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Court of Errors and Appeals.

IN CHANCERY OF NEW JERSEY.

Between

JAMES N. HOGAN, appel-
lant,

and

HENRY H. JAQUES, et al.,
respondents.

} On Bill, &c.

Edward L. Dobbins, solicitor, and

Thomas N. McCarter, of counsel with appellant.

Theodore Runyon, solicitor and of counsel with respondent.

Bill of Complaint.

[Filed July 18, 1865.]

To His Honor *Henry W. Green*, Esquire, Chancellor of the
State of New Jersey.

Humbly complaining, showeth unto your Honor, your orator, James N. Hogan, of the township of East Orange, in the county of Essex, and state of New Jersey—that for several years previous to the twenty-second day of July, in the year of our Lord one thousand eight hundred and sixty-three,

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Amzi Dodd, esquire, of the city of Newark, in the county of Essex aforesaid, held, as the trustee of your orator, a certain tract of land and premises, situate, lying, and being in the township of East Orange, in the county of Essex aforesaid, beginning on the southwest corner of a piece of land laid open and called Mechanic street and the main road leading through Orange to Newark; thence along said Mechanic street, north twenty and one-half degrees east, six chains and eighteen links, to lands of James N. Hogan and John Baldwin;

10 thence along their line north fifty-five and three-quarter degrees west, three chains and sixty links, to lands of John Sampson; thence with his line south eight degrees west, ninety-four links; thence north sixty-three and one-half degrees west, forty-four links, to lands of Henry Pierson; thence with his line south twenty-one and one-quarter degrees west, three chains and fifty-three links; thence south sixty-eight and three-quarters degrees east, one chain and fifty-two links, to land of Elizabeth Ryerson; thence along her line south

20 twenty and one-quarter degrees west, two chains and fifty-six links, to the main road aforesaid; thence along the same, south sixty-seven degrees east, two chains and twenty-two links, to place of beginning, excepting out of the above tract a lot of land conveyed by Amzi Dodd and wife and James N. Hogan and wife to one Samuel W. Baldwin, by deed dated the second day of December, in the year of our Lord one thousand eight hundred and fifty-nine, described as follows: beginning at a point in the westerly side of Mechanic street, directly opposite the center of an elm tree standing on land of Andrew B. Anderson; thence (1) in a straight

30 line, at right angles with said westerly line of Mechanic street, north sixty-seven degrees and fifty-five minutes west, two hundred and forty-eight feet and six inches; thence (2) north twenty-two degrees and five minutes east, one hundred and fifty feet; thence (3) south sixty-eight degrees and thirty minutes east, two hundred and forty-eight feet and six inches, to the said westerly line of Mechanic street; thence (4) along said westerly line south twenty-two degrees and five minutes west, one hundred and fifty-two feet and six inches to the place of beginning.

40 And your orator further shows, that the said tract of land

and premises so held by the said Amzi Dodd in trust for your orator as aforesaid, was encumbered by three mortgages, two of said mortgages being held by Ann Akers and Charles Akers, executors of the last will and testament of Charles R. Akers, deceased, and the other of said mortgages by one Samuel W. Baldwin; and that in the latter part of the year eighteen hundred and sixty-two, the said Ann Akers and Charles Akers, executors as aforesaid, filed their bill in this honorable court, for a foreclosure of their said mortgages, and made your orator and Harriet his wife, Amzi Dodd and Jane his wife, and Samuel W. Baldwin, defendants to their said bill of complaint. 10

And your orator further shows, that such proceedings were afterwards had in said suit for foreclosure, that some time in the month of March, in the year of our Lord one thousand eight hundred and sixty-three, a final decree in said cause was made in this court, and execution thereon issued, commanding the sheriff of the said county of Essex to make sale of said lands and premises above mentioned and in said execution particularly described, to raise and pay and satisfy 20 to the said executors of the last will and testament of Charles R. Akers, deceased, the sum of eighteen hundred and seventy-seven dollars and sixteen cents, reported to be due to them upon said mortgages so held by them as aforesaid, with interest thereon from the twenty-eighth day of February, in the year last aforesaid, and also eighty-three dollars and nine cents of costs of suit; and also to the defendant, the said Samuel W. Baldwin, the sum of nine hundred and forty-nine dollars and twenty cents, due to him upon the mortgage so held by him as aforesaid, together with interest thereon from 30 the said twenty-eighth day of February, in the year last aforesaid, and also twenty-three dollars and fifty-six cents of costs of the said Samuel W. Baldwin of said suit, besides sheriff's execution fees, as in and by the said proceedings, decree, and execution, now remaining of record in this honorable court, and to which your orator prays leave to refer, may more fully appear.

And your orator further shows, that the sheriff of the said county of Essex, having advertised said lands and premises for sale under said execution, did, on or about the sixteenth 40

day of June, in the year of our Lord one thousand eight hundred and sixty-three, sell the same, And your orator being surprised by said sale on the day last aforesaid, thereupon applied by petition to this court to have said sale set aside; which said sale was afterwards, by a decree of the chancellor, bearing date on or about the eighteenth day of July, in the year last aforesaid, set aside and for nothing holden, on the ground and for the reason that the same was a surprise upon your orator.

10 And your orator further shows, that in order to save costs and prevent a re-sale of the said premises by the said sheriff, your orator was desirous to raise the money and pay off the amount due upon said execution; but your orator being disappointed in procuring the money at once, as he expected, applied to one Henry H. Jaques, a hat manufacturer, of the said city of Newark, in whose employ your orator then was, for advice and assistance.

And your orator shows, that the said Jaques expressed great friendship and sympathy for your orator, and offered to assist
20 your orator, and to take himself an assignment of the said mortgages so held by the said executors of the said Charles R. Akers, deceased, and the said Samuel W. Baldwin, together with an assignment of the decree aforesaid, and to hold the same until your orator should be able to pay the same off, your orator paying interest on the amount of said decree in favor of said executors of the last will and testament of the said Charles R. Akers, deceased, and in favor of the said Samuel W. Baldwin, which offer was carried out; and the said Jaques, about the twentieth day of July, in the
30 year last aforesaid, paid to the said Ann Akers and Charles Akers, executors of the last will and testament of Charles R. Akers, deceased, and to the said Samuel W. Baldwin, the amount due to them respectively on said decree and execution, and took from them respectively an assignment of the said respective mortgages and decree.

And your orator further shows, that one Harriet Pierson, on the day and year last aforesaid, held a judgment against your orator for the sum of four hundred and thirty-five dollars and four cents, damages and costs recovered by her on
40 or about the third day of December, in the year of our Lord

one thousand eight hundred and fifty-seven, in the Circuit Court of the said county of Essex, which judgment the said Harriet Pierson claimed was a lien and encumbrance upon the said tract of land, and also upon the said excepted tract hereinafter more particularly mentioned, but which said judgment your orator was advised and believed was not a lien or encumbrance upon said lands; but the said Jaques urged that it might be so held, and advised your orator that it was best to have it out of the way, and offered to take the same up, and have the same assigned to him, the said Jaques, and 10 to hold the same until your orator should be able to pay the same off, your orator paying interest upon the said judgment until the said Jaques should be paid the amount due upon the same. And the said Jaques did, on or about the day and year last aforesaid, in pursuance of his said offer, take up said judgment, and, as your orator understood from the said Jaques, took an assignment of the same from the said Harriet Pierson.

And your orator further shows, that the aggregate amount of the moneys so paid by the said Jaques to the executors of 20 the last will and testament of Charles R. Akers, deceased, and to the said Samnel W. Baldwin, and to the said Harriet Pierson, as aforesaid, was about thirty-five or thirty-six hundred dollars, as near as your orator can specify.

And your orator further shows, that the value of the said tract of land and premises, exclusive of said excepted lot, was, at the time the said assignments to the said Jaques were made, and the money paid by him as aforesaid, at least seven thousand dollars, and that the said Jaques at that time estimated the same to be worth that sum. 30

And your orator further shows, that at or about the time that said Jaques paid said moneys and took said assignments, he, the said Jaques, advised your orator to convey the said lands and premises to one Caroline E. Jaques, a daughter of the said Henry H. Jaques, to be held by her as trustee of your orator in the place and stead of the said Amzi Dodd; he, the said Jaques, urging that it would be much more for the safety of your orator to have the said lands held by the said Caroline E. Jaques, as trustee of your orator, than by the said Amzi Dodd. And your orator, supposing the said 40

Jaques to be sincere in his protestations of friendship for your orator, and that he would not advise your orator to make the proposed change of trustees without good reasons therefor, finally assented, and on or about the twenty-second day of July, in the year of our Lord one thousand eight hundred and sixty-three, your orator and Harriet his wife, and the said Amzi Dodd and Jane his wife, executed and delivered to the said Caroline E. Jaques a deed of bargain and sale of the said lands, bearing date the day and year aforesaid; that
10 the consideration expressed in said deed was one hundred dollars, but your orator shows and charges that no consideration whatsoever was paid by the said Caroline E. Jaques, or by the said Henry H. Jaques, or by any other person, for said conveyance, either to your orator or to the said Amzi Dodd, trustee of your orator as aforesaid, it being expressly and distinctly understood and agreed between your orator and the said Henry H. Jaques, who transacted the whole business with your orator, (your orator never having seen or had any communication with the said Caroline,) that the said
20 Caroline was to hold the said lands in trust for your orator, and to re-convey the same to him whenever the said Jaques was paid the amount due to him upon the said encumbrances so assigned to him as aforesaid.

And your orator further shows, that soon after said conveyance by the said Amzi Dodd and wife, and your orator and his wife, to the said Caroline E. Jaques, as aforesaid, the said Henry H. Jaques advised your orator that in order to remove all shadow from the title to said lands, and make the same secure to your orator, it would be best for the interest
30 of your orator to have the said lands, including the said excepted lot, sold to the said Caroline by the sheriff of the said county of Essex, under an execution issued upon the said judgment in favor of the said Harriet Pierson against your orator, and assigned to the said Jaques, as aforesaid; and your orator, having implicit confidence in the said Jaques, and thinking his advice disinterested, consented to allow the said tract of land to be sold, and the same, including the said excepted tract, was sold by the said sheriff on or about the eleventh day of September, in the year of our Lord one
40 thousand eight hundred and sixty-three, as the said Jaques informed your orator shortly after said sale, and was bid off by

the said Caroline E. Jaques for a nominal sum, and a conveyance of said lands was made by the said sheriff to the said Caroline E. Jaques, bearing date the same day and year last aforesaid, it being expressly and distinctly understood and agreed by and between your orator and the said Henry H. Jaques (with whom the whole business was transacted) that whatever interest, if any, of your orator in said tract of land and premises, was conveyed by the said sheriff's deed to the said Caroline, should be held by her solely for the benefit and use of your orator, and that said sale was made, 10 as the said Jaques expressed it, to make the said lands perfectly secure to your orator.

And your orator shows, that the said lot of land excepted from the whole tract, as above described, was formerly the property of your orator, and was by your orator and the said Amzi Dodd, trustee of your orator as aforesaid, conveyed to the said Samuel W. Baldwin, on or about the second day of December, in the year of our Lord one thousand eight hundred and fifty-nine, for the consideration of about sixteen hundred dollars, with the understanding and agreement that 20 the said Samuel W. Baldwin would, at any time, re-convey said lot to your orator upon the payment, by your orator, of the said sum of sixteen hundred dollars, your orator being indebted to the said Baldwin, and having conveyed said lot to secure said indebtedness.

