

## New-Jersey Court of Errors and Appeals.

BETWEEN

ABRAHAM SHERIDAN ET AL., appellants,

and

JOSEPH T. MEDARA ET AL., appellees,

} *On appeal from decree  
of Chancellor.*

### STATE OF THE CASE.

#### BILL OF COMPLAINT.

The bill of Joseph T. Madera, Paschal H. Medara, and Enos M. Jones, partners trading under the name of Joseph T. Medara and Company, of the city of Philadelphia, states—That one John P. Combs, of the city of Trenton, in the state of New Jersey, being indebted to your orators in the sum of one hundred and seventy-six dollars and thirty-three cents, for certain goods and merchandise sold and delivered by them to him, they, your orators, on the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and fifty-three, obtained a judgment against the 10 said John P. Combs for the said amount, together with the sum of four dollars costs of suit, in an action of debt in the Mercer county Circuit Court, and thereupon, on the same day, caused an execution to be issued to the sheriff of the county of Mercer aforesaid, commanding him to levy and make the said debt and costs out of the goods and chattels of the said John P. Combs in his county, and also to do certain other things in the said writ set forth.

And your orators further show, that on the twenty-fourth day of September aforesaid, and for a considerable period before, the said John P. Combs was in the possession of a certain stock of ready 20 made clothing, of about the value of twelve hundred dollars, and which said stock was deposited in a store in Greene-street, in the city of Trenton, in which the said Combs had been carrying on business as a retailer of articles of ready made clothing.

And your orators further show, that the sheriff of the said county of Mercer, to whom your orators' execution was delivered as aforesaid, levied the same on the said stock of clothing, on or about the date of the said judgment, and made an inventory of the said

stock, and attached it to the said execution, as will more fully appear by the said writ of execution and the said inventory, and to which, or certified copies thereof, your orators for greater certainty beg leave to refer, if it shall be necessary for them so to do.

And your orators further show, that they have discovered that the said stock of goods was, at the time of the said levy being made, as above stated in their behalf by the said sheriff, subject to a certain execution and levy, and which said last mentioned execution had been issued out of the Supreme Court of the state of New  
10 Jersey, and was founded on a judgment entered on the twenty-first day of September, in the year of our Lord one thousand eight hundred and fifty-three, in favor of one Abraham Sheridan against the said John P. Combs for the sum of seventeen hundred and two dollars and fifty-four cents debt, and the sum of four dollars costs of suit, the said judgment being entered on a certain bond, bearing date the day and year aforesaid, in the penalty of the said sum of debt aforesaid, and conditioned for the payment, on demand, of the sum of eight hundred and fifty-one dollars and seventy-seven cents, given by the said John P. Combs to the said Abraham Sher-  
20 idan.

And your orators further show, that the same goods and chattels are levied on by virtue of the execution last aforesaid as are levied on by virtue of the execution issued on the judgment of your orators, and, if the same be a valid lien, it is in all respects prior and superior to that of your orators.

And your orators further show, that the said sheriff, by force of and in obedience to the command of the said execution, issued on the judgment in favor of the said Abraham Sheridan, has advertised, according to law, the said stock of goods for sale on the twenty-  
30 ninth day of September, instant, and your orators believe it is his intention to sell on that day; and your orators further show, that if the said sale takes place, and the proceeds thereof shall be applied, after reserving to the said John P. Combs, who is a debtor having a family resident in this state, such portion of the said stock as the laws of this state exempts to the payment of the judgment of the said Sheridan, there will be left little or nothing to be appropriated to the satisfaction of the said judgment debt of your orators.

And your orators further show, that the said John P. Combs has  
40 no other property, either real or personal, as your orators have been informed and believe, out of which the said sums of money due and unpaid on the judgment of your orators can be levied and



which the said stock, or some portion of it, originally cost, and which was purchased as aforesaid by the said Sheridan, as his venture in the said business; and that even this sum, for which the judgment bond was given, was more than the said Sheridan had put into said concern.

And your orators further show, that besides his share of the profits of the said business, the said Abraham Sheridan has now in his hands the sum of three hundred and thirty-five dollars, which is part of the earnings of the said partnership, and which the said  
 10 Abraham Sheridan received from his said partner, John P. Combs, for the purpose of paying off some of the debts due from the said partnership, but which he now refuses to appropriate in that way, but holds the same as his own moneys, under some pretext unknown to your orators.

And your orators further show unto your Honor, that the said Abraham Sheridan, with great care and contrivance, kept secret his connection with the said business, holding out the idea that the said John P. Combs was solely interested and engaged therein; and that, although he knew the said Combs was altogether irre-  
 20 sponsible in a pecuniary point of view, he always held out to the public, and particularly to the merchants in Philadelphia, that he, said Combs, had property, and could be safely credited; and your orators believe that this was done for the purpose of obtaining secretly a larger proportion of profits for himself and with a view of getting into the possession of the said Combs as large a stock of goods as possible, so as to obtain a lien, such as his judgment now is, or of some other kind, upon it; and your orators are the more convinced that such was the design of the said Abraham Sheridan, from the remark which he lately made to a certain per-  
 30 son of his acquaintance, that it was not his intention to injure the said John P. Combs, but to make the merchants in the city suffer, or words to that effect.

From the above premises, and on other grounds, your orators charge, that the said judgment entered up on the said bond and warrant of attorney by the said Abraham Sheridan against the said John P. Combs is void, as against the judgment lien of your orators, and should be set aside, or at all events postponed to said lien.

The prayer of the bill is as follows: And that the said judgment  
 40 of said Sheridan against said John P. Combs may be set aside or postponed to that of your orators, or that your orators' judgment may be paid out of the said money in the hands of the said Abra-

ham Sheridan, and that a writ of injunction may be issued out of this honorable court directed to said sheriff of the said county of Mercer, the said William Boswell, enjoining him from paying over the proceeds of the sale of the said stock, or any part thereof, to the said Abraham Sheridan, or to any one in his behalf, and commanding him to retain the same in his hands until the further order of this court in the premises, and that the moneys due on the said judgment of your orators may be ordered to be first paid out of the said moneys, and for further relief.

MERCER BEASLEY, 10  
*Solicitor and of counsel with complainants.*

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*The several answer of Abraham Sheridan, one of the defendants, to the bill of complaint of Joseph T. Medara, Paschal H. Medara, and Enos M. Jones, complainants, against Abraham Sheridan and William Boswell, defendants.*

He answers and says, that he admits it to be true, so far as this defendant has been informed, that John P. Combs, of the city of Trenton, in the state of New Jersey, was indebted unto the said complainants in the manner and for the sum set forth in their bill of complaint. And this defendant further saith, that he has been 20 informed that the said complainants obtained a judgment against the said John P. Combs in the Circuit Court of the county of Mercer, as alleged in their bill of complaint, and that they caused an execution to be issued on their said judgment, directed to the sheriff of the county of Mercer aforesaid, the date and amount of which said judgment this defendant cannot now state, but leaves the same to be proved by the said complainants, as this honorable court may direct.

And this defendant further in answering saith, that he admits it to be true that, on the twenty-fourth day of September, in the year 30 of our Lord one thousand eight hundred and fifty-three, and before that time, the said John P. Combs was in the possession of a certain stock of ready made clothing and also of other goods and chattels, then being deposited in a certain store in Greene-street, in the city of Trenton, where he had been carrying on the business of a clothier, which said clothing and other goods and chattels had, before the day last named, to wit, on or about the twenty-first day

of the said month of September, been levied upon by the sheriff of the said county of Mercer, by virtue of a certain execution issued out of the Supreme Court of Judicature of the state of New Jersey, on a judgment obtained by this defendant in the said Supreme Court against the said John P. Combs, and that the same were then subject to the defendant's execution, levied thereon as aforesaid; and this defendant is informed and believes that the sheriff of the county of Mercer, to whom the execution of the complainants was delivered, afterwards levied the same on the said stock of clothing  
 10 and other goods and chattels which he had taken and inventoried under the defendant's execution.

And this defendant further in answering saith, that the judgment, so as aforesaid obtained by this defendant against the said John P. Combs, is founded on the valid and *bona fide* indebtedness of the said John P. Combs to him, and that the same is not fraudulent or void against the said complainants or any other person or persons creditors of the said John P. Combs; that the real sum for which his said judgment was obtained was justly and honestly due and owing from the said John P. Combs to this defendant on the day  
 20 the said judgment was obtained; and this defendant denies that he ever at any time entered into an arrangement with the said John P. Combs to engage with him, or that he did at any time engage with him, the said John P. Combs, in the business of retailing ready made clothing in the city of Trenton or elsewhere, or that he, this defendant, would find and put in stock in such business, and give no personal attention thereto, and his name not appear as a party in interest therein; that no arrangement was made that, in lieu of any advance on the part of this defendant, the said John P. Combs should give his time and personal attendance in selling out  
 30 and retailing the said clothing, and the profits of such business be divided between them; that no such arrangement between this defendant and the said John P. Combs, as is alleged in the complainants' bill, nor any other arrangement or agreement substantially the same, or of a character similar thereto, was ever made, agreed upon, or entered into between them, or that this defendant ever entered into or carried on any such business, or any similar business, with the said John P. Combs, in conformity to any such agreement or any other agreement of a similar character, or that this defendant ever at any time received, or took as such, any part or share of  
 40 the profits of such business, in accordance with any such agreement, or any other agreement, to that or any like effect.

And this defendant further in answering says, that he never, at

any time, was connected with the said John P. Combs in the said business, and that he did not, as alleged in complainants' bill, persuade or procure the said John P. Combs, on the said twenty-first day of September, or at any other time, to execute to him the bond, with the warrant of attorney to enter up judgment thereon, as stated in the complainants' bill; and he denies that the consideration of the said bond was for moneys for goods purchased by this defendant as a venture in the said business, or that any goods which the said John P. Combs had at any time in said business were furnished by this defendant as a venture therein. 10

And this defendant further in answering says, that he has not and did not at any time receive or take any share of the profits of said business, and that he did not have in his hands, or receive at any time, the sum of three hundred and thirty-five dollars, or any other sum or sums of money, from the said John P. Combs, for the purpose of paying off the debts of any such partnership, as alleged in the complainants' bill, no such partnership or any other partnership, as this defendant avers, ever existed between the said John P. Combs and this defendant in said business, or in any other business connected therewith. 20

And this defendant further in answering says, that he was aware that the said John P. Combs, at the time he commenced the said clothing business, had but little, but that he, confiding in his honesty, loaned him moneys from time to time, and also sold to and provided him with goods for the purpose of prosecuting his said business, but he denies that he ever held out the idea or represented to any one that the said John P. Combs had property of value; and although he may have stated that the said John P. Combs could be safely credited, yet that such representations, if any such were made by him, were made solely upon the ground, 30 and so by him expressed, that the said John P. Combs was honest and trustworthy, and that he would do, or was doing, a safe and profitable business in his said trade, which this defendant believed to be the truth; and he further denies that any such representations, if any such were by him made, were for the purposes stated in the complainants' bill or for any other fraudulent or deceitful purpose whatsoever.

And this defendant further in answering saith, that when the said John P. Combs commenced the said clothing business there was no arrangement between him and this defendant by which this defendant became in any way connected with said business as a partner with said John P. Combs; but that this defendant, as herein before 40

stated, loaned to the said John P. Combs, from time to time, divers sums of money, and furnished and sold to him goods and stock, to be used by him in such business; that the said John P. Combs never at any time paid to him any part of the profits derived from the said business as a payment of moneys on account of profits, and that he did not take or receive, in any way, any moneys from the said John P. Combs on account of such profits or on account of any interest by him had therein; that he did, from time to time, receive and take from the said John P. Combs moneys for and on  
10 account of and in consideration of his indebtedness to this defendant for moneys which he had loaned him and for goods which he had furnished and sold to him as aforesaid, but the particular date of such payments this defendant cannot now state, as the entries of such payments were made in the books of the said John P. Combs, and are, as this defendant supposes, in his possession.

That the said defendant did not manage or direct how the said business should be conducted or carried on, except that he may at times, when requested by the said John P. Combs to advise with him, have made some general suggestions as to the financial mat-  
20 ters connected therewith and with the interests and advantage of the said John P. Combs in said business; that he never at any time, to any person or persons, represented that the said John P. Combs was responsible in a pecuniary view, except as to the fair prospects of the said John P. Combs in his said business, in which this defendant, knowing that he, the said Combs, was about to commence or was engaged in a business which could with ordinary care and attention lead to a successful result, and believing that he would do or was doing a safe business yielding large profits, and having entire confidence in his integrity and knowing his industri-  
30 ous habits, he may have represented him as being on these grounds entitled to credit; that he did not know or suspect, until a few days prior to his obtaining from the said John P. Combs the bond and warrant of attorney on which this defendant's judgment was entered, that the said Combs was unable to pay his debts; that he has not now, nor has he at any time, had in his hands any moneys belonging to such business, or derived therefrom, excepting such moneys as have from time to time been paid to him by the said John P. Combs on account of his indebtedness to this defendant, and that all the moneys he has ever received from the said John P.  
40 Combs, and retained in his hands, were paid to him on account of such indebtedness; that on account of the indebtedness of the said John P. Combs to this defendant, he was induced at times, but how

often he cannot now state, to inquire of the said Combs the situation of his business and the amount of his sales and purchases, and more particularly during the early period of such business, and that for his satisfaction as a creditor statements of such sales and purchases were sometimes made to this defendant, by which a confidence was induced with this defendant.

