be worth a little more as a fancy price.

Quest. Do you include the barn in that estimate?

Ans. Yes, sir; the barn was partially finished.

Quest. What would you value lot No. 9, the tavern lot, as a tavern property? [Question objected to by counsel for exceptant, and objection overruled.]

Ans. I should not value it any higher in that situation.

Re-examined.

30 *Quest.* How long since it has been kept as a tavern?

Ans. I can't tell the number of years, but it has not been kept as a tavern since William died.

Quest. Is there any demand for a tavern there now?

Ans. I should think not.

HEZEKIAH H. MILLER.

Sworn and subscribed, in open court, this 26th day of April,
1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Caleb Tuttle, a witness called and sworn on the part of the exceptant, deposeth and saith—I live in Littleton; I have lived there the most of my lifetime; I am a farmer.

Witness being inquired of as to lots No's 1, 2, 3, 5, 6, 7, 8, 9, 10, and 11, in Exhibit Z 15, witness says—I am acquainted with those lots; I have been acquainted with the most of them for twenty years; I have, in connection with Mr. Hezekiah Miller and George Looker, made a valuation of them recently; I heard Mr. Looker's testimony given just now; I agree with him in his valuation of them. 10

Cross-examined.

Quest. Is that valuation the full value of the lands referred to?

Ans. I should think it was.

CALEB TUTTLE.

Sworn and subscribed, in open court, this 26th day of April, 1860.

JOS. DALRIMPLE,
IRA C. WHITEHEAD,
S. O. BRIANT. 20

Mrs. Margaret E. Garrigus, a witness called and sworn on the part of the exceptant, says—I live at Harrisonville, about a mile and a half from Littleton; my husband's name is Daniel F. Garrigus; I have lived in that neighborhood about eight years, and most of the time for twenty years. I know Mrs. Mary Cameron; I had a conversation with her shortly after Mrs. Hannah Tuttle's death.

Quest. State what she said, as near as you can recollect it?

Ans. She told me that she supposed Mrs. Tuttle had died and left her property all unsettled, and she supposed Mr. Smith would come in for his demand that he had against Daniel; that is the most that she said to me about it that morning. 30

Quest. Did you ever hear her speak about whether Mrs. Tuttle had left a will, or not, or any other papers, and if so state what she said?

Ans. She said she supposed she had not left any will or any papers to secure the property; I have heard her make these remarks more than once; I have heard her tell of it at different

times in at Mrs. Mandigo's; I don't recollect that there was any one there except Mrs. Mandigo's family. I am not very much acquainted with Mrs. Cameron—she is called considerable of a talker. Mrs. Mandigo's health is very poor—I do not think she is able to come out and attend court here. Mrs. Cameron told me this once while Mrs. Tuttle was a corpse in the house.

Cross-examined.—I am the wife of Daniel F. Garrigus, who is a brother of Stephen.—This conversation about Mr. Smith
 10 was while Mrs. Tuttle was a corpse in the house. She spoke of Mrs. Tuttle's not leaving any will the same morning; I don't know that I could tell exactly when the last time was that I heard her speak of this—it was some time after—I could not say how long; I could not say positively how long, perhaps two or three months. When I met her in the road that morning, I spoke of Mrs. Tuttle's death; she said it appeared to be very unexpected to her children, and she supposed that they felt a good deal worse about it on account of her sickness being such that she had not been able to attend
 20 to her business; she said she had spoken to them about their affairs before the mother's death, but she said that Daniel answered her, and said that his mother knew what she was about—she thought that he did not feel as sure since his mother was gone; she said she thought he felt satisfied in his mind that his mother had not left any writings that would save the property; that was the most that she said to me that morning about it.

Quest. What did she say about Smith's getting his demand?

Ans. She supposed Mr. Smith would take Daniel's part of
 30 the property to satisfy the demand he had.

Quest. Did she say that she supposed that Mrs. Tuttle had died, and left her property all unsettled, or did she say that she supposed she hadn't made any writing that would save the property?

Ans. She said both.

Quest. Both in the same conversation?

Ans. Yes, sir.

MARGARET E. GARRIGUS.

Subscribed and sworn, in open court, this 26th day of April,
1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

It is admitted by counsel for claimant that the tract of land described in Exhibit Z 15 as lot No. 4, was conveyed away to Jacob Blanchard by Hannah Tuttle.

John Bird, a witness called and sworn on the part of exceptant, says—I live at Boonton; I have lived there about 10 eleven years. I sell goods; I am a salesman; I have been in business on my own account there; I know Thomas Logan—I have been acquainted with him for eleven years.

Quest. Are you acquainted with his general character for truth and veracity?

Ans. I have dealt with him, and he has dealt with me; he has traded at that store, off and on, ever since I have known him.

Quest. What is his general character for truth and veracity in that neighborhood, so far as you know?