And your orator further shows, that he, desiring to have the said lot re-conveyed to your orator by the said Samuel W. Baldwin, (as your orator knew that the whole original tract together would be much more saleable than the tract with the said Baldwin lot taken out of it,) applied to the said 30 Henry H. Jaques to effect such re-conveyance, and the said Jaques thereupon agreed with your orator to obtain a re-conveyance for your orator of the said lot of land from the said Samuel W. Baldwin, and to take the title to the same in his, the said Jaques, own name, and to hold the same for your orator until such time as your orator could pay to him, the said Jaques, the said purchase money, and take from him a conveyance. And that the said Jaques, in pursuance of said agreement, on or about the fifth day of September, in the year of our Lord one thousand eight hundred and sixty-three, 40

took a conveyance of the said lot from the said Samuel W. Baldwin for the sum of twelve hundred dollars, said conveyance bearing date the same day and year last aforesaid; and your orator shows, that although the said purchase money, namely, twelve hundred dollars, was paid by the said Jaques, and the conveyance aforesaid was made to the said Jaques, yet it was distinctly and expressly understood and agreed, by and between your orator and the said Jaques, that the said lot was purchased and held by the said Jaques for your orator, and that the said Jaques would, at any time, upon the payment by your orator of the said purchase money and the interest thereon, convey the said lot to your orator. That the said Samuel W. Baldwin, in the month of December, eighteen hundred and fifty-nine, allowed your orator for said lot the sum of sixteen hundred dollars, or thereabouts, and at the time of the said conveyance to the said Jaques he, the said Samuel W. Baldwin, estimated and held the value of said lot to be eighteen hundred dollars, but the said Baldwin was induced to convey the said lot to the said Jaques for the sum of twelve hundred dollars, upon the representation of the said Jaques that he, the said Jaques, had taken into his hands and held for the use and benefit of your orator the said adjoining tract, and that he, the said Jaques, desired a conveyance of said lot from him, the said Baldwin, solely for your orator. And your orator charges that the said lot of land was conveyed by the said Samuel W. Baldwin to the said Henry H. Jaques, in pursuance of the aforesaid agreement between your orator and the said Jaques, and solely for the benefit of your orator; and that the said Samuel W. Baldwin conveyed the said lot of land to the said Jaques for six hundred dollars less than he would have conveyed it to any other person, because he, the said Samuel W. Baldwin, was led to believe by the said Jaques that he, the said Jaques, was taking the title to said lot for the benefit of your orator; and that the said Jaques now holds said lot in trust for your orator.

And your orator further shows, that he has, within a few days past, been informed and believes it to be true, that the said Henry H. Jaques, on or about the first day of December, in the year of our Lord one thousand eight hundred and

sixty-three, assigned by a deed of assignment, bearing date the same day and year last aforesaid, to one Phebe Ann Goble, all his, the said Jaques, right, title, and interest, in and to the said two mortgages so assigned to him by the said executors of the said Charles R. Akers, deceased, as aforesaid; and your orator believes and charges that the said Phebe Ann Goble now holds the said two mortgages and decree, as assignee of the said Jaques, as aforesaid, and that all the encumbrances now held by the said Jaques upon said tract of land and premises are the mortgage of the said 10 Samuel W. Baldwin and the judgment of the said Harriet Pierson so assigned to him, the said Jaques, as aforesaid.

And your orator further shows, that he has been in the possession of the said tract of land so conveyed by your orator and the said Amzi Dodd to the said Caroline E. Jaques, trustee of your orator as aforesaid, and also in possession of the said lot so conveyed by the said Samuel W. Baldwin to the said Jaques, as aforesaid, from the time of said conveyances until the present time, and is still in possession of the same (except that he, the said Jaques, has cut the grass off 20 the Baldwin lot) and that he, your orator, has paid to the said Jaques, since said conveyances, at different times, the sum of four hundred and forty dollars (as near as your orator can now recollect) on account of the principal and interest upon the said encumbrances on the said premises, so assigned to the said Jaques, as aforesaid.

And your orator further shows, that the said Caroline E. Jaques was, at the time of said conveyance to her by your orator and the said Amzi Dodd, as aforesaid, a young unmarried lady, residing with her father, the said Henry H. 30 Jaques, having no property in her own right, and that she was at the time of said conveyances to her by the said sheriff, and your orator and Amzi Dodd, an infant under the age of twenty-one years, and that she has, within the last few months, intermarried with one John Mitchell, and that she and her husband still reside with the said Henry H. Jaques in the city of Newark.

And your orator further shows, that about the first of April last past, the said Jaques refused to take from your orator any further interest upon the said encumbrances so 40

held as aforesaid by him upon said lands. And your orator then learned, much to his surprise, that the said Henry H. Jaques claimed to own the whole property, and that your orator had no interest therein. And your orator, hoping and expecting that the said Jaques would soon see the injustice of such a claim and the dishonesty of his conduct, and would convey, and cause to be conveyed by the said Caroline, the said lands to your orator, without compelling a litigation, which your orator desired to avoid, did not at that time
10 apply for relief to this court; but your orator shows that the said Jaques now claims to own said Baldwin lot absolutely, and the said Caroline now claims to own the said tract so conveyed to her by your orator and the said Amzi Dodd, absolutely in her own right, and not in trust for your orator. And your orator shows, that a short time ago he, the said Henry H. Jaques, agreed to sell the whole tract of land, including the lot so conveyed to him, the said Jaques, by the said Baldwin, as aforesaid, as well as the said tract held by the said Caroline, trustee of your orator as aforesaid, without
20 the knowledge or consent of your orator, the said Jaques alone signing the agreement; but your orator by chance hearing of the said agreement, made such opposition to the proposed sale that the said purchaser refused to carry out said contract.

And your orator further shows, that he estimates the value of said tract of land, including the said Baldwin lot, at twelve thousand dollars, and that he, the said Jaques, estimates it worth fifteen thousand dollars, although he agreed to sell it as aforesaid for twelve thousand five hundred dollars. That
30 all your orator is worth in the world is his interest in said lands. That he is able to raise the money and pay to the said Jaques, and the said Caroline, every encumbrance and claim which the said Jaques or the said Caroline have upon the said premises, principal and interest, costs and expenses. And now tenders himself ready to do so, and take from the said Jaques and the said Caroline a conveyance of the said premises in pursuance of the aforesaid agreement,

And your orator further shows, that on or about the twelfth day of July, instant, he called with the solicitor of
40 your orator, upon the said Henry H. Jaques for the purpose

of ascertaining the amount due upon the said encumbrances, so as aforesaid held by the said Jaques upon the said lands, and requested the said Jaques to inform your orator of the amount of his, the said Jaques' claim, and offered to pay the said Jaques the full amount of principal and interest which was due to him upon said encumbrances, and also the full amount of principal and interest paid by him, the said Jaques, for the said Baldwin lot, and requested him to convey the same to your orator; but the said Jaques refused to comply with your orator's request, and refused to say anything on 10 the subject, and refused to take the money due upon the said encumbrances, and refused to take the money paid by him for the said Baldwin lot, at first saying he did not know whether he held any encumbrances on the property or not, and again saying that he, the said Jaques, owned the whole of said lands, and that your orator had no interest whatever in the same, and afterwards saying that his daughter, the said Caroline, owned the whole of said lands.

And your orator further shows, that he has frequently applied to the said Caroline E. Mitchell, and her said husband, 20 John Mitchell, and requested them to convey to your orator the said lands so conveyed to the said Caroline in trust by your orator and the said Amzi Dodd, and also to convey to your orator whatever title or interest she derived from the said sale and conveyance by the said sheriff, to the said Baldwin lot, and has also frequently applied to the said Henry H. Jaques, and requested him to act towards your orator in such a way as is equitable and just, and as is hereby prayed, and your orator well hoped that such, his reasonable requests, would have been complied with. But now so it is, may it 30 please your Honor, that the said defendants, combining and confederating together, and with divers other persons at present unknown to your orator, but whose names, when discovered, your orator prays he may be at liberty herein to insert and make parties defendants hereto, with proper and apt words to charge them, and contriving how to wrong and injure your orator in the premises, absolutely refuse to comply with such requests, and make divers false and fraudulent pretences, all of which are contrary to equity and good conscience. 40

In tender consideration whereof, and forasmuch as your orator has no remedy by the common law, nor except in this court—to the end that the said defendants, and their confederates, when discovered, may, upon their several oaths, true, full, and perfect answers make to all and every the matters aforesaid, and that as fully as if the same were here again repeated, and they thereto particularly interrogated, and that they may be adjudged and decreed to hold the said lands, not for their own use, but for the use and benefit of your
10 orator and his heirs, or that they may be decreed to hold the same only as security for the payment of the moneys so advanced and expended by the said Jaques as aforesaid, and that they may be decreed to convey the same in fee forthwith unto your orator, who hereby tenders himself ready and willing to pay all moneys due to the said defendants, or either of them, expended by them, in taking up the said encumbrances upon the said premises, or paid out on account of the same for the benefit of your orator, may have such other and further relief as to your Honor may seem agreeable to equity and good conscience.
20

May it please your Honor, the premises considered, to grant to your orator the state's writ of subpœna, issuing out of and under the seal of this honorable court, to be directed to the said Henry H. Jaques, John Mitchell, and Caroline E. Mitchell his wife, therein and thereby commanding them, and each of them, on a certain day and under a certain penalty therein to be expressed, personally to be and appear before your honor in this honorable court, then and there to answer the premises, and to stand to, abide, and perform
30 such decree as to your Honor shall seem meet and agreeable to equity and good conscience.

And your orator, as in duty bound, will ever pray, &c.

T. P. RANNEY,

Solicitor for, and of counsel with complainant.

Answer.

[Filed November 29, 1865.]

The joint and several answer of Henry H. Jaques and John D. Mitchell and Caroline E. his wife, defendants, to the bill of complaint of James N. Hogan, complainant.

These defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, insufficiencies, and imperfections in the said bill of complaint contained, for answer thereunto, or unto so much and such 10 part of the same as these defendants are advised it is material or necessary for them to make answer unto, answer and say—

That they are informed and believe, and therefore admit, (herein each answering for himself or herself,) that Amzi Dodd, esq., in said bill mentioned, at or about the time in said bill in that behalf alleged, held the title to the land and premises first in and by said bill alleged to have been held in trust by him for said complainant, in some way for complainant's advantage, but how, these defendants do not know, 20 nor are they informed, nor do they know under what trust, if any, said Amzi Dodd, esq., so held said premises. The extent of the information of these defendants on the subject being that said Amzi Dodd, esq., took said title at the instance of said complainant, and held the same accordingly, and at the like instance was willing to convey away the same.

And these defendants further answering admit, that said premises were, as in said bill alleged, encumbered by the three mortgages in said bill mentioned; and that at or about the time in said bill in that behalf set forth, the executors of 30 Charles R. Akers, deceased, filed their bill for foreclosure, as in said bill of complaint in this cause alleged, against the said complainant and his wife, said Amzi Dodd, esq., and his wife, and Samuel W. Baldwin; and that the final decree and execution, in said bill of complaint said to have been entered and issued, respectively, in that cause, were made

and issued, as in said bill of complaint in this cause is set forth; that the sheriff of the county of Essex did, under that execution, sell said premises, and that, on the application of said complainant, said sale was set aside, as in said bill is alleged.

And these defendants further answering say, that it may be true that said complainant was desirous of preventing a resale of said premises under said execution, (and of saving costs, if he had been able to pay off said execution,) and that
10 said complainant was desirous of raising the money to pay off the amount due upon said execution; and that he was unable to obtain the same for said complainant, represented to this defendant, Henry H. Jaques, in regard to the purchase of said property by this defendant, Henry H. Jaques, that he was so desirous of raising said money, but this defendant, Henry H. Jaques, further saith, and said other defendants herein say they are informed and believe, that said complainant, when he first applied to him on the subject of said property, which was after said sheriff's sale, represented to
20 him that one Aaron Peck, now deceased, was anxious to obtain said property under the sheriff's sale, and to that end had obtained some control of the said execution, and had had the property sold under it; and that the property had been bought in for said Peck, as said Hogan believed, and that he, the said complainant, was unable to raise the money to take up the mortgages, and was most desirous that whoever should get the property, said Peck, who was his enemy and had a grudge against him in regard to a certain church matter, should not get it; that he was very anxious that said
30 Peck should be foiled in his design of getting the property, and that he would very greatly prefer that some friend of his should have the advantage of the purchase; and thereupon, and for that reason, and on that account and no other, said complainant requested this defendant, Henry H. Jaques, to purchase the property, with which request this defendant, Henry H. Jaques, declined at first to comply, on the ground that he had not the money to spare from his business for the purpose; said complainant continued to urge said Henry H. Jaques to make the purchase, representing to him that the
40 value of the property furnished a sufficient inducement for

him to do so, even at some inconvenience to himself. At the same time said complainant represented to said Henry H. Jaques that the amount of money which would be required for the purpose would not be over twenty-five hundred dollars. Said Henry H. Jaques finally and reluctantly consented to make the purchase, and proceeded to do so accordingly; first causing search to be made into the title to the property. On ascertaining the amount of the encumbrances upon the property to be much more than was represented to him by said complainant, said Henry H. Jaques again 10 demurred to purchasing the property, but on being urged by said complainant to purchase the property to keep it out of the hands of said Peck, and on renewed representations of the value of the property by said complainant, said Henry H. Jaques concluded to purchase it, and on consulting with his counsel on the subject, he was advised by him to take a title for the property from said Amzi Dodd, esq., (said Hogan and wife to join in the conveyance,) and thus save the necessity of sale by the sheriff, and to take an assignment of the mortgages, as a fortification to the title thus to be acquired. 20