ISAAC W. LANNING,  
*Solicitor for and of counsel with defendant.*

*Examinations taken before James Wilson, master in chancery, on the thirteenth day of September, in the year of our Lord eighteen hundred and fifty-four, at his office in the city of Trenton, in the presence of Mercer Beasley, esquire, solicitor of the complainants, and Isaac W. Lanning, esquire, solicitor of Abraham Sheridan, one of the defendants.*

*John P. Combs, a witness called on the part of the complainants, being duly sworn according to law, on his oath saith—I am acquainted with Abraham Sheridan, one of the defendants in this case. I was connected in business with him at one time; it was the clothing business, making up clothing and selling it—some we bought already made; that business was carried on in Trenton, in Greene-street, under the Odd Fellows Hall; we opened our shop there on the last day of September, in the year eighteen hundred and fifty-two; our connection in that business, when we started, was that Mr. Sheridan was to have four dollars a week, and half the profits at the end of the year, and I was to have five dollars and a half a week and half the profits; I was not to contribute any thing more to the business than my labor—he was to furnish the capital. My labor, which I was to contribute, was, that I was to do the cutting and selling and buying; Mr. Sheridan was to contribute one thousand dollars capital—that, we thought, would be enough to start with. The business was to be carried on in my name; his name was not to appear at all in the business. Mr. Sheridan gave as a reason why he did not wish his name to appear in the business, that he thought it would be an injury to the business; he said he was not very popular; that was the reason why he thought his name appearing would be an injury to the business; he did not*

state why he thought he was not very popular. The arrangement between Mr. Sheridan and myself, of which I have spoken, was the arrangement under which we went into the clothing business.

Shortly after going into the business, I executed a bond and warrant of attorney to Mr. Sheridan.

A paper being here shown the witness, and marked *Exhibit A*, *ex parte* complainants, the witness says—this is the bond.

Another paper being here shown the witness, and marked *Exhibit B*, *ex parte* complainants, the witness says—I subsequently  
 10 executed a second bond to Mr. Sheridan—this is that bond. I subsequently executed a third bond, under which the store was sold out by the sheriff—that third bond was executed to Mr. Sheridan; the first bond was given in case I should die; Mr. Sheridan wanted something to show the amount of capital that he had in the establishment; he did not state why the amount would not appear in any other way; he said that that was his usual way of doing business; I believe he said, also, something about his name not being in the concern, and that therefore it would not appear that he had any interest in it. When the second bond was given, the first was  
 20 handed to me cancelled, as it now is. When the third bond was given, the second bond was handed to me also cancelled. The second and third bonds were given in the same way that the first bond was. When we started business, Mr. Sheridan put into the concern fifteen dollars in cash; he also put in some refuse stock out of his store on the corner, where Decker is now; he estimated that refuse stock at a little over five hundred dollars; that is all he put in, I believe. I think he lent me fifty dollars at one time, and I paid it back to him the next week after; he never lent me any other moneys besides that. Besides putting in that fifteen dollars  
 30 and that refuse stock, Mr. Sheridan also, about the time or shortly after we started the business, obligated by letter to pay some bills. He went with me to the city of Philadelphia when we first started the business; when we went to the city the first time, when we first started business, he obligated to pay for all the goods we bought at that time. The goods were bought in my name; the bills were made out in my name. I think the amount of goods bought the first time we went to Philadelphia was about three hundred and fifty dollars. There were other goods shortly afterwards bought, in some two or three weeks after; they were bought in Philadel-  
 40 phia, and were bought in my name; I think Mr. Sheridan told me to get them in my own name, if I could. The moneys that were received in the business, from the time we commenced, were handed

over to Mr. Sheridan, after paying the hands, that is, the balance after paying the hands was handed over to him. I also took out my weekly allowance of five dollars and a half before I paid the moneys over to Mr. Sheridan. I kept a sale book and cash book; we did some little crediting, but not much; Mr. Sheridan was not willing that we should credit much.

Two books are here produced, and one is marked *Exhibit C*, and the other *Exhibit D ex parte* complainants, and being shown witness, he says—This book (*Exhibit C*) is the sale book and cash book kept in one; the other book (*Exhibit D*) is the book in which we entered the credits. Prior to keeping this book, marked *Exhibit C*, we had a small cash book; we had no other credit book but this one marked *Exhibit D*. We had another book belonging to the business, which has either been lost or destroyed; that was a cash book; Mr. Sheridan had that book last; I don't remember particularly what he said about it; he said there was something wrong about it, and he took the contents off of that, and put it into another book. I don't know what it was that he said was wrong. Mr. Hutchins kept the books at that time. I don't know what Mr. Sheridan did with that book—I have not seen it since. During the progress of the business, Mr. Sheridan used to have the books to look at them, and also the bills to see when they were coming due; sometimes he would look at the book every two or three weeks, and sometimes he would come into the shop and look at the sale book every night, to see what we were doing. From the commencement of the business to its close, Mr. Sheridan generally kept the money, and I used to call on him for money to pay the bills; he gave me directions when to pay them. When we wanted any goods Mr. Sheridan gave directions about the purchase of them; he was consulted, and he would tell me where to get them, and what places to get them at. Mr. Sheridan had the controlling influence in the business—by that I mean he gave his directions, and I had to do what he said. While we carried on the business, Hubbel B. Hutchins was put into the business to assist in carrying it on. Mr. Sheridan put Mr. Hutchins in; he came in, I think, on the 22d of October, eighteen hundred and fifty-two; he went out, I think, about the 5th of May, eighteen hundred and fifty-three. Mr. Sheridan seemed to think that I must have somebody to help me, that I must have help of some kind, and he said that Mr. Hutchins was as good a man as I could have—that he was a good business man. The terms on which Mr. Hutchins came were, that Mr. Sheridan was to give him the interest he had in the establish-

ment, and he was to have a dollar and a half a week more than Mr. Sheridan was to have, inasmuch as Mr. Hutchins was to come in and work with me. Mr. Sheridan told me that; he made the bargain with Mr. Hutchins himself, and then came and told me he would put him in in that way, if I was willing. I told Mr. Sheridan that I was willing, that I had no objections to it. I believe that Mr. Hutchins was to write for Mr. Sheridan—that was the benefit Mr. Sheridan was to have for putting him in there. During Mr. Hutchins' connection with the business, it was carried on the same way it was before—in the same way I have described. The business was managed in the same way as before; Mr. Sheridan received the money, and gave me directions when to pay the bills. After Mr. Hutchins left, the business was carried on in the same way up to the time of our being closed by the sheriff under Mr. Sheridan's judgment. I believe Mr. Sheridan offered the stock for sale—I think he did so more than once; he offered it for sale in March, eighteen hundred and fifty-three, in the "Ledger;" I think he also offered it to Mr. Johnson, here in Trenton. He also offered it for sale to Aaron M. Titus; I think that this offer to Mr. Titus was in March, eighteen hundred and fifty-three.

A short time before we were closed by Mr. Sheridan, I recollect going to Philadelphia to get more goods; Mr. Sheridan went down there with me; he gave me instructions how to proceed on that occasion—I did just as he instructed me to. He told me to settle with Mr. Medara and Company, by giving them a check for what we owed them; the check was to be made payable some five or six days after date; I don't recollect exactly how long after date it was to be made payable. He stated, as the object of giving that check, that he thought it was the best way of doing business, the least trouble; he said, that by giving them a check I could get more goods of them on credit. I did so; I gave them my check for the old balance, or a part of it, and got more goods of them on credit. My impression is that the check was for the whole of the old balance. Before that check fell due, Mr. Sheridan entered up judgment against me; I think it was before, but am not sure—it was not far from that time at any rate. On that trip to Philadelphia, Mr. Sheridan gave me directions how to proceed with Reed, Brothers and Company; he told me to have their bills averaged, and to give them my check for, I think it was, three hundred dollars, and the balance in three different notes payable at different times; he said that that would enable me to get more goods on credit. I gave my check and notes to Reed, Brothers and Company in that

way. I did not get any more goods from them on credit; they did not appear to want to credit me any more, and they would not let me have any more; at first they said I might have more goods, and afterwards they changed their mind, and refused; they said that Mr. Sheridan was in town, and they would like to see him. Mr. Sheridan came into their store while I was there—that was the way they knew he was in town. Mr. Sheridan came to the store because he wished to see me, I believe; he called me out of the store—he wanted to see if I had done the business he had directed me to; I told him that the clerk at the desk was busy, and that it 10 had not come my turn to be attended to. I told him, Mr. Sheridan, that they had said I could have goods; he said that that was all right, and appeared to be pleased with it; it was when I went back into the store, after that, that they changed their minds, and refused to let me have goods; Sheridan was not with me when they refused. I afterwards told him of their refusal; I told him so in Philadelphia. When I told him so, he said I should have goods; he said something about Reed, Brothers and Company not getting their money—I forget what it was exactly.

When I gave Mr. Sheridan the last bond, he did not say any 20 thing about entering it up immediately. At the time of his entering up that judgment, there was something over three hundred dollars, derived from this business, in Mr. Sheridan's hands.

Since this suit was commenced, I believe I have had some conversation with Mr. Sheridan about my being a witness in this case; at that time he was living either in Burlington or Philadelphia; the conversation took place at Mr. Sutphin's. Mr. Sheridan called to see me at the shop, and asked me to walk up to Mr. Sutphin's with him; he wished me to assist him in getting the five hundred dollars in this suit; he said he wanted me to say that he had no 30 interest in this clothing business; I told him I could not assist him any in that—could not do him any good in it; I told him I considered him as a partner in the clothing business; he seemed to think he was not—that he had never received any thing from it; that's about all that passed, I believe, between us. I don't know but what he used persuasion a little for me to be a witness for him; he said that he was a ruined man, that his house had fallen down, and he could not get along, unless he could get that five hundred dollars; he cried a little; I felt sorry for the man.

I recollect that about the first of May, 1853, a clerk of Reed, 40 Brothers and Company, I think his name was Price, came up from Philadelphia to see about a bill of goods which had been bought

of that firm; he came up to see who was to pay for them. He came to see Mr. Sheridan first; Mr. Sheridan told him he had nothing to do with it, and told him that I was good enough for the money, and that there was no danger but what I would pay it. Mr. Sheridan came up to my house, while I was taking tea, to let me know that the man was here; when Mr. Sheridan came to my house, he said that Reed's clerk was there to see about some goods, and he wished me to state to him that he had nothing to do with the business; Sheridan said that they wanted a note for the goods,  
 10 and that I must not give it. He did not state the reason why he wanted me to tell them he had no connection with the business; he said that if I gave them a note, they would have the advantage of me; that they could collect when it was due easier; Sheridan told me not to tell the clerk that he had been to see me. When Mr. Sheridan left my house we both came round together; we did not come in the usual way from my house to the store; Mr. Sheridan did not wish Mr. Price to see him with me—that's the reason we did not come to the store by the usual route.

Being cross-examined by Mr. Lanning, the witness says—I was  
 20 in the tailoring business prior to September in the year 1852; I had been acquainted, slightly, with Mr. Sheridan for some two or three years before that time. I don't hardly know who first proposed this arrangement I have spoken of. I was one day standing on the steps of the store in Greene-street, which we afterwards occupied, when Mr. Sheridan came up, and asked me what I was doing there, and I told him I had a mind to rent that store, and go into the clothing business; and he said it was the very thing, and asked me to call over at his shop and talk with him. I told him I was too poor to start the business. The store was shut up at the time. He  
 30 asked me if I was in earnest, and I told him yes, but I could not start it; and he asked me how much it would take, and I told him I thought that about a thousand dollars would start it, so as to get along very well. He then asked me if I would go into it, and I told him I didn't know hardly whether I would go into it or not. He said that he would get the shop; he did afterwards rent the shop; there was not a written lease for it, I believe—I know there was not. He further stated that I had nothing to lose if I went into it; he said he would give me three days to make up my mind. I saw him three days afterwards, and told him I would go into it.  
 40 He then rented the shop; he wished me to engage a carpenter, and have the shop fixed up; I had the shop fixed up; I engaged the carpenter to do it, and superintended the fixing of the shop; it was done

under my direction; the store paid for it. Biles and Hunt did the work; I believe I have their receipt for the work, but I have not got it with me; I suppose that work was charged to me, being as I was foreman of the shop. The shop was papered—Mr. Wilson did that; the store paid him; I paid him out of the store in goods, I think. Biles and Hunt were paid part in cash—they took some trade. I have accounted to Mr. Sheridan for the goods which I sold to those men in pay for their work; I think the store books show that. I can't give exactly the date when I first went to Philadelphia—it was very near the last of September. I first went to Philadelphia to 10 get goods—Mr. Sheridan was along, and we got them together; he paid my fare, I believe. I had not been to Philadelphia before in reference to a matter connected with that business, I believe; I had been to Philadelphia some three weeks before that time to get released from some judgments. It was in anticipation of engaging in this business that I wished to procure that release. I told my Philadelphia creditors, when I called on them, just what Mr. Sheridan told me to tell them, that was, that he was going to start me in business. I told them in what way he was to assist me in getting into business; I told them that he was to let me have a thousand 20 dollars cash; I did not tell them that Mr. Sheridan was to have an interest in the store himself; I did not expect it then; I expected then to have it all to myself. The arrangement between me and Mr. Sheridan, up to that time, was just as I have now stated it in this cross-examination; that arrangement between us was changed after the stock was got into the store. After that arrangement was changed, I told persons of it—Mr. Sheridan told me not to tell any one of it. It was the next week after the goods were brought into the store that the arrangement between us was changed.