20

Ans. It is good, I believe.

Quest. Would you believe him under oath?

Ans. Yes, sir.

Quest. Do you think he would be believed by a jury of his neighbors who are acquainted with him?

Ans. Yes, sir.

Quest. Do you know of any business relations existing between Thomas Logan and John Smith, now or heretofore?

Ans. No, sir, I don't know of anything. Thomas Logan owned a house in Boonton some time ago.

30

Quest. Who owns that house now? [Question objected to, and objection sustained.]

Quest. Does Thomas Logan own that house now?

Ans. He does not—he says he does not.

Quest. Do you know who made the contract with him?

Ans. I don't know anything about it. Thomas Logan has been to work some during the last two years on the canal. It is somewheres in the neighborhood of two years ago that he

left the employ of the Boonton Iron Company ; I do not know how he came to leave. I am clerking it for Joseph Howard.

JOHN BIRD.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

S. O. BRIANT.

Garret Demott, a witness called and sworn on the part of
 10 the exceptant, deposeth and saith—I live in Parsippany; my
 business is that of farming; I am in the habit of being at
 Boonton; I keep a dairy, and sell my milk at Boonton—I go
 to Boonton every morning with it; I carry it about from house
 to house, and have a general acquaintance with the people of
 Boonton. I am acquainted with Thomas Logan—I have known
 him eight or ten years; it may me more—I could not exactly
 specify the time. I knew him when he lived at Parsippany;
 I have dealt with him; I am acquainted with his general
 character for truth and veracity—it is good; I should believe
 20 him under oath; in my opinion, I think he would be believed
 by a jury of his neighbors under oath.

GARRET DEMOTT.

Subscribed and sworn, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

S. O. BRIANT.

Alonzo De Camp, a witness called and sworn on the part of
 the exceptant, says—I reside in Boonton; I keep a livery sta-
 30 ble; I am acquainted generally with the people of Boonton—
 I have lived there eight or nine years. I am acquainted with
 Thomas Logan—I have known him five or six years, I think,
 perhaps longer; I have had some dealings with him; I am
 acquainted with his general character in Boonton for truth and
 veracity—it is very good, I believe; I would believe him un-
 der oath; I think he would be believed by a jury of the place
 who are acquainted with him.

Cross-examined.—I never heard any person speak of his character for truth. I never knew him to be sworn as a witness.

ALONZO DE CAMP.

Subscribed and sworn, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

William Leonard, called and sworn on the part of except- 10
ant, deposeth and saith—I reside in Parsippany; I am in the
butchering business; I do business in Boonton—I go to Boon-
ton three times a week; I go about from house to house among
my customers; I am generally acquainted with the people
there. I know Thomas Logan—I first became acquainted with
him in 1846—I have known him ever since. I think I am ac-
quainted with his general character for truth and veracity—I
don't know anything against it; I would believe him under
oath; I think he would be believed by a jury who know him
in Parsippany or Boonton. 20

Cross-examined.—I can't tell how large a population Boon-
ton has; I suppose that, count children and all, it has about
2000.

W. H. LEONARD.

Sworn and subscribed in open court, this 26th day of April,
1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Counsel for exceptant offered in evidence a summons, Han- 30
nah Tuttle v. Adolphus Stewart, in case, for \$1500—Return-
able January 1st, 1858—Augs. W. Cutler, attorney—Exhibit
Z 16. [Objected to by counsel for claimant.]

The Exhibits No's Z 1, Z 2, 3, &c., when shown by coun-
sel of claimants to the experts, on cross-examination, were so
folded as to conceal all the writing except the name, Hannah

Tuttle. Counsel for claimant protested against the above entry upon the record.

Counsel for exceptant offered in evidence Exhibit Z 17, the service being admitted by Mrs. Stewart, Mr. and Mrs. Anderson, and Daniel L. Tuttle, as made this morning here in the court-room. Also a sheriff's deed to Mrs. Hannah Tuttle, dated January 7th, 1856—recorded in O. 5, 312.

Edward Howell, recalled on part of claimant, says—I know Sarah Louisa Stewart—I have known her from an infant.

- 10 Counsel for exceptant objected to this testimony, on the ground that it ought to have been given as a part of the principal case, and on the ground that they have not attacked her character for truth and veracity in such a way as to make it competent for the claimants to introduce this evidence at this time. [Objection overruled.]

Witness says—I have lived within three-fourths of a mile of her; I have seen her frequently; I have been acquainted with her during the whole of that time; I think I have had an opportunity for knowing her general character for truth
20 and veracity—I believe it is good; I never heard it impeached—I never heard it questioned; I would believe her under oath or without an oath; I believe she would be believed by a jury of her neighbors. I know Mary Cameron; I have known her several years—I can't say the precise number; my acquaintance is small with her; I don't know that I ever heard her character for truth and veracity questioned; I know no reason to disbelieve her under oath.