In pursuance of said advice this defendant, Henry H. Jaques, took the title to the property in that way accordingly, and inasmuch as part of the money which was used in said purchase was raised by said Henry H. Jaques from his wife and children, whose separate, independent property it was, derived by them from the estate of the said Henry H. Jaques' deceased mother, said Henry H. Jaques took the title of said property in the name of said Caroline, (who then was a minor, and who since has been married, as in said bill stated,) to secure to his wife and family their money invested therein; 30 and for the reason aforesaid said Henry H. Jaques obtained assignments of said mortgages to himself. Subsequently he was advised by his counsel that, seeing that said Hogan claimed some interest in said property, under the title of said Amzi Dodd, esq., and that the investigation aforesaid had revealed the fact that there were certain judgments at law against said Hogan, the plaintiffs wherein had not been made parties to said foreclosure, it would be necessary, in order to make the title of said Caroline to the property unquestionable, to purchase one of those judgments and have 40

the right, title, and interest of said Hogan in said property, sold under execution thereupon. This defendant, Henry H. Jaques, thereupon, and in pursuance of the advice of counsel as aforesaid, purchased the judgment of Harriet Pierson, in said bill mentioned, paying therefor five hundred and sixty-nine dollars and seventy-seven cents, or thereabouts, and caused said right, title, and interest to be sold under execution issued thereon. And this defendant, Henry H. Jaques, for the reasons hereinbefore given for taking the deed from
10 said Amzi Dodd, esq., to said Caroline, purchased in her name, at sheriff's sale under said last mentioned execution, said right, title, and interest, and the deed therefor was taken by her accordingly.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and the other defendants herein on information and belief, that said complainant was not in the employ of said defendant, Henry H. Jaques, in the sense sought to be conveyed by said bill of complaint; for said Hogan was, at the time of said application to pur-
20 chase, manufacturing hats at East Orange, in Essex county, in this state, independently, for other manufacturers, and as such independent manufacturer, manufactured hats there for said Henry H. Jaques, of stock furnished to him by said Henry H. Jaques, and that said Hogan was in no other wise in the employ of said Henry H. Jaques.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, that said Henry H. Jaques may have expressed sympathy for said Hogan, because said
30 Hogan could not raise the money necessary to pay off said mortgages and so redeem said property; and it may be true that said Henry H. Jaques expressed a friendly feeling towards said Hogan at the time, as he certainly did sympathize with him, and did feel friendly towards him, and regretted that said Hogan was not able to raise the money necessary to redeem said property; but said Henry H. Jaques did not at any time offer to assist said Hogan in the premises, nor to take an assignment of said mortgages held by the said executors of said Charles R. Akers, deceased, and Samuel W.
40 Baldwin, respectively, and to hold the same until said com-

plainant should be able to pay the same off; nor did said Henry H. Jaques make any offer whatever in the premises, but on the contrary thereof, he was very much disinclined to do anything in the matter, being somewhat unwilling to purchase the property, and he would not have done so except on the representation of said Hogan as to its value, and his urgency that he should do so to keep it out of the hands of said Aaron Peck; nor did said Henry H. Jaques make any promise whatever to said James N. Hogan in connection with said purchase, nor agree to give him any manner of advantage therefrom, nor to suffer or permit him to redeem said property in anywise, or on any terms. Said Henry H. Jaques purchased said property absolutely and solely for the benefit of himself and his family, whose money he used in the purchase as aforesaid; nor was there any understanding between him and said Hogan to the contrary in anywise. 10

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and the other defendants herein on their information and belief, that said Henry H. Jaques never urged to said Hogan that said judgment of said Harriet Pierson might be a lien or encumbrance on said property, or that it might be so held; nor did he advise said complainant that it was best to have it out of the way; nor did he offer to said Hogan to take the same and have it assigned to him, the said Jaques, or to hold the same until said complainant should be able to pay off the same, whether on the understanding that the said complainant was to pay interest upon said judgment, or otherwise howsoever; but on the contrary thereof this defendant, Henry H. Jaques, procured the assignment of that judgment solely under the advice of his counsel hereinbefore mentioned, and for the reason hereinbefore given, and neither made any offer or agreement with said Hogan on the subject, nor came to or had any understanding with him thereupon, or in regard thereto, in any way whatever. 30

And these defendants further answering say, that they do not believe that said property was worth, at the time of said purchase thereof by said Henry H. Jaques, seven thousand dollars, nor more than five thousand dollars. And these defendants, said Henry H. Jaques answering of his own 40

knowledge, and the other defendants herein answering on information and belief, say that said Henry H. Jaques did not, at the time of said purchase, estimate said property to be worth seven thousand dollars, nor anywhere near that sum; and that said Henry H. Jaques, when he ascertained from the advice of his counsel that it would be prudent to purchase said Pierson judgment, was dissatisfied with the transaction, on the ground and for the reason that in his judgment the property was worth but little, if anything,
10 more than it would have cost him after purchasing that judgment, but having entered upon the transaction and purchased said property, said Henry H. Jaques preferred to complete the transaction, and perfect his title to the property.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, that said Henry H. Jaques did not urge or advise or propose to said complainant to convey said property to said Caroline, to be held by her as trustee of said complainant in the place of said Amzi Dodd,
20 esq., on the ground that it would be much more for the safety of said complainant to have said property held by her as trustee for said complainant than by said Amzi Dodd, esq., nor on any ground, nor at all, nor anything to that effect; nor did said Henry H. Jaques advise said complainant to to convey said property to said Caroline at all, nor purpose that she should hold the property as trustee for, or for the benefit of said complainant, in any way; nor was it understood that she was so to hold it in any way; and it was not understood that she was to hold it as trustee for said com-
30 plainant in any way, either in the stead of said Amzi Dodd, esq., or in any other way or manner; but said Henry H. Jaques, having purchased said property as aforesaid, directed that the deed therefor should be made to the said Caroline, his reason therefor being that part of the purchase money was contributed by his wife and family, as herein aforesaid.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, that the consideration in the deed from said Amzi Dodd, esq., and his wife, and said
40 James N. Hogan and his wife, to said Caroline for said pro-

erty, was indeed a nominal one, and no part of it was paid, the reason therefor being that said deed was taken merely to save the necessity of a sale of the property by the sheriff under the execution issued out of this honorable court in the suit for foreclosure aforesaid; and they admit that the said Henry H. Jaques transacted the whole of the business in regard to the making and delivery of said deed, and that said Hogan did not see or have any communication with said Caroline in the matter; and they expressly deny that there was any agreement or understanding whatever, that, or to the effect that, said Caroline was to hold said property in anywise in trust for said complainant, or that she was to reconvey the same to him in any event whatever; and they also expressly deny that said Henry H. Jaques, at any time, advised said complainant that in order to remove all shadow from the title of said property, and make the same secure to said complainant, it would be best for the interest of said complainant to have said property, including the "excepted" land, in said bill of complaint referred to, sold to said Caroline, or anything to that effect; the fact being that said Henry H. Jaques, for the reason aforesaid, under advise of counsel as aforesaid, caused said sale to be made by the sheriff under execution on said Pierson judgment, and the levy did not include said "excepted" land, and the same was not sold or conveyed by the sheriff to said Caroline under that execution, the said Henry H. Jaques having no reason to include said "excepted" land in said sale by the sheriff, and intending only to perfect the title of said Caroline in said property conveyed by said deed from Amzi Dodd, esq.; and these defendants deny that it was either understood or agreed between said Henry H. Jaques and said complainant, (the whole of that business having been transacted by said Henry H. Jaques,) that the interest of said complainant in said land so sold by said sheriff, under said last named execution, should be held by said Caroline in anywise for the benefit or use of said complainant; and they also deny that that sale was in anywise made or so expressed to be by said Henry H. Jaques to make the land thereby sold secure to said complainant in any way, or that that sale was in anywise made for the benefit of said complainant.

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And these defendants further answering say, that said sheriff's sale last mentioned conveyed to said Caroline, as they are advised by their counsel, and respectfully submit and insist, all the title whatever which said complainant had in said property, conveyed as aforesaid by said deed from Amzi Dodd, esq.

And these defendants further answering say, that they believe it to be true that said "excepted" land was formerly the property of said complainant, and the same was conveyed
10 by said Amzi Dodd, esq., (who held the title thereto, but whether in trust for said complainant or not these defendants have no knowledge or information save from said bill of complaint, and therefore cannot answer thereunto,) and said complainant and their wives to Samuel W. Baldwin, in the bill of complaint in this cause mentioned, and it may have been at the time and for the consideration in said bill mentioned in that behalf, but whether it was so or not, or whether it was with the understanding and agreement between said complainant and said Samuel W. Baldwin, in said bill in that
20 behalf alleged, or on any understanding or agreement, or whether the conveyance was made to secure any indebtedness, if any existed, from said complainant to said Baldwin, as to which these defendants have no knowledge or information; these defendants have no knowledge or information, save from said bill of complaint, and therefore cannot answer thereunto.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, that it is not true that said
30 complainant applied to said Henry H. Jaques to effect a re-conveyance of said "excepted" land from said Samuel W. Baldwin, or that said Henry H. Jaques agreed with said complainant to obtain a re-conveyance of that land for said complainant, or that said Henry H. Jaques agreed to take the title to said "excepted" land in his own name, and hold it for said complainant until such time as said complainant could pay said Henry H. Jaques the purchase money, and take from him a conveyance or anything to that effect in anywise, or that said Henry H. Jaques agreed expressly or im-
40 pliedly in anywise, to take or hold that land in anywise for

the benefit or on account of said complainant, or in any event to convey the same to him, or that said complainant should have any interest therein; on the contrary thereof, said Henry H. Jaques himself proposed the purchase of said "excepted" land, and requested said complainant to negotiate the purchase with said Samuel W. Baldwin for him; said Baldwin being well known to said complainant, as said Henry H. Jaques knew, and said Henry H. Jaques believing that said complainant could buy the land for him to better advantage than he could buy it in person, and said Henry H. Jaques fully expected to pay said complainant for his services in making said purchase; but said complainant was not to have any other or further compensation or interest in the matter.

And these defendants further say, said Henry H. Jaques answering of his own knowledge, and said other defendants herein on information and belief, that said "excepted" land was purchased by said Henry H. Jaques wholly for his own benefit, and was to be held and owned by him accordingly, and not on any or any manner of trust on behalf or in favor of said complainant, or in anywise to his advantage, or on any agreement or understanding that said complainant was in any event to have a conveyance of said "excepted" land to him, or any one else for him, or on his account.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, that on or about the time in that behalf in said bill alleged, said Henry H. Jaques did (but not in pursuance of any agreement or understanding with said complainant) obtain a deed of conveyance for said "excepted" land from said Samuel W. Baldwin to him for the sum of twelve hundred dollars consideration money, which was paid by said Henry H. Jaques to said Samuel W. Baldwin; that said conveyance was dated on or about the same time last referred to; and they expressly deny that it was expressly or distinctly understood or agreed, or understood or agreed at all, by or between said Henry H. Jaques and said complainant, that said "excepted" land was purchased, or was to be held by said Henry H. Jaques in anywise for said complainant, or that he would at any time, whether on payment of the said purchase money and interest thereon, or otherwise howsoever, convey the same to said complainant.

And these defendants further answering say, that they have no knowledge or information, save from said bill of complaint, as to whether said Samuel W. Baldwin did or did not, at the time in said bill in that behalf alleged, allow to said complainant for said "excepted" lot the sum of sixteen hundred dollars or thereabouts, or as to what estimate, except as the price for which he sold the same to said Henry H. Jaques is an evidence, said Samuel W. Baldwin put on that land; but these defendants deny, said Henry H. Jaques answering
10 of his own knowledge, and said other defendants on information and belief, that said Samuel W. Baldwin sold said land to said Henry H. Jaques for the sum of twelve hundred dollars upon the representation of said Henry H. Jaques that he had taken into his hands and held for the use or benefit of said complainant said adjoining tract, or that he, said Henry H. Jaques, desired a conveyance of that land from said Samuel W. Baldwin for said complainant, or anything of that substance, or to that effect, or of like purport, in anywise.

20 And these defendants further answering, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, deny that said land was conveyed by said Baldwin to said Henry H. Jaques in pursuance of the agreement, or any similar one, in said bill of complaint in that behalf set forth, or alleged, or charged; and they deny that it was conveyed to said Henry H. Jaques for the benefit, in anywise, of said complainant; they also deny that said Samuel W. Baldwin conveyed said land to said Henry H. Jaques for any sum of money less than he other-
30 wise would have done, by reason of his being led to believe by said Henry H. Jaques was taking the title to said land for the benefit of said complainant, and they also deny that said Henry H. Jaques now holds said land in anywise in trust for said complainant.