I have repeatedly told persons that Mr. Sheridan had no interest 30 in that store; I did so through Mr. Sheridan's instructions. I told this to persons of whom I was purchasing goods in Philadelphia; I did so through Mr. Sheridan's instructions. I told this generally to persons of whom I bought goods—Mr. Sheridan told me to do so. Mr. Sheridan also told me to tell them that he was assisting me as a friend merely, and that he had no interest in the stock, and I did tell them so. This statement I made through the whole prosecution of that business, through Mr. Sheridan's instructions.

At the time that I executed the first bond to Mr. Sheridan (marked *Exhibit A*) I was not satisfied that he advanced that amount for the 40 business. I was satisfied that he was responsible for that amount; I mean the amount of the bond. The amount of stock furnished

by Mr. Sheridan out of his store was five hundred and some odd dollars; the book which showed the amount was destroyed, I believe. I cannot state the exact amount of the goods bought in Philadelphia. There were some goods bought in New York, but not at the commencement of the business; if there was, I don't remember it; I am pretty certain there was not. The first bond was given to cover the amount of money and goods which Mr. Sheridan had advanced or become responsible for; it was given in case I should die; that was the understanding between Mr. Sheridan

10 and me. After the first bond was given, Mr. Sheridan got other goods in New York, and brought into the store, thereby increasing the stock; those goods were bought in my name at first, and they would not send them; the reason they would not send them was, I believe, that they were not acquainted with me; Mr. Sheridan afterwards became responsible for those goods; he guaranteed the payment for them, I believe; on his guarantee those goods were sent; that liability of Mr. Sheridan increased the amount of his advances to the store. The second judgment bond was not given, I believe, to cover that increased amount; the second bond was

20 given because there were more goods in the store, and Mr. Sheridan wanted a second bond, in case I should die. When I signed these three judgment bonds, I did not like the idea very well, but I was forced to do it; Mr. Sheridan had me in his clutches. I think I objected to signing one of them—the last one; the ground of my objection was, that I had given him enough, but you (Mr. Lanning) said it did not make any difference—you were his attorney. I did not offer at that time to sell out to Mr. Sheridan; I never offered to sell out to him; I told him, before I had been three months in the shop, that I had a good mind to drop it, and let him have it.

30 When Mr. Sheridan came into the store, from time to time, and looked at the sales book in the way I have before mentioned, he did it as a man that had an interest in the business; I don't know whether you may call him a partner or not—he had not his name up. He used to advise me a good deal in that business, and to find a good deal of fault too; I have been troubled a good deal by having fault found with me by him—things were not done to suit him. I said, in this examination, that Mr. Sheridan went with me on my first visit to Philadelphia to buy goods; he guaranteed the payment for those goods, and recommended me also; he recom-

40 mended me as an honest young man. Mr. Sheridan told them that he was going to help me—that he had plenty of money. In purchasing these goods, I don't remember whether Mr. Sheridan told

any one that he had an interest in the store; I don't remember whether any of them inquired about Mr. Sheridan's interest; I don't know when I first stated to any one that Mr. Sheridan was a partner with me; I don't know that I ever stated it particularly; it might have been before, or it might have been after, I gave the judgment bond to Medara, that I stated that Sheridan was a partner with me—I can't say as to that; I don't know to whom I first told it; our contract was broke after our shop was closed up by the sheriff, and I supposed that I had a right to tell it then. I have never told any one that Sheridan had no interest in the store, and 10 that he was assisting me as a friend, for which I was to pay him if I ever got able, and if I never was able, that he was not to get any thing for it. I did not, at the time or shortly before I gave the last judgment bond, offer to give up the store to Mr. Sheridan for what I owed him, or to give him a judgment bond for the amount which I owed him. I don't know that there were any losses in the business until the sheriff sold it out, and then there was a considerable loss. In the arrangement which I have said was made between me and Mr. Sheridan, he told me that I had nothing to lose; there was nothing else said, in our agreement, about losses, but that; I 20 did not make any agreement with Mr. Sheridan to secure him for his advances, under all circumstances—nothing more than those judgments, which were given in case I should die. Those judgment bonds were given for that purpose in case I should die.

I gave a judgment bond, also, to Medara and Company, the complainants in this case; I think that there was an execution in the sheriff's hands on that judgment. All the goods and fixtures in the store were sold under Sheridan's execution, except the fixtures that were in the shop when I went there. I claimed, under the exemption law, two hundred dollars worth of those goods in my own 30 right; there was an appraisement had, and goods were taken by me to that amount. I claimed them because the law gave them to me; I claimed them under Mr. Beasley's counsel—he was the attorney for Medara and Company at that time. I don't know whether this claim on my part was before or after I gave the judgment to Medara. I afterwards sold those goods, and applied the money to my family's use.

I saw in the paper that Mr. Sheridan offered the stock in the store for sale. I saw the man who came to the store to look at the stock after he had offered it for sale. I did not hear Mr. Sheridan offer 40 the stock to Mr. Johnston, but I heard him offer it to Mr. Titus, for sale; the conversation was not with reference to some person going

in as a partner in the business with me. The advertisement which I saw in the "Ledger" called for a purchaser, and for a partner to take an interest with me; it was in March, 1853—I think it was about that time. This was while Hutchins was in the store; he went out in May. I was not dissatisfied with Mr. Hutchins—Mr. Sheridan was.

The clerk of Reed, Brothers and Company, who came up here, called on Mr. Sheridan first—Mr. Sheridan told me so; he came up in May, 1853, I don't know the day of the month; he came up  
 10 in the four o'clock line; it was after I had bought a large bill of goods at Reed, Brothers and Company's—not more than a day or so after, I think. I saw the clerk the day he came up—I saw him at the store; it was after I saw Mr. Sheridan. I don't know whether he had been at the store or not before he saw Mr. Sheridan; I understood he had been to see Mr. Sheridan. Mr. Sheridan came to tell me—Mr. Sheridan came to my house to see me; I think I was in the house when he came, if not, I had not more than got out of the gate when he came; I lived at that time in Greene-street, above Perry. I had bought those goods at Reed, Brothers and Company's  
 20 on the usual credit—six months. The amount of the bill was five hundred dollars, and I think something over—a few pennies; he wanted Mr. Sheridan's notes for those goods, and Mr. Sheridan told him to come to me, that he need not be afraid—that he would get the money; Mr. Sheridan told me that he had told him so. He did want me to give my notes with Mr. Sheridan's endorsement, and Mr. Sheridan would not do it. I don't think that he stated in how many notes he wanted the amount of the bill; I suppose he wanted the notes to run six months—the goods were bought on  
 30 that time. I know he wanted one note—I can't say whether he wanted any more or not. If he had a set of notes with him for me to sign, I did not see them. I forget whether he ever sent up a set of notes afterwards for me to sign. Mr. Sheridan told me, when Mr. Price came up, not to sign the notes; I don't know any thing about any other notes. Mr. Sheridan advised me not to sign the note, because, he said, it would interfere with the business to sign notes.

I kept no bank account; he would not let me keep a bank account; I deposited the money with Mr. Sheridan, sometimes on Monday and sometimes on Tuesday—it was just as it happened.  
 40 Whenever there was a bill to pay, he gave me the money to pay it. At the time the business closed, I think the amount of money in Mr. Sheridan's hands was somewhere in the neighborhood of

three hundred and fifty dollars—can't say exactly. At the time the sheriff made his levy under Mr. Sheridan's execution, there was a box of goods in the store which had just arrived from Philadelphia; I don't know how long it had been in the store, may-be some four or five days. That was the last bill of goods that I purchased of Medara; they were purchased in my own name—Mr. Sheridan told me to get them in my own name; he was in the city the same day I got them. That box of goods was sent back; I directed them to be sent back; Mr. Sheridan knew that I sent them back; he did not recommend that they should be sent back—he wanted to 10 keep them; I suppose he would have kept them if he could. I guess that Mr. Sheridan, in the evening, ordered the sheriff not to levy on those goods, but in the morning he wanted to keep them.

I believe I was told in one place in Philadelphia, that if Mr. Sheridan would come there, and become responsible, I could have what goods I wanted; I think it was at Reed, Brothers and Company's; I asked Mr. Sheridan to go there; I told him he could do as he liked about becoming responsible. He did not go to Reed, Brothers and Company's at my request. I don't know the name of the member of that firm who made that request to me. 20

Being again examined in chief by Mr. Beasley, the witness says—At the time I was carrying on this business, in the way I have mentioned, with Mr. Sheridan, I did not know that if a man received a part of the profits of a business, it made him a partner, if he did not put his name up; it was my opinion then that it did not. I have never calculated the amount of bills paid by Sheridan in that business, nor the amount of moneys received by him. I do not know that, in that business, Mr. Sheridan ever made any advance of his own moneys to pay bills or any other liabilities of the concern, except the fifteen dollars I have mentioned. As far as I 30 know, the payments made by Mr. Sheridan were out of the receipts of the business.

Being again cross-examined by Mr. Lanning, the witness says—Mr. Sheridan never paid a bill with his own hands that I know of; he paid them through me; he told me when to do it, and gave me the money; I did not keep an account of the money paid out by Mr. Sheridan, and the amount received by him, because I thought Mr. Sheridan would do it. Mr. Hutchins kept the books while he was there. When I speak of moneys paid out by Mr. Sheridan, I refer to moneys which he had received from the store and paid 40 bills with—store bills; he paid a couple of bills to Storms and Martin this summer. Mr. Sheridan handed Mr. Hutchins the money

sometimes to pay certain bills, and sometimes he handed me money to pay bills.

Again examined in chief by Mr. Beasley, the witness says—When Mr. Sheridan handed me money to pay bills, as I have said, he always did it with reference to some particular bill which was just about to become due, and with which he was acquainted. The way he knew what bills were coming due was, he used to have the bills to look at. All the bills which I recollect were paid in that way; all the bills passed through Mr. Sheridan's hands, I believe; 10 I don't know of any but what did.

Again cross-examined by Mr. Lanning, the witness says—The bills usually came with the goods, sometimes they were sent by mail; the bills were tied up in a package in the store; Mr. Sheridan had them at his shop whenever he wanted them; sometimes he would look at them in the store; sometimes Mr. Hutchins would take them over to him, to his shop. The bills were handed to him for the purpose of seeing what we were doing in business, and to see when they were coming due.

[Mr. Lanning, at the close of this examination, here objects to 20 the whole of the testimony of this witness, on the ground of interest.]

J. P. COMBS.

*Hubbel B. Hutchins*, a witness called on the part of the complainants, being duly sworn, on his oath saith—I am acquainted with Abraham Sheridan and John P. Combs; I recollect their carrying on the clothing business in the city of Trenton; they carried it on in Greene-street. I afterwards became connected with that business; it was in the latter part of October, somewhere near the 20 twenty-second of that month, in the year eighteen hundred and 30 fifty-two. My connection with that business occurred in this way—Mr. Sheridan solicited me to go there. Mr. Sheridan said, when he solicited me to go there, that I was under the impression that he had wronged me, and that he would now do something for me that would be a benefit; he said that he would put me in business across the way with John P. Combs; he said that John and he were together in business there; he told me that at that time he, Sheridan, was drawing out of the concern four dollars a week; he said that Mr. Combs was drawing five dollars and a half a week; he said that of the profits over and above that, he was to have one 40 half, and Mr. Combs the other half. He proposed that I should go in, in this way—that I should draw out, with Mr. Combs, five dol-

lars and a half a week, and at the expiration of the year I was to have a third of the profits, Mr. Combs a third, and Mr. Sheridan a third. I was to do Sheridan's writing at fifty dollars a year—that was to come out of Sheridan's share of the profits at the end of the year. I agreed to those terms, and went in there with Mr. Combs. I continued in there some seven or eight months. While I was in the concern, I drew out my weekly sum, five dollars and a half, with Mr. Combs; while I was in, Mr. Sheridan received the residue of the sales over and above the weekly sums; Mr. Sheridan was consulted upon all matters relative to the business 10 while I was in the concern—all the bills were in his possession, or in his sight where he could see them whenever he wished, and he did the financiering of the concern. John P. Combs' name, alone, was used in the business—my name did not appear. Mr. Sheridan told me often that his name did not appear in the concern because he had a great many enemies in Trenton, and it would affect the interests of the business—the purchases, therefore, were made in the name of Mr. Combs. Mr. Sheridan directed where the purchases should be made, and upon what credit.