Cross-examined.—I think I never heard Daniel Tuttle speak of Mrs. Cameron's character for truth and veracity
30 shortly before his mother's death; I have no recollection of hearing him speak of it shortly after his mother's death. I never had any dealings with Mrs. Cameron; I never associated with her; I am not sufficiently acquainted with Mrs. Cameron to tell whether she is talkative or taciturn; I don't know much about her.

EDWARD HOWELL.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Caleb Tuttle, recalled on part of claimant, says—I know Sarah Louisa Stewart; I have known her a long while; I live near to her. [Counsel for exceptant objected to this witness, on the same grounds as the preceding.]

Quest. Have you had an opportunity for knowing her general character for truth and veracity?

Ans. I believe I have; it is good, I believe—I never heard it questioned; I would believe her; she would, in my opinion, be believed by a jury of her neighbors.

Cross-examined.—I mean she would be believed in an ordinary case. 10

CALEB TUTTLE.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

George H. Looker, recalled on part of claimant. [Counsel for claimant excepted to swearing this witness on the same ground as preceding,] says—I know Sarah Louisa Stewart—I 20 have known her for twelve or fifteen years; I lived within seventy-five yards of her; I never have had any dealings with her. I suppose I have had an opportunity for knowing her general character for truth and veracity; it is good, so far as I know of—I never have heard it questioned; I say I never have—I don't know but I have since this case has commenced; I would believe her; she would, in my opinion, be believed by a jury of her neighbors. Her character was questioned in matters in reference to this suit, not as to what took place before. I don't know as I recollect now who questioned it—I 30 have heard it talked about around at different places; they were persons connected, either as parties or witnesses to this suit, who questioned it.

Cross-examined.

Quest. Is not what you mean to say, that before this controversy arose, and the questions in this cause arose, that her character for truth and veracity stood fair?

Ans. Yes, sir.

Re-examined.

Quest. Do you mean to say that it does not stand fair yet 40

with all others, so far as you know, except those connected with this suit, either as parties or witnesses?

Ans. It does, as far as I know.

Re-cross-examined.

Quest. Have you heard any expression of her neighbors in reference to whether their previous opinion of her character was in anywise affected by her connection with these transactions?

Ans. No more than we do generally about persons who get 10 into law. It don't help their characters much.

G. H. LOOKER.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Uzal Tompkins, a witness called and sworn on the part of the claimant, deposeth and saith—I know Sarah Louisa Stewart; I can't exactly say how long I have known her, 20 twenty-three or twenty-four years; for the last sixteen years I have lived within one hundred and fifty yards of her, with the exception of some year or two that she has been away from home. I believe I have had an opportunity for knowing her general character for truth and veracity—I believe it to be good; I would believe her; I think she would be believed by a jury of her neighbors.

Cross-examined.—I don't know that she has ever mingled in the neighborhood in business transactions; she has generally stayed at home, and attended to household affairs; I never 30 heard anything against her character—it stands about the same as that of other ladies of good character in the neighborhood.

U. P. TOMPKINS.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Daniel L. Tuttle, recalled on the part of the claimant, says—

Quest. Do you know of any person applying to your mother, in her lifetime, for the sale of any real estate—and if so, state who and what part and what price she set upon it? [Question objected to by counsel for exceptant, and objection sustained.]

Counsel for claimant proposed to prove, by this witness and by Thomas V. Johnson, that Thomas V. Johnson applied to Mrs. Tuttle to buy a part of her real estate, and that her 10 price, and her only price, for that part of her real estate was \$10,000.

Counsel for exceptant objected, on the ground that the testimony was not rebutting evidence, and objection sustained.

Counsel for exceptant offered in evidence a deed from Hannah Tuttle to Jacob Blanchard, dated February 25th, 1859, acknowledged same day, before Augs. W. Cutler, not yet recorded, for the lot containing sixteen and one-quarter acres—consideration \$178.75.

Witness says—I am one of the heirs at law of Hannah Tuttle. I have none of the title deeds in my possession or under my control.

D. L. TUTTLE.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Mrs. Caroline Anderson, a witness recalled and sworn on the part of claimant, says—I have none of the title deeds of 30 my mother's estate in my possession or under my control.

JANE CAROLINE ANDERSON.

Subscribed and sworn, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Mrs. Sarah Louisa Stewart, recalled on part of claimant, says—I have none of the title deeds of my mother's estate under my possession or control that I know of.

SARAH L. STEWART.

Sworn and subscribed, in open court, this 26th day of April, 1860.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

S. O. BRIANT.

The first thing I noticed on getting up
 was that the room was very dark and
 I had no idea where I was.

I was in a room that I had never
 seen before.

It was very dark and I had no idea
 where I was.

I was in a room that I had never
 seen before.

It was very dark and I had no idea
 where I was.

I was in a room that I had never
 seen before.

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