And these defendants further answering, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, say that it is true that said Henry H. Jaques did, at or about the time in said bill in that behalf alleged, assign to Phebe Ann Goble the two mortgages
40 aforesaid to him by the executors of said Charles R. Akers,

deceased, but it is not true that she now holds the same. Said Phebe Ann Goble held said mortgages for about nine months from the time when they were assigned to her, and then the said Henry H. Jaques paid her the money to secure which he had assigned the same to her, and said mortgages were thereupon receipted and cancelled, and these defendants deny that all the interest said Henry H. Jaques had in the first mentioned land is by and through said Samuel W. Baldwin's mortgage and said Pierson judgment, but say that, on the contrary, said Henry H. Jaques is interested in 10 that land as equitable owner to the extent of the money by him invested in the purchase; and that said Caroline is legal owner absolutely, and not in trust in anywise for said complainant, of said first mentioned land.

And these defendants further answering, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, say, that it is true that said complainant has remained in possession since said purchase of said first mentioned land of that land, as he was before then, and still is in possession thereof; but they deny 20 that he has at any time since said Henry H. Jaques purchased said Samuel W. Baldwin's land, been in possession thereof, or that he is now in possession thereof; on the contrary, said Henry H. Jaques, ever since his said purchase of said Samuel W. Baldwin's land, has been in possession thereof, and had intended and still intends to build thereon, he having formed his plans therefor, and at the time of the filing of the bill in this cause, having commenced his operations for building on said land, and having on said land stone, brick, and other building materials, which said Henry 30 H. Jaques purchased and placed there, and which, since the filing of said bill, said complainant has prevented him from protecting from the weather; said complainant having usurped possession of the land, and having gone so far in his design to injure said Henry H. Jaques as to give away and procure to be taken away from said premises loads of stone which said Henry H. Jaques had placed on said property for a foundation for the said building.

And these defendants further answering say, that said complainant has remained as aforesaid in possession of said 40

first mentioned land as tenant of said Caroline, (and not otherwise,) under a rent of twenty dollars a month, which he agreed to pay therefor, and which he has paid to the amount of two hundred and fifty-nine dollars and ninety-seven cents, or thereabouts, (and not to the sum of four hundred and twenty dollars, or any such sum,) to said Henry H. Jaques, and he is now considerably in arrear, but these defendants deny that he has paid any money to said Henry H. Jaques, as principal or interest on the mortgages aforesaid,
10 or on account of purchase money of said first mentioned property, or of said Baldwin property in any way.

And these defendants further answering say, that at the time of said conveyance by said Amzi Dodd, esq., to her, said Caroline was a young unmarried lady residing with her father, said Henry H. Jaques; that she was at the time of said conveyance by the sheriff to her a minor; that she has recently intermarried with this defendant, John D. Mitchell, and that she and her said husband reside with said Henry H. Jaques, in Newark, in this state; but they deny that at
20 the time of said conveyance by said sheriff to her, she was without property in her own right; on the contrary thereof, she was, as aforesaid, with her brothers and sister and mother, possessed in her own right of a considerable sum of money, derived as aforesaid.

And these defendants further answering say, that the intimation made in said bill that said complainant had paid money to said Henry H. Jaques as interest on said mortgages, is untrue in every respect, whether it be made directly as hereinbefore referred to, or indirectly as it is made in said
30 bill, in the allegation that said Henry H. Jaques, about the first of April last, refused to take any further interest upon said mortgages and judgment.

And these defendants further answering say, that it is true that they claim that said Caroline is the absolute owner, in her own right, of all of said land, and that the same is not subject to any trust in favor of said complainant, and that he has no interest therein. And it is also true that said Henry H. Jaques agreed, a few months ago, (but no agreement for sale was signed,) to sell the whole of said land without con-
40 sulting with or informing said complainant thereof, his reason

therefor being that said complainant had no manner of interest therein, and that said Henry H. Jaques was at liberty to sell the same as and when he pleased, with the consent only of said Caroline and John D. Mitchell. And it is true that said complainant's refusal to give possession to the purchaser, prevented that sale from being consummated.

And this defendant, Henry H. Jaques, further answering says, that he estimated said land as being worth, to the person to whom he was about to sell it, what he, said Henry H. Jaques, agreed to sell it for, twelve thousand five hundred 10 dollars; and he agreed to sell the whole of said land for that sum because he thought it an excellent price for the same; that he never estimated said land as worth more than five to seven thousand dollars, and he does not estimate it as being worth more than that now for sale in the market to a general purchaser; although this defendant has put much expense on said property, he having, at an expense of about five hundred dollars, put up a stone wall on the front thereof, and having made new wooden fence on the line of the property, and having repaired the roof on the shop and barn, on the 20 first mentioned property, &c.

And these defendants further answering say, said Henry H. Jaques of his own knowledge, and said other defendants herein on information and belief, that it is true that the solicitor of the complainant called on said Henry H. Jaques, as in said bill in that behalf alleged, and made the requests and offer therein alleged, and that said Henry H. Jaques refused to comply with those requests, and refused to convey the property to said complainant, and refused to take the money which said solicitor proposed to pay, and did claim, 30 as he still does, that said Caroline is the legal owner of the first named property, and that he is the legal owner of said Baldwin property, and that said complainant has no interest in either, and that such was his answer to said solicitor, and not as set forth in said bill of complaint.

And these defendants deny all and all manner of conspiracy and confederacy in said bill charged, without that, that any other matter or thing in said bill charged, mentioned, or set forth, and not herein or hereby well and sufficiently answered

unto, confessed or avoided, traversed or denied, is true, to the knowledge or belief of these defendants.

All which matters and things there defendants are ready to aver, maintain, and prove, as this honorable court shall direct, and humbly pray to be hence dismissed with their reasonable costs and charges, in this behalf most wrongfully sustained.

THEODORE RUNYON,
Solicitor for, and of counsel with the defendants.

10 Essex county, ss.—Henry H. Jaques, one of the defendants in the foregoing answer named, being duly sworn according to law, on his oath saith—that the facts, matters, and things, in said answer contained, mentioned, and set forth, so far as the same relates to the acts and deeds of this defendant, are true, and that so far as the same relate to the acts and deeds of any other person or persons, he verily believes the same to be true.

HENRY H. JAQUES.

Sworn and subscribed before me, at Newark, November 20 22d, 1865.

WM. B. GUILD, JUN., *M. C.*

Essex county, ss.—John D. Mitchell, and Caroline E. his wife, two of the defendants in the foregoing answer named, being severally duly sworn according to law, on their respective oaths do say—that the facts, matters, and things, in said answer contained, mentioned, and set forth, so far as the same relate to the acts and deeds of these defendants, or either of them, are true, and that so far as the same relate to the acts and deeds of any other person or persons, they
30 verily believe the same to be true.

JOHN D. MITCHELL,
CAROLINE E. J. MITCHELL.

Sworn and subscribed before me, at Newark, November 22d, 1865.

WM. B. GUILD, JUN., *M. C.*

Replication.

[Filed November 29, 1865.]

The replication of James N. Hogan, complainant, to the answer of Henry H. Jaques, and John D. Mitchell and Caroline E. his wife, defendants.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith—that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without that, that any other matter or thing whatsoever, in the aid answer contained, material or effectual in the law to be replied unto, confessed and avowed, traversed or denied, is untrue; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays, as in and by his said bill he has already prayed.

T. P. RANNEY, 20

Solicitor for, and of counsel with complainant.

Depositions.

[Filed January 9, 1868.]

Examination of witnesses in the above stated cause, before Staats S. Morris, a master and examiner of the Court of Chancery of New Jersey, at his office, in the city of Newark, commencing of Thursday, the first day of February, A. D. 1866, in pursuance of a notice which is hereto annexed. Present, T. P. Ranney, esq., of counsel with complainant, and T. Runyon, esq., of counsel with defendants. 30

Samuel W. Baldwin, a witness produced on the part of the complainant, being duly sworn, maketh answers as follow :

1 *Quest.* What is your age, your place of residence, and occupation?

Ans. My age is fifty-three; I reside at East Orange, Essex county; at present I am in the leather business.

2 *Quest.* Are you acquainted with James N. Hogan and Henry H. Jaques?

Ans. I am acquainted with them both; Mr. Hogan resides at East Orange; Mr. Jaques, as far as I know, resides in the city of Newark.

10 3 *Quest.* Did Mr. Hogan at any time convey to you a lot of land in East Orange—and if so, when and for what consideration, and under what circumstances? [Objected to.]

Ans. He did convey to me a lot of land in East Orange; I can't tell the exact time, but think it was in the fall or winter of 1859; it was given to settle a balance which Mr. Hogan owed me, for about fifteen hundred or sixteen hundred dollars; it was not less than fifteen hundred dollars, and I think over that; Mr. Hogan suggested that I should take this land at a price we could agree upon, and save him
20 paying interest; this debt of mine was on interest.

4 *Quest.* Was or was not there any agreement or understanding between you and Mr. Hogan as to a re-conveyance, to be made by you to Hogan—and if so, what was it? [Objected to.]

Ans. I objected at the time to take the property—I did not want it; I took with the understanding that I would deed it to him again upon the liquidation of that debt.

5 *Quest.* Where was this tract of land, and how situated with reference to the residence of Mr. Hogan, and other pro-
30 perty of his?

Ans. The lot I bought fronted on Mechanic street, in the rear of Mr. Hogan's other property and residence; I think it was about one hundred and fifty feet on Mechanic street; Mr. Hogan resides on the same place now as then.

6 *Quest.* How long did you hold this property, and to whom did you convey it?

Ans. I think some time in the year 1863, I sold it to Mr. Henry H. Jaques; I think I held it about four years.

7 *Quest.* For what consideration did you convey it to Mr.

Jaques, and under what understanding and agreement, and what were the circumstances? [Objected to.]

Ans. The consideration was \$1200; Mr. Jaques called to know what I would take for it; I stated to him as I had to others, that the property was held for Mr. Hogan's benefit; I was governed by his wishes in the matter; I had repeated offers for the property; I didn't feel at liberty to convey this property without Mr. Hogan's consent, to any one; I sold the property for \$1200; it was less than I could have got for it; it was only carrying out what I had promised Mr. Hogan, 10 that it should not be sold without consulting him; he so consented that I should sell it; Mr. Jaques called to buy it for Mr. Hogan, as I understood, to attach to property which he had bought, or was about buying it.

8 *Quest.* For whose use and benefit was the property conveyed by you to Mr. Jaques?

Ans. As I understood, for Mr. Hogan's.

9 *Quest.* Did you understand this from Mr. Jaques, or from some one else?

Ans. I understood it from Mr. Jaques. 20

10 *Quest.* What did you consider the property worth at that time?

Ans. I had a standing offer of \$1350 for it; I considered it worth \$1800—cheap at \$1500; it would stand me \$1800, interest and all.

11 *Quest.* How came you to convey it to Mr. Jaques for \$1200?

Ans. I done it with Mr. Hogan's consent; with the understanding that it was for his benefit.

12 *Quest.* Would or would not you have conveyed it to 30 Jaques for that price, if it had not been understood that the property was to be held for the benefit of Hogan?

Ans. I certainly should not.

13 *Quest.* Did you at any time have any conversation with Mr. Jaques as to the manner in which he held the homestead property of Mr. Hogan, which was conveyed to Jaques by Amzi Dodd?

Ans. I don't recollect of having any conversation particularly, except at the time he called to close the bargain.

14 *Quest.* Did he tell you at this time for whom, or for 40 whose benefit, he held the property of Hogan?

Ans. This conversation occurred at that time, I think, with reference to the first purchase, the purchase of the homestead; he did tell me—the conversation came up in this way: he had taken it upon himself to befriend Mr. Hogan; this lot he wished to purchase of me was part and parcel of the property he wished to attach to the front property; that he was doing the whole thing to befriend Mr. Hogan; in this conversation Mr. Jaques said he had taken the homestead property to befriend Mr. Hogan, and wanted to attach this property to it, the property which I conveyed to him; I replied to him, if you want this property for Mr. Hogan's benefit, you shall have it for \$1200.

15 *Quest.* Are you acquainted with the value of the property now occupied by Mr. Hogan, and which is held by Mr. Jaques?

Ans. No, sir; I can't say as to its real value; I can only say what it would be cheap at, at the way property is selling; I should think it would be low at \$10,000; I think I could make money on it at that.