(A book is here produced, and marked *Exhibit E ex parte* com- 20 plainants, which being shown the witness he says)—This is one of the books of the concern; this is the book that was kept there while I was there. It is an original book of sales, and of cash received and paid out.

I left the business because, from the best of my observation, I believed it to be a swindling concern, and I would have nothing to do with it—I mean I believed it to be a swindling concern on the part of Mr. Sheridan. A few months previous to my leaving, we had taken an account of stock. I found that up to the commencement of the business, up to February 7th, 1853, we had cleared, 30 over and above expenses, some three hundred dollars. I considered that I was entitled to one-third of the profits, under the agreement, and I took it with the approval of Mr. Combs; I took one hundred dollars. Mr. Sheridan had tried to get rid of me from the concern before I left; he told Mr. Combs, on a few Saturday evenings previous, to give me five dollars and a half, and tell me to go; Mr. Combs told me that he told him that; I did not hear Mr. Sheridan tell Mr. Combs so, but Mr. Combs told me he did tell him so. He also advertised, in the Ledger, for a person to take my place—so I was told by one of the firm of Fithian, Jones & Company, Mar- 40 ket-street, Philadelphia; they were to apply there for information. Mr. Sheridan had been in Trenton some six or seven years I

presume—I don't know exactly; he came from New York state, I think somewhere—I don't know where; he had been following, in Trenton, the business of manufacturing segars and shaving notes. I think he had a store in South Trenton once, at the same time that he was carrying on shaving and the manufacturing of segars. He also had a dry goods store on the corner of Hanover and Greene streets, in Trenton; he did not have this at the same time that he had the one in South Trenton. This store at the corner of Greene and Hanover streets, after I left it, was carried on in the name of  
10 somebody else besides Mr. Sheridan.

[Mr. Lanning here objects to the testimony of this witness upon the ground of interest, having been a partner in the concern, as the witness alleges.]

Being cross-examined by Mr. Lanning, the witness says—I was engaged with Mr. Sheridan in the dry goods business when I went in with Mr. Combs; I had at that time charge of Mr. Sheridan's business on the corner of Greene and Hanover; I had charge of it as clerk; that business was continued, after I left the clerkship,  
20 some two or three or four months, can't say exactly; it was continued in the name of Abraham Sheridan. After that, it was continued in the name of John T. Compton; he continued there, I should say, in the neighborhood of two months. Mr. Sheridan told me that he had sold out to Mr. Compton, and I saw Compton's name up at the store in large letters, on the awning post. I was getting, at the corner of Greene and Hanover, a salary of six dollars or six dollars and a half a week, I don't remember which. When I left there, and went in with Combs, I think I talked with Combs about it previous to going there; he told me that Mr. Sheridan had an interest in the business; he told the arrangement under  
30 which they were together—it was that Mr. Sheridan was to have four dollars a week, and Combs was to have five and a half, and the profits to be equally divided between them at the expiration of the year. I don't think that there were any other persons present at the time I made the arrangement to go in there with Mr. Combs. The part of the business I attended to was, that I bought the goods, and sold them, and kept the books.

It would be impossible for me to tell how many bills of goods I bought; I might have bought fifty, and I might have bought seventy—I could not tell. I bought some goods in New York  
40 and some in Philadelphia; I bought of Sinnickson, Storms and Martin, of Joseph T. Medara and Company, of Reed and Brothers, of Raiguel and Company, and I think I bought a bill of Bradbury, in Cherry-street. I also bought a bill of Edward Crozier, here in

town, also of Joshua Jones, and also of Mr. Garrison. I don't remember the name of the firm I bought of in New York; I bought there of two firms, but only once on credit; my last purchase there was of Caswell and Company—that was for cash; they kept, I think, in Dey-street. The other bill I bought in New York, I now recollect I got of Lathrop and Luddington, in Cortland-street, opposite the Merchants' hotel; I bought them in the name of Mr. Combs—that is the goods I got of Lathrop and Luddington, and they, not being acquainted with him, charged them to Mr. Sheridan; they charged them to Mr. Sheridan a few days after making the purchase; there was some correspondence about it, and they charged them to Mr. Sheridan—at least that is my impression. I did not tell them that Mr. Sheridan was a partner; I had no conversation with them respecting that part of the business. At the time I made the purchase, they agreed to forward the goods, I think. They did not make any inquiry about Mr. Combs, that I know of; I think that in their letter to Mr. Sheridan, written soon after the purchase, they said that they did not know Mr. Combs, and that they would not charge them to him, but that they would charge them to Mr. Sheridan, as he had formerly dealt with them; I saw the letter; I kept all Mr. Sheridan's books. I think I have stated all that occurred between myself and Lathrop and Luddington; I think it was in the latter part of November, 1852, that I made the purchase of them—I am not sure, but I think it was after I had made purchases in Philadelphia in the name of Combs before that time; I also made purchases after that in his name. I continued to purchase goods all the time I was in the concern; I don't think that I ever told any one, while I was in that business, that Mr. Sheridan was a partner in that concern; I don't think that I ever told the persons of whom I bought goods that Sheridan was not a partner in that concern; I might, at the commencement of the business, have written to some one that Mr. Sheridan was not a partner with Mr. Combs, but was merely assisting him, but I don't recollect that I did. If I ever did so, I did it under the direction of Mr. Sheridan—he worded, and I merely wrote.

I think likely I might have written to Sinnickson, Storms and Martin saying that Mr. Combs was in business, and recommending him, and that he had the assistance of a friend; I might have done so, but I don't recollect. [Mr. Beasley here objects to the evidence of the contents of any letter, without the letter being produced.]

Mr. Sheridan told me that he was a partner with Combs; it was just before they opened their store that he first told me that—I

think it was in August or September, 1852; he did not tell me the terms on which he was a partner at that time, but he did afterwards—may be a week afterwards, but am not sure; I think he told me the terms previous to opening the store. Mr. Sheridan's credit was nothing extra; a number of houses would not sell him with a city endorser; James Kent, Santee and Company, Third-street, refused to sell him with Mr. Soby as an endorser; I know that to be so, because I transacted business for Mr. Sheridan at the time I attempted to buy, in Mr. Sheridan's name, dry goods for  
10 Sheridan's store.

I know about Sheridan's shaving notes, from what he told me, and I have also seen persons pay him money for the use of money borrowed. He also told me of some persons that borrowed money of him; I have seen him receive a dollar for the use of five dollars for one week; I presume it was by agreement between the parties. I did not hear any previous agreement between the parties, and I don't know whether this was by agreement between them or not. Mr. Sheridan was in the habit of accommodating his friends on call.

20 After I went into the store with Combs, I thought it would be a fraudulent concern, from various manœuvres on the part of Mr. Sheridan; I first came to that conclusion about a week previous to my leaving there; I had seen things wrong before that a good many times; I can't exactly recollect how long before, some two or three months before that, I think; it was while I was buying goods for the concern.

I am on such friendly terms with Mr. Sheridan, as to keep as far from him as possible, and want nothing to do with him.

*Question.* Have you not been arrested in Philadelphia, on the  
30 complaint of Mr. Sheridan, for an attempt to defraud him?

*Answer.* Mr. Sheridan took a false oath, sir, and had me arrested.

*Question.* Arrested for what?

*Answer.* For obtaining goods recently in his name, and appropriating the money to my own use.

The time was up last Saturday, and neither Mr. Sheridan nor his counsel appeared—I mean the time that the alderman allowed him for appearing against me, and the time set by his own counsel. I then wished to see the affidavit on which I was arrested, and went with Mr. Robinson, Mr. Sheridan's counsel, to his office. The affi-  
40 davit could not be found, Mr. Sheridan having removed it unbeknown to his counsel—so his counsel said; but I did not know whether to believe the counsel or not—it was doubtful. I think that

Mr. Robinson's office is in Seventh-street, just below Walnut—I think that that was his name. I believe, on second thought, that his name was Dickinson, not Robinson. I am not still under bonds—I was discharged; the alderman offered to give me a certificate of it at any time. I met with Mr. Dickinson at the alderman's office; he told me that he and his officer had previously watched for me and Mr. Combs, at the boat, for an hour or so; he also told me that he had a warrant for Mr. Combs.

When I left the store, where I had been engaged with Mr. Combs, I told Mr. Sheridan that I would have nothing more to do with him; he said he thought I had more than I was entitled to; Mr. Combs said I had just what I was entitled to.

Being again examined in chief by Mr. Beasley, the witness says—The goods which Mr. Sheridan, by his affidavit, charged me with having fraudulently obtained, were not goods which I bought for the concern here—it was for goods recently obtained; so the lawyer told me; I did not see the affidavit, for he said he could not find it. Since I left the concern here in Trenton, I have not had any dealings with Sheridan, nor have I used his name in any transaction whatever. I was arrested last Monday week—I was arrested between half-past eight and nine o'clock in the morning. A few days after that I understood that that was the day fixed for taking depositions in this case. I did not see Sheridan on the day of my arrest, but I saw him in Philadelphia on the Saturday before. Mr. Dickinson told me that, on the day of my arrest, Sheridan was waiting at the boat for me and Combs.

H. B. HUTCHINS.

*Julius Johnston*, a witness called on the part of the complainants, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, upon his affirmation saith—I am acquainted with Abraham Sheridan. I recollect the clothing store kept at the corner of Greene and Hanover streets; I thought it was kept in Mr. Combs' name—I never saw any other name in the advertisement in the paper. The stock in that store was offered to me for sale; Mr. Sheridan offered it to me; he did not mention any other name than his own in making me the offer. I don't know whether I can hardly recollect what he asked me for the stock, but I think it was eight or nine hundred dollars. I was there in that store from the month of June until it was shut up by the sheriff in September; I was there most of the time during that period; I think that this offer of sale by Sheridan to me was a few weeks or

a few days before it was closed. When I was there in the store, Mr. Sheridan was frequently in there; I believe he appeared to take an interest in the business transactions—he felt anxious, I thought, to see business being done. Mr. Combs had a new case or box, to hang coats in, put up in the store; Mr. Sheridan said he thought it was too extravagant, and he told me that Combs did not consult him at all about it.

Being cross-examined by Mr. Lanning, the witness says—I was in the store while I was there under a small salary, and to get a  
 10 little insight into the business, in case I should choose to go at it. I made the arrangement with no other person but Mr. Combs to go in there; I never consulted Mr. Sheridan about going in there; I don't know that Mr. Sheridan knew what I got; he said several times that it was discouraging about the business, that they were not doing much, and I told him that I did not want to be in the way, that I didn't want to be a moth to Mr. Combs or to the firm, whatever it was; I did not know how they were, and I was willing to leave at any hour. I only charged Mr. Combs three dollars and a half a week; I had the privilege of being in and out as I chose.  
 20 I did not go there for profit, and I thought his business would not afford to pay much. It was Mr. Sheridan who first spoke to me about purchasing the store; I expected it was the goods, the stock that was in the store, that he wanted me to purchase; I knew that the building did not belong to him; it was to purchase it as Mr. Combs' stock, as I understood it, but Mr. Sheridan told me the money was to be paid to him, Sheridan. Sheridan told me he was bound for Combs; he said he was bound for Combs some hundreds of dollars, don't remember how much; he did not tell me how he stood bound for Combs—I asked for no explanation.  
 30 knew that Sheridan had made me the offer, and he was very anxious that I should make the bargain with Sheridan. Mr. Sheridan wished me several times to come over to his shop to talk with him about it. I don't know that Combs ever asked me to go over and see Sheridan; I don't know that he ever knew that I had any conversation with Sheridan about it, until one time when I came back from Sheridan's shop; I named it to Combs then, and he seemed to think that may-be I had better try and bargain. I don't recollect that Combs ever wanted me to go into partnership with him; he said that if I bought, he would like to stay with me and do the cut-  
 40 ting, and make some arrangement. In my conversations with Sheridan, I don't know that it was understood that I was to buy Combs' interest out; Sheridan offered me the stock and fixtures of the

store, and I said, "If I buy, I suppose the money is coming to you," and he said "yes." Sheridan said that he would make Combs a present of so much, provided I would buy him out. I don't remember the amount at which Sheridan offered the stock and fixtures to me, but I think it was some eight or nine hundred dollars. Sheridan did not tell me how much he was bound for on Combs' account, I cannot say that he offered the stock and fixtures to me for the amount for which he was bound for Combs—I don't know that that was the basis of the offer to me.