20 Cross-examined by Mr. Runyon.

1 *Quest.* Are you and Mr. Hogan neighbors?

Ans. We are about a mile or a mile and a half apart.

2 *Quest.* Are you not connected with him in some way, either personally or by your families?

Ans. My wife and his are cousins, as I understand it.

3 *Quest.* Was the debt of \$1500 or \$1600, of which you have spoken, all which Mr. Hogan owed you at the time of the conveyance to you, of which you have spoken in your direct examination?

30 *Ans.* I think it was; we had a settlement at the time; there might have been a balance one way or the other; there is nothing against him since, that I know of.

4 *Quest.* Did you not keep a grocery store at one time in Orange?

Ans. I did; grocery and dry goods.

5 *Quest.* Was not this debt for goods sold by you to Mr. Hogan out of that store?

Ans. Yes, sir, in part; some of the debt was interest; the balance was due me when I took the store business.

6 *Quest.* How long were you in that business?

Ans. I commenced in the year 1840; I sold out, I can't tell the exact time, I think in 1850, or 1851.

7 *Quest.* Mr. Hogan dealt with you in your store during the whole of that time, did he not?

Ans. No.

8 *Quest.* What part of it?

Ans. I can't recollect when he commenced; it is impossible for me to tell; it was some time after I commenced, perhaps within five years, it may have been three; I did 10 business for cash for the first three years.

9 *Quest.* Did not Mr. Hogan give to you a bond and mortgage at the same time of making this conveyance to you?

Ans. I don't know but he did; I don't know as he did; I don't recollect how the settlement was.

10 *Quest.* Did you not have a bond and mortgage of Mr. Hogan's after that conveyance?

Ans. I don't recollect of having any.

11 *Quest.* Is that the conveyance? [A paper is now shown to witness.] 20

Ans. I should think it was, sir.

12 *Quest.* What is its date?

Ans. The second day of December, 1859.

13 *Quest.* Another paper being shown to witness, he is asked—Did you ever see that before?

Ans. I don't recollect about seeing this, yet I may.

14 *Quest.* Another paper being shown to witness, he is asked—Did you ever see that mortgage before?

Ans. I don't know that I have seen the mortgage, but I knew of it. 30

15 *Quest.* The paper secondly shown to the witness being again shown to him, he is asked—In whose writing are the receipts on the back of that bond?

Ans. George Gates, was a clerk for the Citizens Insurance Company; the second handwriting is in the hand of Charles Heath, though no name is signed to it.

16 *Quest.* Another paper being shown to the witness, who is asked—Is that your signature to the assignment of that bond and mortgage?

Ans. It is, sir. 40

17 *Quest.* What did Oscar L. Baldwin give you for that bond and mortgage?

Ans. I don't recollect the sum.

18 *Quest.* Look at the assignment and answer? [The assignment is shown to witness.]

Ans. He gave the face of it, I should think, from the looks of it.

19 *Quest.* What amount was that?

Ans. The amount named in the assignment is \$900—for
10 a mortgage of \$820 and interest.

20 *Quest.* You received, then, \$900 from Oscar L. Baldwin for that bond and mortgage?

Ans. It seems so, from that; I can only rely on that.

21 *Quest.* Was anything due to you from Mr. Hogan at the time that bond and mortgage to you were made?

Ans. There was, undoubtedly.

22 *Quest.* How much?

Ans. Whatever the bond was given for.

23 *Quest.* How came you to say, then, in this cross-exam-
20 ination, that the debt of \$1500 or \$1600 was all that Mr. Hogan owed you at the time of that conveyance?

Ans. This was a subsequent transaction; I think that you will find that this mortgage was given to me in lieu of a mortgage or judgment held by Mr. Remer against the property, which I took up.

24 *Quest.* How comes it, then, that you do not recollect that you had any bond and mortgage, as you have stated in this cross-examination?

Ans. That is easily explained; Amzi Dodd had the pa-
30 pers; he did my business; there was a lien against this property of Mr. Hogan, held by Mr. Remer—either a judgment or mortgage; Mr. Remer pressed that for payment; Mr. Hogan came to me in distress and wished me to help him; I think you will find a claim held by Mr. Remer of this amount, or near it, transferred to me or Mr. Dodd, and I paid it, and I think this is what the bond and mortgage was given for, perhaps.

25 *Quest.* Look at these papers, the conveyance, the bond and mortgage, and see if they are not all of the same date?

40 *Ans.* They seem to be of the same date.

26 *Quest.* Amzi Dodd was Mr. Hogan's lawyer at the same time, was he not?

Ans. I can't tell anything about that.

27 *Quest.* Was Oscar L. Baldwin any relation of yours?

Ans. Not that I know of.

28 *Quest.* He was the son-in-law of Charles R. Akers, deceased, was he not?

Ans. Yes.

29 *Quest.* Akers' executors had foreclosed a mortgage on what you call the homestead property, at the time of making 10 this assignment of the bond and mortgage from you to Baldwin, had they not?

Ans. I do not know; I was not aware that they had foreclosed—I might have known it at the time; I don't recollect now, anything about it.

30 *Quest.* That homestead property had been sold out by the sheriff when you made that assignment, had it not?

Ans. I couldn't say.

31 *Quest.* Did Mr. Oscar L. Baldwin apply to you for an assignment of the mortgage, or did you apply to him to take 20 it off of your hands?

Ans. I could not say; I think he wrote me a note to call and see him; I never applied to him in the first place.

32 *Quest.* Where were you when he gave you the money, the \$900?

Ans. I can't say whether it was in the Mechanics' bank, or whether he put it to my credit; I can't say—the books will show; I have an account there.

33 *Quest.* Do you not know that at the time of making this assignment Mr. Oscar L. Baldwin, either for himself or the 30 executors of Akers claimed to have purchased the mortgaged property at sheriff's sale?

Ans. No, sir.

34 *Quest.* Did you not know then that Hogan insisted that Aaron Peck, had bought this property at sheriff's sale?

Ans. No, sir; I don't recollect anything of that kind.

35 *Quest.* This homestead property, you say, is worth ten thousand dollars?

Ans. I didn't say so.

Quest. You say that you think you could make money on 40

the property at \$10,000—was the homestead worth as much as that at the time you made that assignment?

Ans. I think not.

37 *Quest.* How came you to make the assignment to Oscar L. Baldwin?

Ans. I couldn't other than that I received the money for it.

38 *Quest.* What encumbrances were there on the homestead property at the time of the assignment?

10 *Ans.* I could not say.

39 *Quest.* Did you not know, at the time of making the assignment?

Ans. I always knew that Mr. Akers held a demand against the property—but what they were and the amount, did not concern me.

40 *Quest.* Where was this conversation, which you say took place between you and Mr. Jaques in regard to the homestead property?

Ans. I think it was on my place, in Orange.

20 41 *Quest.* Whereabouts on your place?

Ans. I should think it was about one hundred and fifty feet from the main road, and about twenty feet from the extreme south side; it was somewhere near the wagon track leading from the road to the barn.

42 *Quest.* Mr. Jaques came there in a wagon, did he not?

Ans. I think he did, but I can't say certain.

43 *Quest.* Who was there with him?

Ans. Well, I don't know.

44 *Quest.* Who was with you?

30 *Ans.* There might have been somebody with me, and there might not, but I can't say.

45 *Quest.* Can you give me the words used by Mr. Jaques on that occasion?

Ans. I should have to refer to the testimony I have given.

46 *Quest.* I ask if you can give me the words he used—his expressions?

Ans. He came to purchase the lot; what will you take for it—I related that I knew that it was Mr. Hogan's wish that I should sell it to him; I had that from his own mouth; 40 my price was less to him, than I would have been willing to

sell it to any body else; I asked Mr. Jaques, if he was buying it for Mr. Hogan, and his benefit, and he said yes; he said he had bought, or was about buying or taking (the same thing,) the homestead, the front property, to befriend Mr. Hogan; that he was in the same line of business, and could give him work, and could help him in that way; he went to try and do something for him, and spoke in general sympathy.

47 *Quest.* Then you lost on that transaction some \$600?

Ans. Yes, sir; I should think I lost the whole of that.

48 *Quest.* Have you not offered this same property which 10 you conveyed to Mr. Jaques in the market, on one or more occasions, for \$1500?

Ans. I think it is likely I had.

49 *Quest.* Did you not offer it in the market to general purchasers at a lower price, say \$1350?

Ans. I don't think that I had.

50 *Quest.* Will you say that you have not?

Ans. No, sir.

Adjourned to 3 o'clock P. M.

Direct examination resumed.

'20

1 *Quest.* Will you please give us descriptions as you can of the descriptions spoken of as the homestead property, and the lot conveyed by you to Mr. Jaques?

Ans. Main street runs east and west; Mechanic street runs north and south, you may say, starting from Main street; this property lies on the west side of Mechanic street, and on the north side of Main street, the lot I sold is on Mechanic street—is about one hundred and fifty feet off of the north side of the whole tract, adjoining Mr. Trusdell.

2 *Quest.* Does this description include what you call the 30 homestead property?

Ans. It does.

3 *Quest.* In your opinion is the value of the front, or homestead property, enhanced by having the lot conveyed by you to Jaques, joined to it?

Ans. I should think it was.

4 *Quest.* When you speak of the property being cheap at \$10,000, do you mean the front or homestead only, or the whole property together?

Ans. I mean the whole property together.

5 *Quest.* You say in your cross-examination that Mr. Jaques said he had taken it upon himself to befriend Mr. Hogan, in what way did he say he had or was about to befriend him?

Ans. By purchasing his property and holding it; that he, Mr. Hogan, could redeem it at some future time.

6 *Quest.* What property do you refer to in your last answer?

Ans. I mean the whole property.

10 7 *Quest.* Did he say that he had procured a conveyance of the front or homestead property to himself? [Objected to.]

Ans. That he had or was about doing it.

8 *Quest.* Did he say this had been or was to be done for the benefit of any person—and if so, for whose benefit? [Objected to.]

Ans. He did, and that it was for the benefit of Mr. Hogan.

9 *Quest.* State whether Mr. Jaques said in what manner giving work to Mr. Hogan would help him?

20 *Ans.* Well, there was nothing definite said about that; he would give him work, encourage him; do all he could in his favor; help him along.

Cross-examination resumed.

1 *Quest.* Was there any building on that piece of property which you conveyed to Mr. Jaques?

Ans. There was not, that I know of; there was not.

2 *Quest.* Are not the buildings on what you call the homestead tract, old buildings?

Ans. They were.

3 *Quest.* Are they not still?

30 *Ans.* I presume so.

4 *Quest.* What is their value, in your judgment?

Ans. Well, I couldn't put any value upon them; that depends upon the use you would put them to; if you wanted to rent them they would be worth more, but if you wanted to take them off the property they would not be worth much.

5 *Quest.* Are they not dilapidated buildings?

Ans. They are very old buildings; the dwelling, at a moderate expense, might be put in good tenantable order; they are not dilapidated, but the weather-boards would want paint-

ing; it would want roofing, then it would be very comfortable; these are frame buildings; one of the buildings he used for a hat shop, one is a dwelling, one is a barn; some part of the barn is used for a hat shop.

S. W. BALDWIN.

Sworn and subscribed before me, at Newark, this 1st day of February, A. D. 1866.

S. S. MORRIS, *M. C.*

Adjourned to Monday afternoon next, at 3 o'clock.

June 21, 1866. Parties appeared by agreement, and proceeded with the examination.

John G. Trusdell, being duly sworn, deposes as follows:

1 *Quest.* Where is your residence, how long have you resided there, and what is your occupation?

Ans. I reside in East Orange, New Jersey; have resided there about five years, and am in the real estate and insurance business.

2 *Quest.* Are you acquainted with the complainant, and the defendant, Henry H. Jaques—and if so, how long have you known them? 20

Ans. I am acquainted with them; have known Mr. Hogan about five years, and Mr. Jaques longer.

3 *Quest.* How far from the residence of Mr. Hogan do you reside?

Ans. About five hundred feet; my place adjoins his.

4 *Quest.* Are you acquainted with the place upon which Mr. Hogan resides, and with the value of the place—if so, what do you consider the whole property worth?

Ans. I am acquainted with the place, and as to the value, I can only give my own opinion of that; I once agreed to 30 pay \$12,500 for it; I considered the property worth more to me at that time than to any one else; I consider that offer was more than the property was actually worth, to buy to make money out of; I considered the property worth, at that time, \$10,000—well worth it.

5 *Quest.* At what time was this, and with whom did you make the agreement to purchase, which you have spoken of?