I never went, at any time, to see Mr. Sheridan at the request of 10 Mr. Combs. While I was in that store, Mr. Combs had the charge of it. I never heard, so far as I recollect, of Mr. Sheridan being a partner with Combs while I was there. Combs informed me that Sheridan had assisted him in getting into business; he said that Mr. Sheridan had started him—I don't recollect that he said Sheridan had become bound for him, but he always gave me to understand that Sheridan had started him; I don't recollect that he said that Sheridan had become bound for goods purchased; Combs did not tell me how Sheridan had started him.

Mr. Sheridan was frequently in the store; sometimes he came in 20 to get money, sometimes he asked what business we were doing, and sometimes he was getting work; I don't recollect that he ever attempted to sell any goods there. I cannot tell for what purpose he asked for money when he came there. When I said he asked what business we were doing, I mean he would ask what kind of a day, or a night, or a week, we had had; I thought he seemed to be anxious to know how Combs was getting along; he would make his inquiries of me or of Combs, just as it happened to be. In those inquiries, I never heard of his having any other interest in the store than merely as the friend of Combs. I don't recollect in whose 30 name the goods were bought; the boxes that came, I rather guess, were marked with the name of Mr. Combs; I don't recollect that I ever saw any other name on them. I never asked Combs whether Sheridan was a partner with him, that I recollect of; Combs did not tell me that Sheridan had nothing to do with the business; I never asked why Sheridan came there to inquire about the business. I thought he had an interest, or expected there was something there that he felt an interest in. I can't say when Combs first told me that Sheridan had started him in business—probably it was not long after I went in—it might have been a week or a month. 40 I don't recollect that I ever had any conversation with Mr. Combs about making the purchase before I went to see Mr. Sheridan; I

don't know but what, before I went to see Sheridan, Combs said something about this present that Sheridan was going to give him. Combs did not then request me to go and see Sheridan; I think that I talked to Sheridan before I ever named it to Combs at all; Mr. Sheridan first named the matter to me; he did so at different times—said that he would like to get out, and requested me to come over to his shop. When he said he would like to get out, I presume he meant the business, or the goods, or the difficulty, or whatever it was; he did not say what it was he wanted to get out of; 10 he wanted to sell me the stock. When I called on Mr. Sheridan, we had some little conversation; I was not prepared to say much. He gave me a few days to think of it; I did so, and afterwards told him that I would have nothing to do with it, and it was not more than twenty-four or six hours after that that he had the sheriff on it—but I think it was within six hours.

*Question.* I wish you to tax your memory, Mr. Johnston, as to what you said to Mr. Sheridan when you first called on him about the purchase?

*Answer.* I could not answer that question at all. I don't remember what I said. 20

Being again examined in chief by Mr. Beasley, the witness says—When I said, before that, when Mr. Sheridan made inquiries in the store about the business, that I never heard of his having any other interest in the store than merely as the friend of Combs, I did not mean to say that I had heard that he was interested in it, only as Combs' friend; I had heard from others that Sheridan had an interest in the business, and I supposed that that was the reason he inquired; that he wanted to know how it was getting along. [Mr. Lanning objects to all evidence of what the witness may have 30 heard from others about the interest of Mr. Sheridan.]

When Mr. Sheridan told me he was bound for Mr. Combs, he said he was bound for some hundreds; and he said, some thought he was bound for more than he really felt himself bound for, but he said he was not. I told him I supposed he had money in his hands deposited from Combs, and Sheridan said he had three hundred and thirty some dollars—don't recollect to a dollar. I don't recollect that Sheridan said what that was deposited for; he said this a short time before Combs was closed up, may-be a week or two before—perhaps not more than a week.

40 And being again cross-examined by Mr. Lanning, the witness says—I never knew, of my own personal knowledge, that Sheridan had any other interest in the store than as the friend of Combs. I

had heard that he had had an interest in the business, but I can't now tell from whom; I dare say I have heard at least fifty persons speak about it, or, at least, I have been asked the question by at least fifty different persons. Charles Howell, Mr. Willis, and the Mr. Keelers and others asked me the question, and spoke as if they believed it. I could not answer the question to them.

JULIUS JOHNSTON.

*Samuel McGarvey*, a witness called on the part of the complainants, being duly sworn, on his oath saith—I am acquainted with John P. Combs, and also with Abraham Sheridan. I recollect the 10 clothing business which was carried on in Greene-street in the name of John P. Combs; I worked for Mr. Combs in that business; I worked there from the day it opened until the night it closed. Mr. Sheridan was frequently in there; he used to ask what kind of a day we had had, and would go to the desk and look at the books; he would tell Combs what to do about the store, how he ought to have it fixed.

The next day after the store was closed by the sheriff, I had a conversation with Mr. Sheridan about the business; I went over to his shop, and says I, "Mr. Sheridan, can't you give a fellow a job," 20 rather in the way of a joke; he told me that he did not want me to go away, for that he was going to open the store again; he said he had nothing against Mr. Combs—all he wanted was to take these Philadelphians in, he said, and that he would give me a job again—that the store would be open again pretty soon. The store was never opened again.

Being cross-examined by Mr. Lanning, the witness says—I went over to Sheridan's shop betwixt eleven and twelve o'clock in the morning on the day after the sheriff closed the store; I went to Sheridan's shop, not to his store—nobody went with me. There were 30 several journeymen in the back part at the time of our conversation. Mr. Sheridan was in the front shop, packing segars, I think.

SAMUEL MCGARVEY.

September 23, 1854.—Mr. Beasley offered in evidence an exemplification of a judgment recovered, in the Mercer Circuit, by the complainants in this cause, against John P. Combs, on bond and warrant of attorney to confess judgment, on the 24th September, 1853, which I have marked *Exhibit F ex parte* complainants.

*Examination of witnesses, &c., in a cause depending in the Court of Chancery of the state of New Jersey, wherein Joseph T. Medara and others are complainants, and Abraham Sheridan and another are defendants, taken at the office of Isaac W. Lanning, esq., in the city of Trenton, on Tuesday, the thirtieth day of January, in the year of our Lord eighteen hundred and fifty-five, before Edward W. Scudder, one of the masters and examiners of the said court, in the presence of Isaac W. Lanning, esquire, solicitor and of counsel for the said defendant, Abraham Sheridan, and of Mercer Beasley, esquire, solicitor and of counsel for the said complainants.*

*Peter K. McClurg, of the city of Trenton, in the county of Mercer, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn, on his oath deposeth and saith—I am acquainted with John P. Combs; knew him while he was engaged in the clothing business in Greene-street, Trenton, opposite the Market-house, under the Odd Fellows Hall. I had a conversation with Combs while he was there about his business; I went in one morning, and says to Mr. Combs, are you in business for yourself?*

20 *He said, "He was." I said to him, I'll give you a job—said he might make me a pair of pantaloons, if he thought he could fit me. He made the pantaloons; I took them, and paid him for them; that was about all until about three or four months after—I think it was—can't recollect the exact time. I then went in again; there was a young man behind the counter then, at that time; I knew him well by sight, but did not know his name; this young man went out after I was in a little while; I then said to Combs, "Who is that young man?" He said, "He is my partner." That's all that passed between us; did not tell me his name; I never asked*

30 *him; I have since learned his name, but can't tell his name; I think his name was Hutchins; I had seen him before out at Millham; it was not Mr. Sheridan. I can't tell the time when this last conversation took place—I think it was in the fall; can't tell the year; can't say whether it was the same fall that Combs quit business there or not.*

PETER K. McCLURG.

*Levi S. Sutphin, of the city of Trenton, in the county of Mercer, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn according to law, deposeth and saith—I*

know John P. Combs; I was acquainted with him while he was engaged in the clothing business in Trenton, in Greene-street under the Odd Fellows Hall; I was in his store almost every week, sometimes every day, and twice a day often. I have had some conversation with him about his business there; I used to go in there, and wanted to buy some small articles from him. He used to work for me before he went in this store; I asked him how he came to get on so fast—to start with so many goods—I used to say so in a joking kind of way; he said he had a friend that helped him; and then I said, I guess I can tell who that friend is; he is helping us all around town. He said, Who is it? I said, It is Sheridan—he has lent me money, and Benjamin and others; he said that I had guessed true. Then he said that Sheridan wanted to get out of the dry goods business, and had sold him part of the goods that he had open in the opposite store, and that what other goods he wanted in Philadelphia Sheridan had lent him money to go and buy, or if he had not money enough when he went down he could give his own check, and Sheridan would lend him the money to meet the check when he came home—something to that effect; when he came home, or when it was due, I think he said. I then asked him how much he had to give Mr. Sheridan for helping him in that way, and starting him in business? He then said Sheridan told him he would not charge him any thing, unless he done well; if he done well, he wished to be compensated in some way. Then, at another time, I went in, and wished to buy an umbrella—he asked me a dollar for it; I told him he was a little ahead of the market; that I could get me one over the way at Sheridan's for seven shillings; he told me that if Sheridan would sell one for that price that he would do the same, but that he would make nothing on it, for Sheridan charged him that for them; that is about all I recollect; we talked over many things. 10 20 30

He never spoke of Sheridan as a partner to me; I was in one afternoon, and there was a gentlemen in, who bought some goods, and paid him a five dollar bill of bad money—Perth Amboy, I think; bank had broke. Johnny, knowing I was a pretty good judge of money, after the man went out, asked him to look over his money; I did so, and throwed out this five dollar bill, and out of a joke, I said to him, I'll tell your boss of this—out of a joke I said it. He says, I have got no boss; I am my own boss, and a five dollar bill won't hurt me. I said this in joke, as we said a hundred other stories. He never, to my recollection, said that Mr. Sheridan had any thing to do with his business, except lending the money. 40

*Question* (put to the witness by Mr. Lanning). Did he, or did he not, tell you that Sheridan had nothing to do with his business, except in lending him money? [Question objected to by Mr. Beasley, for complainant, as leading.]

*Answer.* He has told me that, sir; he said that Sheridan had nothing to do with his business, except in lending him money and befriending him; he had told me this several times. I have seen Combs have fifty and sixty dollars, and along there, at a time. I think he told me then that he was going to pay Sheridan—I don't know that  
10 he told me for what. I have heard him speak of owing Mr. Sheridan money; I might have heard him several times, think I did, but don't now recollect; I remember once, in particular, when I wanted to borrow some money of Sheridan. Combs did not tell me what means he had when he started in business; I did not ask him, because I knew; I knew the man, and knew his circumstances before. I had borrowed money of Mr. Sheridan several times.

*Question* (by Mr. Lanning). On what terms did you borrow—for accommodation? [Question objected to by Mr. Beasley, as irrelevant.]

*Answer.* I borrowed for my own accommodation several times;  
20 don't recollect what I paid him; don't recollect that he made any charge; I made him a present sometimes. I recollect, when he lent me money on my note, he charged me six per cent., the discount; oftentimes he has done it to accommodate me when he would not do it for any one else, as I was a neighbor like, as he told me.

*Question.* What did Combs say to you in reference to the compensation he was to give Sheridan for assisting?

*Answer.* Well, he said, if he did well he was to be compensated, and if not, he was not to charge him any thing.

LEVI S. SUTPHIN.

30 *Joseph B. Wiggins*, of the city of Trenton, in the county of Mercer, and state of New Jersey, a witness produced on the part of of the defendant, Abraham Sheridan, being duly sworn according to law, deposeseth and saith—

*Question* (put to the witness by Mr. Lanning). Mr. Wiggins, did Mr. Sheridan assist you in going into business some two or three years since—and if so, how did he assist you? [The subject matter of the question objected to by Mr. Beasley, as irrelevant.]

*Answer.* I think it was something in the neighborhood of three  
40 years ago he first assisted me; he assisted me with stock, to the amount of four hundred dollars, in the tobacco and segar business.

He was to be paid in stock, that is segars, or money, at a certain fixed price the segars were to be ; it was at my own choice to pay him in segars or money, as I saw fit. After that I went to the city with him, and he recommended me for credit in Philadelphia. I bought goods there, and he guarantied for me to the amount of two or three hundred dollars, at some four different houses, I think ; he recommended me at two or three other houses. No agreement at all between us as to compensation ; he asked nothing of me for the assistance that he rendered me—I never paid him any thing for it—nothing for his assistance in establishing me in business ; 10 his recommendation established my credit with those houses for any amount I saw fit to ask—any reasonable amount. I said he assisted me with stock at starting the business—it was furnished me at cost prices.

JOSEPH B. WIGGINS.

*John B. Peacock*, of the city of Philadelphia, in the state of Pennsylvania, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn according to law, deposeth and saith— I am a salesman in a wholesale dry goods house in the city of Philadelphia—the name of the house, or firm, is Storms & Suplee. I 20 was formerly in the store of Sinnickson, Storms & Martin, of Philadelphia ; I left the last named house the last day of December, eighteen hundred and fifty-two. While with that house, I knew John P. Combs, of Trenton ; he was in the tailoring and clothing business ; he bought goods of that house ; he bought more than two bills of them ; he made no exact statement to our house when he first came, as to the way he was doing business ; when he came, he came in company with Mr. Abraham Sheridan. Mr. Sheridan introduced him to our house, and guarantied him for the respective bills which he bought—for all the bills he bought. The first bill was in the 30 neighborhood of two hundred dollars ; the gross amount of all the bills that he bought there was from five hundred to six hundred dollars. Our house knew Mr. Sheridan at that time—he had been previously buying goods of us on his own account ; Mr. Sheridan had been in the dry goods trade himself in Trenton. The second time Mr. Combs came alone, but Mr. Sheridan came before him, and guarantied the bill verbally ; I will correct that—Mr. Sheridan came while Mr. Combs was buying the bill, and verbally guarantied the payment of it. The third time Mr. Combs came there and purchased a bill of goods, which he wanted to buy on his own account, 40 the firm which I was with wrote to Mr. Abraham Sheridan want-

ing to know whether Mr. Sheridan was willing to guaranty the bill which Mr. Combs had bought. Mr. Sheridan replied, saying he considered Mr. Combs responsible—that he was doing a safe business—and that we might charge the bill to him, Mr. Abraham Sheridan. I can't recollect whether they charged to him or to Mr. Sheridan; I think it was charged to A. Sheridan, for J. P. Combs. My impression is that he bought another bill of goods, but I won't be positive about it.

A letter shown to the witness, market *Exhibit A* on the part of  
10 the defendant, dated November 15th 1852, and offered in evidence. [The letter objected to by Mr. Beasley, as between parties with whom the complainants have nothing to do, and as a statement of the firm to Mr. Sheridan.]—This is a letter from Messrs. Sinnickson, Storms & Martin to Mr. Sheridan. There was an answer from Mr. Sheridan to them to this letter; I don't recollect seeing Mr. Sheridan's letter in reply, but the firm said they had received a satisfactory letter, and directed me to pack up the goods and send them, and I did so.

*Question* (by Mr. Lanning). When Combs bought these goods  
20 of Sinnickson, Storms & Martin, in whose name was he doing business?

*Answer.* In the name of J. P. Combs.

At the time he bought goods of this firm, he made no statements in reference to his business, to the best of my recollection; he said he had no means. He stated, also, that he was doing business by the assistance of Mr. Abraham Sheridan; he stated to me, at a time after that, that no one had any interest with him in that business—I mean after he had bought of Sinnickson, Storms & Martin; at different periods when he bought of me after that, at the house  
30 of Storms and Suplee; this was in the month of January or February following, in 1853. Mr. Combs came to the house of Storms & Suplee, at the time just named, to buy goods, which he wanted to buy in his own name, on his own responsibility; the firm refused to sell to him, because they had no confidence in the man's responsibility; they refused to sell unless he would get Mr. Sheridan's guarantee. When they refused, he used every argument in his power to induce the house to sell him goods upon his own account. When told that they would sell him goods with a guarantee from Mr. Sheridan, he stated to me that Mr. Sheridan had no more in-  
40 terest, or to do with his business than I had myself, and that Mr. Sheridan never had put any capital in his business, and never assisted him further than guarantying him for certain specified bills. When he was told at that time that he could not have the goods,

he produced a written guarantee from Mr. Sheridan, offering to guaranty Mr. Combs for a bill of about one hundred and twenty-five dollars, as nearly as I recollect; at that time Mr. Combs bought a bill of goods, amounting to about one hundred dollars, my recollection is, which was sent to him on that guarantee only; it was a guarantee to the firm of Storms & Suplee—I saw it—it was handed to me. A short time afterwards Mr. Combs came and bought a bill of goods of ten or twelve dollars, and paid for it—it was marked in his own name as paid. At some period of time following this, I can't state the exact time, a person by the name of 10  
Hutchins, I think from my recollection, who had previously been engaged with Mr. Sheridan as a clerk, and had been accustomed to come and buy goods at our place for Mr. Sheridan, when he was in business for himself, came to us and purchased a bill of goods from us for Mr. Combs, in the name of Mr. A. Sheridan, which was charged to A. Sheridan for J. P. Combs. I do not recollect whether Mr. Combs called after that to purchase goods for himself; I have no recollection of seeing Mr. Combs after that.

JOHN B. PEACOCK.

*Thomas B. Suplee*, of the city of Philadelphia, in the state of 20  
Pennsylvania, a witness produced on the part of the defendant, Abraham Sheridan, alleging himself conscientiously scrupulous of taking an oath, and being duly affirmed according to law, on his solemn affirmation saith—I am in business in Philadelphia—one of the firm of Storms & Suplee, the same firm mentioned by Mr. John B. Peacock in his testimony. I have been in business in that firm since the first day of January, eighteen hundred and fifty-three. Shortly after we commenced business, some time during the first six months of our doing business, Mr. John P. Combs called to buy goods at our store. I have heard the statement of Mr. Pea- 30  
cock, the witness examined here; so far as that statement goes, I think it is true. I do not recollect which of the two bills alluded to by him was purchased first; there were two bills purchased, for which we held Mr. Sheridan responsible, one of which was by written guarantee, the other by a person who represented himself to be an agent who had previously purchased goods for Mr. Sheridan. After the times spoken of by Mr. Peacock, I recollect Mr. Mr. Combs coming to the store to buy goods; I cannot remember the dates—I think during the year eighteen hundred and fifty-four, early in the year—I have no data, and don't know certain; it may 40  
have been much earlier than that; my impression is that he called

before his previous bills had matured or were settled; I think Mr. Peacock was not at the store at that time. He sought an interview with me, which he would not have done if Mr. Peacock had been there; I had a conversation with him at that time about his business. He came there for the purpose of purchasing goods in his own name and on his own responsibility; he told me that he considered himself perfectly good for whatever he might buy of us; that he was purchasing goods in his own name from other persons; he did not refer me to any other person that he was purchasing of in his  
 10 own name; my impression is that he said he was at that time purchasing, or had a short time previous purchased, goods of Reed, Brothers and Company in his own name. I declined selling him goods in that way, telling him that if he would bring a guarantee from Mr. Sheridan we would sell to him whatever goods he might want. He told me that he would not do, as Mr. Sheridan and he were entirely unconnected, and he was now going to do business in his own name. He pleaded very hard for me to sell him some goods, and when I still refused he became very angry; he said he  
 20 could buy as many goods as he wanted in the way he proposed; he said he be damned if he couldn't buy goods without Mr. Sheridan's assistance. He left me, and called again the same day, wishing to know whether I had changed my opinion about selling to him on his own terms; I gave him my former answer, that we positively declined selling to him without Mr. Sheridan's guarantee; he then left the store. My impression was, at the time, that he was in liquor. In these conversations he implied that Mr. Sheridan had assisted him in his business. That I knew from the fact of his having guaranteed. He implied that he did not wish to ask Mr. Sheridan for any more favors. I knew the fact, that Mr. Sheridan had  
 30 assisted him, also from his own statements—Mr. Combs' statements.

THOS. B. SUPLEE.

*Ephraim W. Stanton*, of the city of Burlington, in the state of New Jersey, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn according to law, deposeseth and saith—I formerly resided in Philadelphia; I resided there in the summer and fall of last year (1854); I visited Trenton about that time; my errand was to find a place to go in the clothing business; I was desirous of finding some one to go into business with me; I wanted a man to act as cutter. I was not acquainted here  
 40 at that time; on my way up I inquired of a gentleman in the cars if he was acquainted in Trenton; told him my errand, and he gave

me Mr. Combs' name. [The conversation between the witness and the person in the cars objected to by Mr. Beasley.]

When I came to Trenton I inquired for Mr. Combs; I found him; I went to some clothing store, and inquired for him; I was directed to his house; went there, and found his family, a lady whom I took to be his wife. I left word for him to call on me at the Tremont House; he did so. [Any conversation between this witness and Mr. Combs objected to, on the ground that Mr. Combs' attention was not called to this conversation on his examination by Mr. Beasley.]

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I had a conversation with Mr. Combs; told him my errand here, and asked him how he would like to go in the clothing business; he said that he would like it; I told him that I wanted a man to go in with me to take an interest, if he chose; he objected to going in as a partner, and said he would rather work for me by the month; his objection was, he told me he had been in business, and that the old matters were not settled up—that he was in debt. I then asked him how he succeeded when he was in business?—I am a little before my story. He told me that he had no capital—that was one of his objections; and then he went on to relate the circumstances of his business transactions. He said he had a friend who had put him in business, and, after he had got fairly under way, this friend who had put him in business wanted his money again, consequently he had to dispose of his goods at a great sacrifice, and was not able to pay his bills. He also told me that this man was A. Sheridan, and that he then lived in Philadelphia. I asked him if it was the man who had the store that fell down, and he said it was. He asked me, then, if I was acquainted with him; I told him that I had seen him frequently—knew him by sight, but never had any particular acquaintance with him. I told him of the narrow escape Mr. Sheridan had had; that he and his family came very near being crushed with it. He said that it was a pity that he had not been crushed. It would be impossible for me to describe the character he gave him; he said he was a rascal and a villain, and that if I was not acquainted with him I had reason to be thankful. In talking to Combs about going into business with him, I asked him for a reference. He said he could give me reference in almost any place else but in Trenton. He gave me a reference in Philadelphia, to a store in Third-street above Arch, to a man named Hutchins—he did not give me the christian name of Hutchins; he gave me a reference in Market-street to a man—the salesman in Stokes' clothing store. I called to see Hutchins at the store, but

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did not see him. I wrote a letter to A. Sheridan—he was living in Burlington—and requested him to call and see me when he was in the city again, and asked him if he knew a man of that name in Trenton.

In my conversation with Mr. Combs, in Trenton, he said something to me about some lawsuits in which Mr. Sheridan was involved growing out of that business; he spoke of two lawsuits that were pending here—I think he said one was Reed and Brothers—it was for goods that he had purchased for his store. He said, as  
10 Sheridan had treated him so mean, and would not give him a chance to pay his debts, that they would now make him pay for the goods, and there was no way for him to get out of it.

*Question* (by Mr. Lanning). Did he say any thing about having revenge on Mr. Sheridan?

*Answer*. He said he hoped to live to see the day that he would have revenge on him, for, he said, he believed that Sheridan was mean enough to rob and steal, or do any thing he could and keep clear of the law.

I don't know what else he said—he said a good many things; I  
20 did not pay much attention, as they did not interest me at all; he said that Sheridan had assisted him—did not say he was a partner; said he was in business for himself; he said Mr. Sheridan had sold him goods and lent him money to assist him.

*Question* (by Mr. Lanning). When he (Mr. Combs) spoke of making him (Sheridan) pay the debts, what debts did you understand him to mean?

*Answer*. The debts that he (Combs) had contracted while in the business.

He said he would like to engage with me to work by the month,  
30 as a workman, for the first year. He did not say any thing about his being relieved from these debts after that time.

*Question* (by Mr. Lanning). From the whole conversation with Combs, did you or did you not receive the impression that if he could compel Sheridan to pay these debts, he (Combs) would then be relieved? [Question objected to by Mr. Beasley, on the ground that the impressions of the witness are not admissible.]

*Answer*. My impression was that if the debts were paid by Sheridan, that then he (Combs) would be clear.

*Question* (by Mr. Lanning). From his conversation with you, did  
40 or did not that appear to be his impression? [The question objected to by Mr. Beasley.]

*Answer*. That I could not tell, but he said, that after working for

me for a year, perhaps he might make some arrangement to take an interest with me.

And being cross-examined on the part of the complainants by Mr. Beasley, the witness says—In my conversation with Mr. Combs, he told me that Mr. Sheridan had cheated him; he did not explain to me how he had cheated him; he explained how Sheridan would have to pay the debts, by saying that he had guarantied for him, and that way I got the impression that Sheridan had guarantied for him at that house in Philadelphia, and in that way he would make him pay the debts. I supposed in these lawsuits, from that impres- 10  
sion, that in that way Sheridan would have to pay the debts.

E. W. STANTON.

*James Vanhart*, of the city of Trenton, in the county of Mercer, and state of New Jersey, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn according to law, deposes and saith—My business is a tobacconist; I have been in that business between six and seven years.

[Mr. Lanning proposed to prove by this witness that Mr. Sheridan assisted him in business, and the manner in which he assisted him. Objected to by Mr. Beasley, counsel of the complainants, as 20  
irrelevant.]

I had no means of my own when I first commenced business; when I first commenced, Mr. Sheridan assisted me to the amount of about two hundred dollars, or upwards, in stock; I was to return him the pay in manufactured goods, at fixed prices, or the money, as I saw fit. He continued to furnish me stock in that way about two years; he then recommended me, for credit, to certain houses in the city; he never guarantied for me; the highest amount of stock that he ever furnished, I think was at one time over six hundred dollars, at cost prices; I always got credit where Mr. 30  
Sheridan recommended me. In the stock that I furnished Mr. Sheridan he allowed me more than the usual price—in the first off he allowed me a shilling a thousand more than the fixed price for segars. There was no agreement to pay Mr. Sheridan any thing for his assistance; I did not pay him any thing for the assistance he gave me in recommending and such like—I never gave him any thing of the kind. I don't recollect that I conferred with Mr. Sheridan, or called upon him for counsel or advice, in managing the business; I don't recollect that I ever advised with him as to the mode of making purchases and sales.