Ans. I can't remember exactly the time; it was in 1865,

about a year ago, I think ; the agreement was made with Mr. Jaques.

Quest. What did Mr. Jaques, at that time, ask for the property, and what did he say it was worth ?

Ans. Mr. Jaques asked \$15,000 for the property, and said he thought the property was worth that money.

7 *Quest.* Did he or not speak of Mr. Hogan as having an interest in the property—and if so, what did he say about it ?

Ans. At the first conversation in regard to it he didn't say
10 anything about Mr. Hogan ; but afterwards, when we got together on the price, he then stated he would have some trouble to get possession of the property, and wanted me to take such title to the property as he had ; I told him I would, provided he would give me a bond of indemnity ; he said he wouldn't do that, but that he would see Mr. Hogan again, and would try and compromise the matter with Mr. Hogan, and wanted to know from me where he could find a small place which he could buy for Mr. Hogan to move into to carry on his business ; and about that time Mr. Jaques also
20 said to me that the title was in his daughter's name ; upon making inquiry I ascertained that his daughter was not of age. [The last clause of answer objected to by defendant's counsel.]

8 *Quest.* Did he or not state what interest Mr. Hogan had in the property, or whether it was held by him, Jaques, as security for the payment of money due to him from Hogan ? [Question objected to as to its form.]

Ans. He did not state positively ; but he made, as near as I can remember, this remark : that he took hold of that pro-
30 perty to help James, but that James didn't try to help himself, and that he should sell the property ; this is the way in which the conversation arose respecting my taking such a title as he had. [Defendant's counsel objects to last clause of answer as irresponsible to the question.]

9 *Quest.* Who did he mean by James ?

Ans. Mr. Hogan.

10 *Quest.* Was this contract to purchase carried out—and if not, why ?

Ans. It was not carried out—I didn't choose to take an
40 imperfect title.

11 *Quest.* Were these negotiations with Mr. Jaques before the commencement of this suit—and if so, how long, if you remember?

Ans. They were before the commencement of the suit—I don't remember how long.

12 *Quest.* Do you remember of anything further than you have stated being said by Mr. Jaques in regard to the interest of Mr. Hogan in the premises?

Ans. On one occasion, during the negotiation, I proposed to purchase only a part of the premises; I want to purchase only one hundred and fifty feet front on Mechanic street, adjoining me, and latterly known as the Baldwin lot; I said to Mr. Jaques that Mr. Hogan was willing I should purchase that piece; I said to Mr. Jaques I would prefer to buy that piece instead of buying the whole property; Mr. Jaques remarked that the property couldn't be divided at all; I then proposed to Mr. Jaques to buy enough just to straighten the fence; Mr. Jaques then remarked, when Mr. Hogan paid him what money he advanced for him, it would be time enough for him to talk about disposing of the property; and finally we wound up that conversation by Mr. Jaques saying to me that not one inch could be sold without the whole went together; and then made the proposition to take \$12,500 for it; and in a short time after that, I don't remember how long, I gave him an answer that I would take the property.

13 *Quest.* Did he, or not, say anything about settling with Hogan, if the property was sold?

Ans. I don't think there was anything more said about that than I have answered in previous questions.

14 *Quest.* Was there a written agreement between you and Mr. Jaques—and if so, where is it?

Ans. There was a contract drawn up; I think there was one left at the office of Mr. Runyon for Mr. Jaques to look over; he suggested some alterations; I do not know where it is now.

Cross-examined by Mr. Runyon.

1 *Quest.* Were you not present at the sale of this property, or apart of it, by the sheriff of the county of Essex, in 1863?

Ans. I was not present at the sale.

2 *Quest.* Were you not interested for somebody as agent, or otherwise, in that sale? [Objected to.]

Ans. I was interested in this way; I did considerable business for Capt. Peck; there was a judgment in favor of Harriet Pierson, against Mr. Hogan, which Mr. Peck had the charge or control of; I was looking after Mr. Peck's interest in the matter.

3 *Quest.* Where did you reside at that time?

Ans. In East Orange, where I now reside.

10 4 *Quest.* Did you own the property adjoining the premises in question at that time? [Objected to.]

Ans. I was situated the same as I was in 1865.

5 *Quest.* Was land in East Orange worth as much in July, 1863, as in July, 1865?

Ans. Not generally, sir; but some pieces of property there were worth as much in 1863 as in 1865, or as now; it is generally owing to its location; some places where streets have been put through, land has greatly increased in value; I should say that land has generally increased in value within
20 the last two or three years.

6 *Quest.* Did you not offer to buy of Samuel W. Baldwin, in 1863, the lot known in this cause as the Baldwin property?

Ans. I can't say as to the time; I had negotiations with Mr. Baldwin through Mr. Hogan; I didn't know that Mr. Baldwin owned the property.

7 *Quest.* Did you not offer for it \$1200? [Objected to.]

Ans. I think I did; I first offered \$1000.

8 *Quest.* You speak of not having carried out the contract with Mr. Jaques—was not the fact that you could not get
30 possession the sole objection made by you to carrying out the contract?

Ans. No, sir; not the sole objection.

9 *Quest.* Did you not offer to take the title if Mr. Jaques would undertake to give you possession by a certain time?

Ans. My recollection of that is, that I would if he would give me a bond of indemnity against any and all imperfections in the title.

10 *Quest.* When did you first ascertain that Mr. Samuel Baldwin owned the Baldwin property as it is called—did you
40 not know it at or about the time of the \$1200 offer?

Ans. Yes, sir; I knew that he had the deed for it; I knew that all the while I was negotiating; he would not sell to me, or name any price at all, without consulting Mr. Hogan—Baldwin wouldn't.

11 *Quest.* You then had communications directly with Mr. Baldwin in regard to the sale of the property?

Ans. Mr. Hogan was present—went with me to see Mr. Baldwin about the property, at least two or three times to his house; occasionally I met Mr. Baldwin on the cars, and talked with him alone.

10

12 *Quest.* What was the reason that your negotiation with Mr. Baldwin was broken off.

Ans. I can't say exactly, unless that Mr. Hogan did not like me pretty well, and did not want me to have the property; I have no hesitation about that—for some cause or other Mr. Hogan and I did not have any communications together—Mr. Hogan did not like me, then.

13 *Quest.* You and Mr. Hogan are good friends now, are you not?

Ans. Well, sir, we are neighborly friends.

20

14 *Quest.* Did not Mr. Baldwin say to you, in substance, that you could have that Baldwin property for \$1250 in cash? [Objected to.]

Ans. My recollection is that Mr. Baldwin did not offer it to me for less than \$1300; I think that is the lowest price he offered to sell it to me for.

15 *Quest.* Was not that property in market for sale at that time?

Ans. I presume it was.

16 *Quest.* Did not Mr. Baldwin offer that property for sale to other parties living in Mechanic street, East Orange, to your knowledge, about that time?

Ans. I have no recollection of his offering it to anybody else in that street.

Direct examination.

1 *Quest.* You speak of a judgment in favor of Harriet Pierson against Mr. Hogan—what became of that judgment, if you know?

Ans. I don't know positively, excepting hearsay; Capt.

Peck got his money, and I understood from Mr. Jaques that it was assigned to him or his daughter; I think her name is Caroline.

JOHN G. TRUSDELL.

Sworn and subscribed before me, at Newark this 21st, day of June, A. D. 1866.

S. S. MORRIS, *M. C.*

Complainant's counsel here offers in evidence a paper purporting to be a deed from Abraham M. Reynolds, sheriff of the county of Essex, to Caroline E. Jaques, dated September 11th, 1863, which I have marked *Exhibit No. 1*, for complainant.

Also, a paper purporting to be a deed from Amzi Dodd and wife, and others, to Caroline E. Jaques, dated July 22d, 1863, which I mark *Exhibit No. 2*, for complainant.

Also, a paper purporting to be a deed from Samuel W. Baldwin and wife, to Henry H. Jaques, dated September 5th, 1863, which I mark *Exhibit No. 3*, for complainant.

Also, a paper purporting to be an assignment of mortgage, from Samuel W. Baldwin to Oscar L. Baldwin, dated July 18th, 1863, which I mark *Exhibit No. 4*, for complainant.

Also, a paper purporting to be an assignment of mortgage, from Oscar L. Baldwin to Henry H. Jaques, dated July 20th, 1863, which I mark *Exhibit No. 5*, for complainant.

Also, a paper purporting to be an assignment of mortgage, from Ann Akers and Charles Akers, executors of Charles R. Akers, to Henry H. Jaques, dated July 20th, 1863, which I mark *Exhibit No. 6*, for complainant.

Also, a paper purporting to be a receipt from Amzi Dodd, attorney, for money paid by Henry H. Jaques on judgment in favor of Harriet Pierson *vs.* James N. Hogan, received December 3d, 1837; receipt dated September 8th, 1863, which I mark *Exhibit No. 7*, for complainant.

Adjourned to Tuesday next, at 10 A. M.

Tuesday, June 26th, 1866. Parties appeared as before, and proceed with the examination.

Joseph Booth, being duly sworn, deposeth as follows:

1 *Quest.* Where do you reside, what is your age, and what is your occupation?

Ans. I reside at East Orange at present; aged fifty-six; I am out of business; I was formerly engaged in the hat manufacture.

2 *Quest.* Do you know the complainant, James N. Hogan, and the defendant, Henry H. Jaques—and if so, for how long?

Ans. I know them both, and have known them for twenty-five years, at least.

3 *Quest.* Are you acquainted with the premises at East 10 Orange, now occupied by Mr. Hogan?

Ans. I know the place.

4 *Quest.* In the year 1863, did you have any conversation with Mr. Jaques in regard to a judgment against said Hogan—and if so, state when that conversation occurred, and what it was?

Ans. As far as the time was concerned, I did not charge my memory with it, but we did have a conversation at which he requested me to see Aaron Peck, and try to get him, Aaron Peck, to take something less than the face of the 20 judgment, as James Hogan was poor, and he, Jaques, was desirous of helping him out of his difficulty; I went to Mr. Peck and represented the case, and he refused to take anything less than the judgment.

5 *Quest.* For whose benefit did Mr. Jaques state he wished to get the judgment up?

Ans. Well, I don't know that he stated anything about that.

6 *Quest.* Did he or did he not state that he wished to get the judgment for less than its face, in order to assist Mr. 30 Hogan? [Objected to on account of its form.]

Ans. That was the understanding.

7 *Quest.* State, if you know, what judgment this was, and who was the plaintiff?

Ans. I have forgot all about it.

8 *Quest.* Had Mr. Jaques, at that time, a deed for any portion of the property occupied by Mr. Hogan?

Ans. I do not know.

9 *Quest.* Did he not state to you that he had a deed, or was about to take one, for the property or some portion of 40 it? [Objected to for form.]

Ans. Yes.

10 *Quest.* The question was asked by counsel of complainant—Do you know which it was? and answer, no, I do not; whereupon counsel for complainant says he does not ask or require it put down, but which counsel for defendants insists shall go down.

11 *Quest.* For whose benefit, if anybody's, did he say he had taken, or was about to take, a deed for the property?

10 *Ans.* The whole arrangement, as I understood it, was to help Mr. Hogan out of a financial trouble he was in at the time; I don't know that it was particularly stated whose benefit it was for, but we all understood that it was for Mr. Hogan's benefit. [The last part of the answer objected to as not responsive to the question.]

12 *Quest.* From whom did you understand this?

Ans. Well, I tell you I don't know.

13 *Quest.* Did, or did not, Mr. Jaques state to you that he was assisting Mr. Hogan to save his property? [Objected to as to form.]

20 *Ans.* He did.

Cross-examined by Mr. Runyon.

1 *Quest.* You say, in answer to the sixth question, that it was the understanding that Mr. Jaques wished to get the judgment for less than its face in order to assist Mr. Hogan—from whom did you understand that?

Ans. From Mr. Jaques.

2 *Quest.* Where and when and what did Mr. Jaques say, that led you to so understand it; now give us his words?

30 *Ans.* The where, was in my factory; the when, I have forgot; the what was, would I go to Capt. Peck and ask him if he would deduct something from that judgment, as James Hogan was a poor man, and he, Jaques, wanted to help him.

JOSEPH BOOTH.

Sworn and subscribed before me, at Newark, this 26th day of June, A. D. 1866.

S. S. MORRIS, M. C.

George Harrison, being duly sworn, deposeth as follows—

1 *Quest.* Where do you reside, your age, and occupation?

Ans. I reside in Orange—am sixty years of age, and am a hatter.