JAMES VANHART.

*Lebbeus W. Lathrop*, of the city of Philadelphia, in the state of Pennsylvania, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn according to law, deposeseth and saith—I am acquainted with Abraham Sheridan and John P. Combs ; I lived in Trenton part of the time while John P. Combs was engaged in the clothing business, in Greene-street, Trenton, under the Odd Fellows Hall ; I saw him frequently—I saw him frequently in Mr. Sheridan's office, in Hanover-street, and sometimes in his own store, in Greene-street ; I lived in Trenton when  
 10 Combs commenced business there ; I heard several conversations between Sheridan and Combs about the time he went into business—both before and afterwards. [Mr. Beasley objects to the evidence of conversations between the witness and Mr. Combs, and between Sheridan and Combs before the witness, on the ground that Mr. Combs' attention was not called to them.]

Once or twice, before Combs went into business, I heard their conversations ; I understood, from the conversations, that Mr. Combs was going into business, and that Mr. Sheridan was going to assist him in the business ; I did not understand the exact way  
 20 he was to assist him until after he had commenced business ; soon after he had commenced, Mr. Combs, during the first conversations, talked of purchasing goods out of Mr. Sheridan's store. Just about the time when he went into business, perhaps a few days or a week or two after, Combs was talking to Mr. Sheridan, in his (Sheridan's) segar store, talking about having purchased goods from Mr. Sheridan's store, and about making up into clothes ; Mr. Combs seemed rather diffident about saying much about the business at the time, apparently from the fact of my being present. Mr. Sheridan remarked to him, that he might say any thing before me about  
 30 the matter, because I understood the manner of his doing business with others, and that in this business he was assisting him (Combs) to get into business, and do business for himself, in the same manner that he had assisted James Keeler. Mr. Combs said, " Yes, that was so. Well, I don't recollect now precisely what was said—something more was said. The amount of goods which Mr. Sheridan had sold Mr. Combs was stated, but I do not recollect the amount further than that it was several hundred dollars.

*Question* (by Mr. Lanning). Was there any thing said about Sheridan's guarantying for him (Combs), if required—and if so,  
 40 what was said ?

*Answer*. Mr. Combs spoke of buying and needing goods from Philadelphia, and spoke of purchasing them. Mr. Sheridan told

him that he wished him to go as far as he could without assistance from him, but that he would assist him by guarantying his purchases when it was necessary for his business; this was in the same conversation alluded to above; that he was anxious that Mr. Combs should succeed; that he would rather lose two hundred dollars than not to have him do so.

*Question* (by Mr. Lanning). What compensation, if any, was Mr. Combs to give Mr. Sheridan for his assistance?

*Answer*. If Mr. Combs succeeded in business (this is what Combs said, it was talked between them and assented to by both parties, 10 as they were telling me how the business was done), he was to pay him (Sheridan) the same ratio that Mr. James Keeler had paid him; if he did not succeed, all that he (Sheridan) wanted was the money and value of the goods that he had let him have, with its legal interest; there was nothing more he was to have. In the conversation, it was named that about two hundred dollars would be about the same compensation, in proportion, that Keeler was giving him. Mr. Combs said that he understood it was reported in town that Sheridan owned the store, but that that was not so—I mean the stock of goods in Combs' clothing store—that the goods were 20 his (Combs'). This conversation occurred in consequence of that remark, and they undertook to explain to me how it was.

*Question* (by Mr. Lanning). In the arrangement between them, was any thing said about the security that was to be given by Mr. Combs to Mr. Sheridan—and if so, what was said?

*Answer*. I do not recollect the precise words, but a judgment was spoken of.

*Question* (by Mr. Lanning). Was it a judgment or a judgment bond that was spoken of?

*Answer*. It was a judgment bond, which Mr. Sheridan was to 30 hold as security for his advances and guarantee or guarantees, which was not to be entered up, unless necessary in order to secure Mr. Sheridan from loss. Well, there was a great deal more said in that conversation that I can't now recollect without my attention being called to it.

These propositions were talked over and agreed upon between the parties; these were talked over, and I was given to understand that that was the arrangement between them; this was the same conversation above spoken of. I had a conversation with them, both together, in the spring of eighteen hundred and fifty-three, in 40 March. I being entirely out of business, Mr. Sheridan told me that Mr. Combs wished to have a partner in his business, and that, if

- my friends could assist me to some money, it would be a chance for me to take an interest in the business with Combs. Mr. Combs showed me his stock in the store. I told them that I thought it would be impossible for me to raise the funds. Mr. Sheridan said that Hutchins was robbing Combs, and he thought it was time that he (Combs) had some one else to assist him. Combs said that was the reason he wanted to get some one in his (Hutchins') place. They then spoke of getting some one by advertising. Mr. Combs told Mr. Sheridan that he wished he would get me to advertise in
- 10 Philadelphia for a suitable person, as I was going down there. Mr. Combs said that he was willing that Mr. Sheridan should have goods to the amount of his claim out of the store, or that he would get a partner to secure the claim to him, which he thought he could do, and would prefer it. Mr. Sheridan replied that he was willing to take a joint obligation of Combs and any good man he might get united in business with him for his claim. There was a person named by Mr. Combs; he said he thought he knew of a man he could get, for the purpose of settling his (Sheridan's) claim, and taking an interest to carry on the concern. In that conversation,
- 20 Combs said he was willing to sell out to a suitable person; that this advertisement that I was to have made was for a partner, or for some one to buy out the whole of it. Mr. Combs wished Mr. Sheridan to get me to advertise for some person as a purchaser or partner, the same as I have said before; he left that business for Mr. Sheridan to attend to—left it for him. I think the name mentioned by Mr. Combs was Johnston, or something very much like that, I think; spoke of referring this man to Mr. Sheridan, whoever it was; he offered to sell out to Mr. Sheridan in this conversation, or that he might come and take out goods to satisfy his
- 30 claim; I heard Mr. Combs several times when he was in business, when I was in Mr. Sheridan's store, come in and ask his advice about making his purchases, payments, and such like.

*Question* (by Mr. Lanning). In the last conversation that you have spoken of between Mr. Sheridan and Mr. Combs, was any thing said about Mr. Sheridan finding a purchaser for Mr. Combs' stock of goods, and if so, what was said?

- Answer.* The whole business of procuring a purchaser was left to Mr. Sheridan, to do as he thought best; Mr. Combs told Mr. Sheridan that he could either buy the whole or a part of the stock
- 40 himself, or find a purchaser for the whole or part of it; that if the whole business was disposed of, that he (Combs) would like employment in the store; Mr. Sheridan he (Combs) wished should do

the best he could, and act as he would for himself. It was understood that by this sale Mr. Sheridan's claim was to be secured—that it was to be secured by the purchaser.

And being cross-examined on the part of the complainants by Mr. Beasley, the witness saith—In the spring of eighteen hundred and fifty-three, there were judgments outstanding against me in this state to the amount of about six or seven thousand dollars. I had prior to that time made application for the benefit of the insolvent laws in Mercer county. My case upon that application was tried before a jury; that jury found a verdict against me; I was in jail 10 some three or four months; I came out about the last of February or first of March, eighteen hundred and fifty-three. Mr. Sheridan was acquainted with these facts, generally. I don't know that he knew the exact amount of judgments against me. When I went over to jail, to give myself up, Mr. Sheridan went with me. He was present part of the time at my trial; he was over to see me several times while I was over in jail. I don't know that any thing has been paid on account of those judgments since the spring of eighteen hundred and fifty-three—don't know whether there has or has not; there were some proceeds of sales that were in dispute—don't 20 know what has been done with them.

L. W. LATHROP.

*James Keeler*, of the city of Trenton, in the county of Mercer and state of New Jersey, a witness produced on the part of the defendant, Abraham Sheridan, being duly sworn according to law, deposeseth and saith—My business is the grocery, liquor, and provision business in Trenton; I have been engaged in that business, in Trenton and South Trenton, six years next spring; Mr. Sheridan assisted me when I first commenced business. [Mr. Beasley, on the part of the complainants, objects to proving the connection between 30 the witness and Mr. Sheridan, on the ground of irrelevancy.]

He assisted by first loaning me about four hundred dollars; about a month afterwards he loaned me one hundred more, which last hundred dollars I returned to him in two or three weeks after—I applied to him to assist me; he had a few days to think of it before he consented. There was no proposition for a partnership between us at that time; there was no bargain between us at that time for compensation; I calculated at the time to return the money in a few months—that I would be able to do so. He guarantied one or two bills for me in Philadelphia—small bills, about two hun- 40 dred dollars each—about five hundred dollars in all. I bought most

of my goods in New York on my own credit—this was the case with the heaviest part of my stock. I was in business some eight or nine months before any thing was said about compensation to Sheridan. Mr. Sheridan recommended me to credit in Philadelphia. I several times got money from Sheridan for short periods—got notes for small amounts discounted; he got them discounted in bank for me, I being a stranger here; the proceeds of these notes were handed over to me; I don't recollect the number of times he did this, perhaps twenty, perhaps more—it might have been fifty; 10 it was continued through three years; he was the only person in town with whom I did business in that way. There was something said about Sheridan going in as partner with me about the time that I spoke of, about eight or nine months after I commenced business; he wished an interest in the business, and to put his nephew, who was a clerk with me, in, in his (Sheridan's) place, and also mentioned about putting in some more money—an increase of capital. I objected to it on account of there not being business enough to support two, in my opinion. Instead of doing so, I agreed to give him so much yearly, to be paid quarterly, for the 20 use of the money I had until it suited me to pay him; that was agreed upon, and the amount was one hundred dollars a year that I was to pay; that was for the amount of money loaned and for the assistance rendered from time to time; the amount of money loaned was about four hundred dollars, and in about a year and a half I returned two hundred of it. Mr. Sheridan first proposed my paying this compensation; he proposed either having an interest or my paying, as the money was worth so much to him. I think I mentioned the amount of one hundred dollars a year myself; he accepted the offer.

30 *Question* (by Mr. Lanning). When you proposed paying Mr. Sheridan one hundred dollars a year for the money he had loaned and the assistance he was rendering you, did you consider that a fair compensation?

*Answer.* I did at the time; I think there was something said afterwards about it being too much to pay for the amount of business I was doing. Mr. Sheridan then said, that if I could not afford to pay it, and did not think it worth that, that I must raise the money, as he wanted the money, as he was pretty largely engaged in the segar business at that time.

40 *Question* (by Mr. Lanning). Was not the assistance given you by Mr. Sheridan the means of your getting into business here?

*Answer.* Yes, sir.

While I was conducting my business, I was in the habit of consulting and advising with Mr. Sheridan about the manner of carrying it on; he was the only friend I had to advise with here; I called on him almost every day, in the way of business; I would sometimes have business for him to do for me in New York, and sometimes I would do business for him there. I think I did not call upon Mr. Sheridan to consult with him about carrying on my business—I considered I knew more about the business I was carrying on than he did; I would often call upon him to make arrangements when a little short, to assist me in making arrangements to 10 make my payments; I think a few times he charged me a small amount for extra accommodations, when he would have to put himself to inconvenience—at least he would say so. I don't think that I conferred with him as to the order of the payments and application of the funds on the payment of my bills. I conferred with him from time to time about the financial affairs of my business—did that often. I am still in the same business of grocery, liquor, and provision dealer. My business was prosperous while Mr. Sheridan was acting as my friend. For the situation that I had, I don't know but what it was. 20

And being cross-examined on the part of the complainants by Mr. Beasley, the witness saith—The one hundred dollars agreed upon to be paid by me to Mr. Sheridan was not to depend upon my business—nothing said about it. I had probably been in business about six months before Mr. Sheridan's nephew was with me; he had been before that with my brother Nathan. The arrangement was that I was to pay one hundred dollars a year from the time I got the money until I paid it—it was to be paid quarterly. When Mr. Sheridan got the notes discounted for me, I always paid the discount; on extra loans I paid him so much for each of them, 30 whatever I considered them worth to me—small amounts. Mr. Sheridan did not guaranty any purchases for me after this arrangement was made. I gave Mr. Sheridan, about the time this arrangement was made, a judgment bond to secure him; he had no security before that; he had my own notes only, with no endorsements. About two thousand dollars would be the average amount of my stock when down in South Trenton, where I commenced. After I came up in Trenton the stock has not been worth less than five thousand, and as high as eight thousand. I suppose Mr. Sheridan was perfectly secure under his judgment bond; he seemed to 40 be satisfied; he appeared to feel perfectly secure. I don't think I ever endorsed Mr. Sheridan's paper. This arrangement between

Mr. Sheridan and me was a private arrangement between us—it was between ourselves—I never communicated it to any one at the time—not for four years after it was made, when we made our settlement; I did not wish it to be known, and he did not; I then mentioned it to my father and brother; I told them how I commenced business—I never told it to any body else. There was nothing said at the time of the arrangement about Mr. Sheridan's guarantying bills for me; I agreed to pay the one hundred dollars a year for such guaranties as he had already made and for the four  
 10 hundred dollars loaned; at the time of this arrangement, I had taken up all these guaranties. When I went into business, I told Mr. Sheridan that I could get credit in New York. I gave him an idea of the scale on which I expected to carry on the business. When I got the money, nothing was said about the terms upon which I was to have it; there was no understanding about it until afterwards; I don't think there was any understanding about the terms at the time I got the money.