2 *Quest.* Do you know the complainant, and the defendant, Henry H. Jaques—and if so, for how long?

Ans. I know them both, and have known them for a number of years; I don't know how long.

3 *Quest.* Are you acquainted with the property occupied by Mr. Hogan at East Orange, and state, if you know, how long Mr. Hogan has lived there?

Ans. I couldn't tell how long he has lived there; I have known the property ever since I lived in Orange; and have known Mr. Hogan ever since he lived there.

4 *Quest.* For about how many years has he lived there?

Ans. I should think, as nigh as I can recollect, about twenty-five or thirty years; I may be mistaken.

5 *Quest.* Do you recollect the time when the property was sold at sheriff's sale, in 1863?

Ans. I recollect of hearing about it.

20

6 *Quest.* Did you, about that time, have any conversation with Mr. Jaques, the defendant, in regard to that property—and if so, what was it?

Ans. The conversation I had with Mr. Jaques, I think, was after the property was sold, but I am not certain; I inquired of Mr. Jaques one day about Mr. Hogan's affairs; he told me that he had taken the property, for Mr. Hogan had had a great deal of trouble, and he had a great deal of trouble with the property; and he wanted to give him a chance; that Mr. Hogan and his son were working for him, and they could soon work off the price of it—pay for it.

7 *Quest.* Were Mr. Hogan and his son then in the employ of Mr. Jaques?

Ans. I think they were.

8 *Quest.* Did Mr. Jaques state for whom, or for whose benefit, he had taken the property?

Ans. Yes; he stated it was for Mr. Hogan's benefit, as I said before.

9 *Quest.* How long was this after the sheriff's sale of the property above referred to?

40

Ans. I don't know exactly; I think it was a short time after.

10 *Quest.* Has Mr. Hogan occupied the property from that time to the present?

Ans. I believe he has; I have called there several times and have generally found him there doing business.

11 *Quest.* Has he not and does he not now reside upon the property with his family?

Ans. I believe he does; I see some of his family there
10 every time I go by, pretty much.

12 *Quest.* Have you ever had any other conversation with Mr. Jaques, than the one you have mentioned?

Ans. None in particular.

Cross-examined by Mr. Runyon.

1 *Quest.* Have you had dealings with Mr. Hogan?

Ans. Yes.

2 *Quest.* Of what nature?

Ans. Sometimes I have done work for him, and sometimes he has done work for me, sizing, coloring, and selling hats
20 on commission.

3 *Quest.* Who sold on commission, you for him or he for you?

Ans. He for me.

4 *Quest.* Who did the sizing and coloring?

Ans. My men done the coloring, and his men done the sizing for me.

5 *Quest.* Have you still business relations with each other?

Ans. I think we settled up what little accounts there was about three months ago; perhaps not so long as that.

30 6 *Quest.* How long have those business relations continued between you?

Ans. It has been some number of years; I couldn't tell exactly.

7 *Quest.* Are you neighbors?

Ans. Within about a mile and a half of one another; I live on Centre street, and he lives on what is called Gouge Hill—Peck Town.

8 *Quest.* What sheriff's sale do you refer to in your principal examination?

Ans. Well, I don't really know; I think Capt. Peck had something to do with it, and Samuel W. Baldwin; that is what I understood.

9 *Quest.* From whom did you understand it?

Ans. It was a general rumor, though I think it was one of Mr. Hogan's men told me it had been sold; they call him Courter.

10 *Quest.* Did you have any conversation with Mr. Hogan about it?

Ans. Mr. Hogan told me that they had sold it, but he was 10 in a fair way of settling it; he had come across a friend that had offered him the money and he thought he should upset the sale; there was something wrong about it; I did not understand what it was.

11 *Quest.* Did he complain of Capt. Peck having attempted to get the property?

Ans. He did.

12 *Quest.* And of Samuel W. Baldwin, also?

Ans. I think he did mention Samuel W. Baldwin.

13 *Quest.* Did he complain of Samuel W. Baldwin that he 20 was trying to get the property from him, too?

Ans. I think that he told me that Mr. Baldwin was trying to get the property for him, or something of that kind, to assist—but I don't recollect.

14 *Quest.* Did he not complain to you of Samuel W. Baldwin's conduct towards him in regard to that property?

Ans. I think he did say that Mr. Baldwin did not act altogether right.

15 *Quest.* Did he not complain that Peck was striving to get the property into his hands? 30

Ans. Mr. Hogan always said that he was trying to do that—to get the property away from him.

16 *Quest.* Were not Peck and Hogan enemies?

Ans. I never heard them quarrel.

17 *Quest.* Do you mean to say that you do not know that they were bad friends? [Objected to.]

Ans. I suppose they were in a business way.

18 *Quest.* Do you not know that they were bad friends in a church way? [Objected to.]

Ans. I suppose they were; that is all I know about it. 40

19 *Quest.* Did not Mr. Hogan complain to you that Samuel W. Baldwin had cheated him in a settlement? [Objected to.]

Ans. I don't know as he did—he might—I don't know.

Direct examination.

1 *Quest.* Do you know the origin of the name Gouge Hill?

Ans. Yes, sir. The first person I ever heard call it Gouge Hill was Charles H. Pierson, a brother-in-law of Capt. Peck; it was so called by him Gouge Hill in honor of Capt. Peck.

Geo. HARRISON.

10 Sworn and subscribed before me, at Newark, this 26th, day of June, A. D. 1866.

S. S. MORRIS, *M. C.*

Adjourned to to-morrow morning at 10 A. M.

Wednesday June 27th, 1866. Parties appeared as before and examination continued.

John H Meyers, being duly sworn, deposeth as follows:

1 *Quest.* What is your age, where do you reside, and what is your occupation?

Ans. I am twenty-eight years of age; I reside in Orange, 20 and am a hat manufacturer.

2 *Quest.* Are you acquainted with James N. Hogan, the complainant, and Henry H. Jaques, one of the defendants in this suit—and if so, for how long have you known them?

Ans. I have known Mr. Hogan for fifteen years, and Mr. Jaques for four years, nearly five.

3 *Quest.* Do you know where the complainant lives?

Ans. I do; in East Orange.

4 *Quest.* Have you at any time had any conversations with Mr. Jaques concerning the premises occupied by Mr. Hogan— 30 and if so, when, and what was the conversation?

Ans. The conversation I had with Mr. Jaques was with reference to his taking up the mortgage and judgment; I think it was in July, 1863; he said Mr. Hogan was a poor man and he was taking these up for his benefit; his idea was that he could control Mr. Hogan's work, and he could work out his claim, and I told Mr. Hogan the conversation we had.

5 *Quest.* Where did this conversation take place, and how did it commence?

Ans. It took place in Mr. Jaques' office, and we had had several conversations about the matter previous to that time, but I do not now recollect what was said.

6 *Quest.* Was Mr. Hogan or Mr. Hogan's son at that time in the employ of Mr. Jaques?

Ans. I think Mr. Hogan was doing some work at that time for Mr. Jaques, but Mr. Hogan's son did not go there until a short time after, if I am not mistaken. 10

7 *Quest.* Was this conversation before or after the transfer of the mortgages and judgment?

Ans. I can't say whether it was before the transfer, but it was after the sale had been set aside.

8 *Quest.* In your answer to the fourth question you say Mr. Jaques' idea was that he could control Mr. Hogan's work, and he could work out his claim; give us, as near as you can, what Mr. Jaques said in regard to Mr. Hogan's working out his claim, and what claim did he mean?

Ans. I can't recollect everything he said, but as I understood him, it would be a mutual arrangement for both of them; Mr. Hogan could work out this money that Mr. Jaques was advancing on his property. 20

9 *Quest.* Was it at that time a matter of importance for large hat manufacturers to control the labor of smaller ones—and if so, why?

Ans. At that time there was a great demand for military goods, and a great many contracts for getting them up, besides a large demand for our home trade—regular goods; it was a matter of importance for one to control the labor of 30 the other; these large manufacturers were in the habit of giving out work to the smaller ones; each one was anxious to get all the work he could.

10 *Quest.* Was there anything said—and if so, what, by Mr. Jaques, in regard releasing the property to Mr. Hogan upon the payment by him of the money advanced by Mr. Jaques?

Ans. I do not recollect of anything being said in that particular, except what he said in reference to his son assisting his father in working it out. 40

11 *Quest.* What did he say in reference to Mr. Hogan's son assisting his father to pay this money?

Ans. His son had been to work for Mr. Jaques at his factory here in Newark, and had left, and he thought it very strange in his doing so, for he could assist his father in working out his indebtedness.

12 *Quest.* Did Mr. Jaques make this remark in the conversation to which you first referred, or was it a subsequent conversation?

10 *Ans.* It was a subsequent conversation with him.

13 *Quest.* At what time did this last conversation take place?

Ans. It was in July, 1863, but I can't recollect the date.

14 *Quest.* For whose benefit, if anybody's, did Mr. Jaques say he held, or was about to hold, the property of Mr. Hogan?

Ans. Mr. Hogan's benefit.

15 *Quest.* Do you remember any other conversations with Mr. Jaques in regard to this property than the one you have spoken of?

20 *Ans.* No, sir; I do not now.

16 *Quest.* Have you ever heard Mr. Jaques say what he considered that property worth—and if so, what did he say?

Ans. I never heard him say what the property was worth.

Cross-examined.

1 *Quest.* You and Mr. Hogan are hat manufacturers in the same vicinity, are you not?

Ans. Not exactly; we are about three miles apart.

2 *Quest.* Where is your factory, and where is his—in what town, or city, or village?

30 *Ans.* My factory is in the second ward of Orange proper; his, is in the township of East Orange.

3 *Quest.* You and Mr. Hogan have been on friendly terms for many years, have you not?

Ans. We have.

4 *Quest.* Have you had business dealings together?

Ans. We have occasionally, not to any extent.

5 *Quest.* Has not his son been working for you from time to time?

Ans. No, sir; he never worked for me.

6 *Quest.* When did you first communicate to Mr. Hogan, or to any one in his behalf, the conversation you say you had with Mr. Jaques in July, 1863?

Ans. On the same day, on my way home.

7 *Quest.* What day in July was it?

Ans. I do not now remember what day it was.

8 *Quest.* What part of July was it—first, middle, or latter part of it?

Ans. I cannot now say what part of it it was.

9 *Quest.* How do you know it was July at all? 10

Ans. I cannot state whether it was in July—it was the latter part of June or July.

10 *Quest.* How do you know that it was in the latter part of June or July?

Ans. I know that the sale was set aside in June or July, and it was after the sale was set aside.

11 *Quest.* How long after?

Ans. I do not now recollect.

12 *Quest.* Who was present at those conversations?

Ans. No one but Mr. Jaques and myself. 20

13 *Quest.* Are you friendly with Mr. Jaques?

Ans. No, sir; not at present.

14 *Quest.* How long have you been on bad terms with him?

Ans. I think our misunderstanding commenced not quite two years ago.

15 *Quest.* Have you a law suit pending against him?

Ans. I have.

16 *Quest.* How long have you had it?

Ans. Something over a year, I think.

17 *Quest.* For what amount did you sue him? 30

Ans. Fifteen thousand dollars.

18 *Quest.* Who is your attorney in that case—who brought the suit for you?

Ans. Mr. Ranney, Mr. Bradley, and Mr. McCarter.

19 *Quest.* Who commenced the suit for you, which of these three?

Ans. Mr. Ranney.

20 *Quest.* Are you related to or connected with Charles I. Hedden—if so, how? [Objected to.]

Ans. He is a brother-in-law of mine. 40

21 *Quest.* Did you continue the business of hat manufacturing at the establishment occupied by him after he failed? [Objected to.]

Ans. I carry on the same business which he did, and have since he failed, and at the same place.

22 *Quest.* How long have you so carried on business there? [Objected to.]

Ans. Since August, 1861.

23 *Quest.* You were then twenty-three years of age when
10 you commenced there? [Objected to.]

Ans. I was.

24 *Quest.* Was not Charles I. Hedden then, and is he not still, very largely indebted to Mr. Jaques? [Objected to.]

Ans. I never saw any evidence of the fact; I have heard so—that he owed him a small amount, \$1200 I think.

25 *Quest.* What mortgage and what judgment do you refer to in your answer to question fourth, of your direct examination?

Ans. To the mortgage that Captain Peck was instrumental
20 in foreclosing; the judgment, Mr. Jaques didn't tell me what it was.

26 *Quest.* Was not Mr. Hogan at that time doing very little business?

Ans. I do not recollect how much he was doing, now.

JOHN H. MYERS.

Sworn and subscribed before me, at Newark, this 27th day of June, A. D. 1866.