*Question* (by Mr. Beasley). Was it your understanding, when you got the loan, that you were to have it for six per cent.?

20 *Answer.* There was nothing said about it, that I can recollect; it was my intention, when I first commenced business there, to return that money to him in less than six months. When I came to talk to Mr. Sheridan about that money, I don't think that I told him that I ought to have it for six per cent.; at the time we made the arrangement, Mr. Sheridan did not pretend that the original loan he had made to me was for six per cent. At the time of this arrangement, there was nothing said about the rate of interest, but there was just this bonus offered by me. The bonus of one hundred dollars yearly was understood between us before the judgment  
 30 bond was given; it might have been two months before, or it might have been one. I think when I offered him the bonus of one hundred dollars it was the first time that we had ever attempted to fix any compensation for the loan; I don't think there was any understanding before that, as to what I was to pay Mr. Sheridan; it was never my understanding that I was to have the money at six per cent. interest.

When I spoke of consulting with Mr. Sheridan about the financial affairs of my business, I meant when I went to ask him about raising money for me; I never asked him for his advice in other  
 40 ways; I might have asked him once or twice, in the way of talk, about buying some articles.

And being re-examined on the part of the defendant, the witness

says—I have said that the average stock was about two thousand dollars while Mr. Sheridan was assisting me. I have changed my place of business from South Trenton up in to Trenton; my brother-in-law and I bought out my brother. I moved my stock up, and we increased our capital. I had settled altogether this loan some time before I came up into Trenton.

JAMES KEELER.

*William A. Benjamin*, a witness produced on the part of the defendant, Abraham Sheridan, and of the city of Trenton aforesaid, being duly sworn according to law, on his oath saith—John P. 10  
Combs rented of me the store formerly occupied by him as a clothing store in Greene-street, under the Odd Fellows Hall; John P. Combs paid me the rent.

And being cross-examined on the part of the complainants, saith—I think Mr. Combs, on all occasions while he was there, paid me the rent; to the best of my recollection he always paid me. I had the assurance, from Mr. Sheridan, that if it was not paid he would pay me; I had that assurance before I let Mr. Combs go in. I think Mr. Combs spoke to me first about the store; I don't know that Mr. Sheridan spoke to me about it before Combs went in—not un- 20  
til after Combs had possession, when they were fixing the store. I think Combs had got in, and they were fixing, and Combs was getting ready to open the store, when Sheridan spoke to me about it.

*Question.* Is it not possible that Mr. Sheridan may have spoken to you first about the store?

*Answer.* I think it was Mr. Combs that spoke to me first about renting the store; Mr. Sheridan, I believe, was frequently in Mr. Combs' store.

*Question.* Are you willing to say positively that Mr. Sheridan never paid you the rent? 30

*Answer.* My belief is that Mr. Combs always paid me the rent; my receipts will show.

*Question.* Please to state whether you are willing to say positively that Mr. Sheridan never paid you the rent?

*Answer.* I believe Combs always paid me the rent—the receipts will show; I would have to keep a record and another clerk to keep account of who gives me money—to answer such questions positively I would have to keep a record and another clerk.

WM. A. BENJAMIN.

Mr. Lanning, on the part of the defendant, offered in evidence a 40

certified copy of the record of the judgment in the Supreme Court of New Jersey, Abraham Sheridan *v.* John P. Combs, execution and levy, with inventory, appraisement, claim of exemption by John P. Combs, inventory and proceedings thereunder, sheriff's statement of sales and return, which are marked *Exhibit B* on the part of the defendant.

Also notice from Mercer Beasley, attorney of John P. Combs, to Abraham Sheridan, of the appointment and time of meeting of appraisers to exempt goods and chattels of John P. Combs under  
 10 the above named judgment and execution, marked *Exhibit C* on the part of the defendant.

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D E C R E E.

This cause coming on to be heard, at the last term of this court, in the presence of Mercer Beasley, of counsel with the complainants, and of Isaac W. Lanning, of counsel with the defendants, and the bill, answer, and proofs being read, and the arguments of the respective counsel being heard, and the court having taken the case in consideration until this term, and it now appearing to the satisfaction of the court that the said Abraham Sheridan was a partner  
 20 with the said John P. Combs in the business in the bill of complaint mentioned, and that the judgment, also mentioned in said bill, was given by the said John P. Combs to the said Abraham Sheridan to secure him for certain advances made by him as a part of the capital of the said copartnership, and that the same is on this account fraudulent and void as against the said complainants and ought to be postponed to the judgment of the said complainants, and that the moneys raised by the said sheriff of the county of Mercer, under the sale by virtue of the said judgment of the said Sheridan, should be applied, in the first place, to the payment of the costs of  
 30 this suit of the said complainants, and in the next place to the satisfaction of the said judgment of the said complainants, with the costs and interest thereon—It is therefore, on this fifteenth day of May, Anno Domini eighteen hundred and fifty-five, by his Honor, Benjamin Williamson, Chancellor of the state of New Jersey, ordered, adjudged, and decreed, and the said Chancellor, by virtue of the power and authority of this court, doth order, adjudge, and decree that the said judgment of the said Abraham Sheridan against the said John P. Combs, in the pleadings and proofs mentioned, is and was of no force and effect as against the judgment of the said com-

plainants against the said John P. Combs, also in the pleadings and proofs mentioned, recovered in the Mercer county Circuit Court on the twenty fourth day of September, in the year of our Lord 1853, in the amount of three hundred and fifty-two dollars and sixty-six cents of debt, and four dollars costs of suit, and that out of the proceeds of the sale of the property sold as the property of the said John P. Combs, if any such proceeds remain in the hands of the sheriff of the county of Mercer, that the complainants' costs of this suit be paid, and next out of said funds, that the said judgment of the said complainants, with the costs and interest thereon, be paid before any payment out of said funds be made on the said judgment of the said Abraham Sheridan; but in case the said sheriff has no moneys in his hands sufficient for the purposes aforesaid, then that the said Abraham Sheridan pay to the said complainants their said costs of this suit, together with the amount of their said judgment, principal costs, and interest, provided said Sheridan has received a sum of money sufficient for that purpose from the said sheriff on account of sales of the said property of the said John P. Combs by virtue of the said judgment of the said Sheridan. 10

B. WILLIAMSON, C. 20

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PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

BETWEEN

ABRAHAM SHERIDAN ET AL., appellants,

and

JOSEPH T. MEDARA ET AL., appellees,

} On bill.

} Petition of appeal.

*To the Honorable the Court of Appeals in the last resort in all causes at law.*

The humble petition of Abraham Sheridan, the appellant in the above stated case, respectfully showeth, that your petitioner finds 30 himself aggrieved by a final decree made in the Court of Chancery, by his Honor Benjamin Williamson, Chancellor of New Jersey, bearing date the fifteenth day of May, in the year of our Lord one

thousand eight hundred and fifty-five, wherein the said Joseph T. Medara, Paschal H. Medara, and Enos M. Jones were complainants, and the said Abraham Sheridan and others were defendants, in this respect, to wit, that the said decree adjudges that the judgment of the said Abraham Sheridan against the said John P. Combs, in the pleadings and proofs mentioned, is and was of no force and effect as against the judgment of the said complainants against the said John P. Combs, also in the pleadings and proofs mentioned, recovered in the Mercer county Circuit Court, on the twenty-fourth  
 10 day of September, in the year of our Lord one thousand eight hundred and fifty-three, in the amount of three hundred and fifty-two dollars and sixty-six cents of debt, and four dollars costs of suit.

And also in this respect, to wit, that the said decree adjudges that out of the proceeds of the sale of the property sold as the property of the said John P. Combs, if any such proceeds remain in the hands of the sheriff of Mercer, that the complainants' costs of this suit be paid, and next out of said proceeds that the said judgment of the said complainants, with the costs and interest thereon,  
 20 be paid before any payment out of said funds be made on the said judgment of the said Abraham Sheridan; but in case the said sheriff has no money in his hands sufficient for the purposes aforesaid, then that the said Abraham Sheridan pay to the said complainants their said costs of this suit, together with the amount of their said judgment, principal, costs, and interest, provided said Sheridan has received a sum of money sufficient for that purpose from the said sheriff on account of sales of the said property of the said John P. Combs by virtue of the said judgment of the said Sheridan. And your petitioner humbly appeals from those parts of said decree, on the ground that they are erroneous, and prays that the said decree  
 30 may be reversed, set aside, and for nothing holden, and that your petitioner may have such relief in the premises as to this honorable court shall seem meet.

Dated June 14th, 1855.

W. HALSTED,

*Solicitor and of counsel with appellants.*

## OPINION OF CHANCELLOR.

The only question is, whether Sheridan was a partner of John P. Combs? If he was, then the judgment confessed by Combs to Sheridan was fraudulent, as against the complainants, who are subsequent judgment creditors. It makes no difference, as to the rights of the complainants in respect to the judgment of Sheridan, that the complainants' judgment is against Combs alone; and they are not concluded by this fact from showing that Sheridan was a partner. It is true they contracted their debt with Combs, and obtained judgment against him alone. The complainants allege that, when they obtained their judgment, they were not aware of the fact of Sheridan's connection in business with Combs. Sheridan now denies that he was a partner. He procured Combs to confess a judgment to him for advances he alleges he had advanced in the business. If he was a partner, he has no right to appropriate the partnership property to satisfy his judgment to the exclusion of other creditors: it is a fraud upon them to permit him to do so. 10

The partnership is proved by Combs and by H. B. Hutchins. If they are competent witnesses, and their testimony entitled to credit, then Sheridan was a partner, and his judgment must be postponed 20 to that of the complainants.

Their competency is objected to: I think they are both competent witnesses. The objection to Combs is on account of his being a partner. The objection was not well taken in point of time. It was not made until after the direct examination. A party cannot speculate by waiting to discover whether the testimony of a witness is favorable or unfavorable, and then interpose his objection at pleasure. He is bound to make his objection as soon as he is made acquainted with the position of the witness. In this case the defendant knew the position of the witness, as to interest, when he 30 was first put upon the stand. The bill was filed on the ground that Combs and Sheridan were partners. This was the foundation of the suit, and yet the defendant reserved his objection until the complainants had closed with the witness. It was then too late to make the objection. But Combs has no interest. Sheridan has a judgment against Combs, and so has the complainants. They are both confessed judgments. Combs cannot question either of them. Both parties are his judgment creditors, and the only question involved in this controversy is as to the *priority* of the judgments. It can make no difference to Combs, whatever may be the result. 40

One of the judgments will be reduced by the application of his property, and it cannot effect his liability or interest in any way as to which of the two judgments such application is made. Hutchins testifies that he was a partner also, and he is objected to on that account. The objection to this witness was also made too late. I cannot, however, see how he is interested in the result in this case. It can make no difference to him which judgment takes the property.

Are these witnesses credible? Their general character is not impeached. It is said that the facts they state are contradicted by  
 10 other credible witnesses. It is true Combs is contradicted in some particulars. It is proved that he represented himself as alone interested in the business, and denied that Sheridan was a partner; but these representations are consistent with his whole story. He says that it was the agreement that Sheridan was not to be known as a partner, and that the representations made by him were made at the particular request of Sheridan. He is corroborated by Hutchins and by many circumstances in the case. I do not feel justified in throwing out the testimony of these witnesses. Hutchins is not contradicted on any material matter. Both witnesses state  
 20 facts, establishing beyond a doubt that Sheridan was a partner. From the very character of the dealings of the parties, they alone were cognizant of those facts. It is not one single fact to which they testify, but to particulars of various kinds going to establish the point in controversy. These men are well known in the community; they are men of business; they have had large dealings in the community. It can hardly be credited that they could manufacture the story they have told, unless they are men utterly destitute of moral principle, and yet their general character for truth and veracity has not been impeached. I have no right to discredit  
 30 them; and, as I said before, relying upon their evidence, the complainants have proved their case beyond a doubt.

I am of opinion that the complainants have established the case made by their bill, and that their judgment is entitled to priority, the complainants' costs of this suit to be first paid out of the fund.

Point for Appellant

The partnership between  
Combs & Sheridan, not suf-  
ficiently proved, the weight  
of evidence being against  
the partnership

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to the Su-  
Court.

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Esquire, Chief

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