S. S. MORRIS, M. C.

Adjourned to Monday next, July 2d, at 3 P. M.

30 December 18th, 1866. Parties appeared by consent, and proceeded with the examination.

Charles I. Hedden, being duly sworn for complainant, deposes as follows:

1 *Quest.* Where do you reside, how long have you resided there, and what is your occupation?

Ans. I reside in Orange; I have resided there the last time since 1848—it is my native town; I am a hatter by occupation.

2 *Quest.* Are you acquainted with James N. Hogan, the

complainant, and with Henry H. Jaques, one of the defendants—and how long have you known them respectively?

Ans. I am acquainted with Mr. Hogan, and have known him for over twenty years; I have known Mr. Jaques for ten years and upwards, as near as I can recollect.

3 *Quest.* Are you acquainted with the place upon which Mr. Hogan now resides, at East Orange?

Ans. I am; I have known it ever since I knew Mr. Hogan.

4 *Quest.* In the summer of 1863, were you having dealings with Mr. Jaques—and if so, how often did you see 10 him?

Ans. I was obliged to call at Mr. Jaques' office every week, and often oftener during the week—sometimes every day; I was employed by my brother-in-law, Mr. Myers.

5 *Quest.* Had you, on any of these occasions, any conversation with Mr. Jaques in reference to Mr. Hogan and his affairs—and if so, how many times?

Ans. I had, and I could not state how many times; I had conversations during 1863, and part of 1864.

6 *Quest.* Do you remember at what time in the year 1863 20 the property of Mr. Hogan's was sold by the sheriff—and if so, state?

Ans. I do not exactly; I think it was in the last part of the spring; I am not very positive about it.

7 *Quest.* Were any of these conversations you had with Mr. Jaques prior to that sale?

Ans. I so understood it, from the conversations with Mr. Jaques.

8 *Quest.* Do you know whether that sale was set aside by the chancellor? 30

Ans. Mr. Jaques told me about it, and Mr. Hogan also.

9 *Quest.* Please state the conversations which you allude to, and tell us, as near as you can, what Mr. Jaques said in regard to the property?

Ans. The conversations previous to sale Mr. Jaques talked with me about it, and asked me what I thought of the property; I told him I thought it a valuable lot and a very desirable one; he said he thought so too, and he believed Mr. Hogan to be a very honest man, and he was very sorry for him, that he was in such a difficulty; he was desirous of 40

helping him; there was something more said, I don't recollect what it was.

10 *Quest.* After the sheriff's sale was set aside, what conversations did you have with him, and what did he say?

Ans. I had so many conversations with him; I cannot tell all that he said; I recollect some of them distinctly; he stated in one conversation that he had determined to assist Mr. Hogan; he wanted to know what I considered the place worth, and what value Mr. Hogan put on it; I told him that
 10 Mr. Hogan, in his conversation with me, asked \$10,000 for his place, and I thought it was worth at least \$8000; Mr. Jaques said he thought it was worth between \$7000 and \$8000; that Mr. Hogan was poor, and he thought him a very honest man—he stated that over again, and was sorry to see him loose his property, and he would advance the money for him and save it if he could; would or was willing to, I am not positive as to the language he used, it was something like that; upon my way to Orange I called and stated this conversation to Mr. Hogan.

20 11 *Quest.* For what purpose did he say he would or was willing to advance money to Hogan?

Ans. To save his property for him.

12 *Quest.* What conversations, if any, did you have with Mr. Jaques after this time, in regard to the same subject?

Ans. We had a number; among some of them he stated that Mr. Hogan was then to work for him, and had a prospect of working it out—the money he had advanced; there was a great deal more said; I don't recollect all that was said in the different conversations.

30 13 *Quest.* Did he or not state at any time that he had taken the title to Mr. Hogan's property—and if so, for what purpose?

Ans. He did, and to secure it to Mr. Hogan; he stated to me that he thought it was sold at the sheriff's sale at a great deal less than its intrinsic value; and he expressed to me a great desire that Hogan should have the benefit of the property without being sacrificed.

14 *Quest.* Did he at any time state that there was any obligation on his part to re-convey the property to Mr. Hogan, upon the payment by Hogan of the money advanced by him,
 40 Jaques—and if so, what? [Objected to as leading.]

Ans. All the conversations that I ever had with him was of that character—that Hogan was to have the property.

15 *Quest.* Do you know whether Mr. Hogan and his son were in the employ of Mr. Jaques during the year 1863?

Ans. Mr. Jaques, in one of these conversations, stated to me that Mr. Hogan's son was to work for him in his factory, and Mr. Hogan was manufacturing hats for him.

16 *Quest.* Was anything said by Mr. Jaques—and if so, what, about the wages of Mr. Hogan and son?

Ans. He stated that he thought that they could soon work 10 this amount out.

17 *Quest.* What amount do you refer to?

Ans. He was talking in reference to this money he had lent or advanced.

18 *Quest.* Was this before or after the transfer of the title to Jaques?

Ans. It was after; Mr. Jaques said that he had it; the only way that I knew anything about it is what Mr. Jaques told me—Mr. Jaques and Mr. Hogan together.

Cross-examined by Mr. Runyon.

20

1 *Quest.* Are you now in business?

Ans. In the same manner I was in 1863—employed by Mr. Myers.

2 *Quest.* Whose business was that before it was Mr. Myers' ?
[Objected to.]

Ans. What business?

3 *Quest.* The business carried on by Myers, in which you say you are employed by him? [Objected to.]

Ans. He started business in 1861, on his own account; if you want to know who carried on business in the same place 30 before, I will tell you.

4 *Quest.* Did you not carry on that business there and turn it over to Myers, your brother-in-law? [Objected to.]

Ans. I carried on hatting business some twelve years, and in 1861 I lost so much money by the war that I could not pay my debts, and failed; then I leased the place to Mr. Myers, and he went into the hatting business.

5 *Quest.* Do you mean to say that you owned the property?
[Objected to.]

Ans. I did.

6 *Quest.* Do you mean to say that you gave Myers a lease upon the property? [Objected to.]

Ans. Yes, sir.

7 *Quest.* Who got your stock and tools? [Objected to.]

Ans. Well, the tools Mr. Myers got, the stock was sold by sheriff's sale.

8 *Quest.* Who got the stock at sheriff's sale? [Objected to.]

Ans. There were several bidders there; I couldn't name
10 them.

9 *Quest.* Who bought the stock? [Objected to.]

Ans. I could not say who bought all of it; Mr. Haches and Goodman bought considerable of it; I can't recollect who else.

10 *Quest.* Didn't John H. Myers, your brother-in-law, buy a very considerable part of it? [Objected to.]

Ans. My impression is that he didn't get a dollar's worth.

11 *Quest.* Who owns the buildings which you leased to Mr. Myers? [Objected to.]

20 *Ans.* I owned them at that time.

12 *Quest.* That is not the question; who owns it now? [Objected to.]

Ans. I couldn't tell you, sir; the buildings have been advertised by the sheriff several times; whether he has sold them or not I don't know.

13 *Quest.* Has Myers owned them? [Objected to.]

Ans. I can't say.

14 *Quest.* You say that you were employed for Mr. Myers—in what capacity, and for what wages? [Objected to.]

30 *Ans.* I was employed by Mr. Myers to superintend his manufacturing—buy his stock and trimmings, and have a general superintendence of his business; the first year I received \$600; since then I have received \$1000 per year.

15 *Quest.* Have you not stated that the business in question was yours? [Objected to.]

Ans. No, sir; only mine to look after.

16 *Quest.* When you failed in business were you not a debtor to Mr. Jaques? [Objected to.]

Ans. I was.

40 17 *Quest.* To what amount? [Objected to.]

Ans. I can't tell definitely—some \$1200 I think.

18 *Quest.* Is that debt paid?

Ans. I suppose it is not; I think I confessed judgment to Mr. Jaques for it; I offered him a thing for it once, that I deemed twice its value for the claim.

19 *Quest.* What was it?

Ans. A secret appertaining to the manufacture of hats.

20 *Quest.* Are you and have you been for the last few years on friendly terms with Mr. Jaques?

Ans. I have. 10

21 *Quest.* You have spoken in your direct examination of a sale by the sheriff—when did that sale take place?

Ans. I think it was in the spring of 1863.

22 *Quest.* What makes you think it was in the spring of 1863?

Ans. From the conversations I had with Mr. Hogan and Mr. Jaques—the statements they made to me about it.

23 *Quest.* Do you remember it, so as to give us the language of any of those conversations?

Ans. I have given you part of the language used on different occasions; I don't recollect of them. 20

24 *Quest.* Can you give us the precise language used by Mr. Jaques in any of those conversations?

Ans. Do you mean to ask by that question whether I can recollect the precise words on any one occasion when he talked about this Hogan affair—all the words used?

25 *Quest.* No, not all the words—but the precise words which he used in the Hogan affair, on any one occasion?

Ans. Some of them I do, and have related in my direct examination. 30

26 *Quest.* How many sheriff's sales were there of the Hogan property?

Ans. I don't recollect of but one at that time; there was something said about a judgment, but I don't know whether there was a sheriff's sale or not.

Direct examination.

1 *Quest.* What was said about a judgment—and who said it?

Ans. In one of the conversations with Mr. Jaques, he told

me something about a judgment; I don't recollect much about it.

2 *Quest.* After the conversation in which Mr. Jaques spoke of the judgment, was anything said by him as to any claim of Mr. Hogan to the property—and if so, what? [Objected to.]

Ans. I don't recollect anything distinctly, different from what had been said about it.

3 *Quest.* Down to what time did Mr. Jaques, in these conversations, speak of holding the property for the benefit of Hogan? [Objected to.]

Ans. Until some time in 1864.

CHAS. I. HEDDEN.

Sworn and subscribed before me, at Newark, this 18th day of December, A. D. 1866.

S. S. MORRIS, *M. C.*

James N. Hogan, being duly sworn, deposesh as follows:

1 *Quest.* Are you the complainant in this cause?

Ans. I am.

20 2 *Quest.* Where do you reside, and how long have you resided there?

Ans. I reside in East Orange—I have lived there thirty-one years.

3 *Quest.* How long have you resided upon the place you now occupy?

Ans. I think it is nineteen or twenty years.

4 *Quest.* In whose name was that property held for several years prior to 1863?

Ans. Amzi Dodd.

30 5 *Quest.* For whose benefit did he hold it?

Ans. For mine.

6 *Quest.* Is that the same property which is described in your bill of complaint in this cause?

Ans. Yes, sir.

7 *Quest.* How was that lot encumbered prior to 1863?

Ans. It was encumbered by three mortgages, two held by Charles R. Akers, and one by Samuel W. Baldwin.

8 *Quest.* Was a foreclosure commenced on any of those mortgages—and if so, when?

Ans. There was; it was commenced in 1862.

9 *Quest.* What proceedings were taken under that foreclosure?

Ans. They got judgment and sold.

10 *Quest.* When was this sale, and what became of it?

Ans. The sale was on the 16th of June, 1863; Oscar L. Baldwin bought it in; the sale was unexpected to me—I didn't expect it to come on under two or three days; the sale was adjourned for a month; I thought a month was thirty days; from one date to the same date the next month, 10 whereas it was only twenty-eight days; I went to see Mr. Runyon about it and told him the situation I was in; he said if that was the case he would soon straighten that; the sale was set aside.

11 *Quest.* Do you remember about the amount that was due to Akers on the two mortgages, and the amount due to Baldwin on his mortgage—and if so, state?

Ans. Mr. Akers' was \$1960, and Mr. Baldwin's was \$972; there were pennies on both, more.

12 *Quest.* Do you remember the date of setting aside the 20 sheriff's sale—and if so, when was it?

Ans. It was somewhere about the middle of July, 1863.

13 *Quest.* Did you or not, about this time, have any negotiation with Mr. Jaques concerning this property—and if so, what?

Ans. Well, I told him what a difficulty I was in, and wanted to get means to get out of it; I suppose I told him the whole circumstances, how I was situated with regard to this foreclosure, and wished to raise means to get out of it; he said he would see what he could do about it; a few days 30 afterwards Mr. Hedden stopped at my place; (the defendant's counsel objects to what Mr. Hedden told the witness;) I went down and saw Mr. Jaques, and he said he would raise the money for me—he did so.

14 *Quest.* What was done with the money which you say he raised for you?

Ans. The claims were paid off.

15 *Quest.* What became of the mortgages, which you have mentioned, upon the property?

Ans. He said that he would hold them himself—Mr. Jaques 40 said so.

16 *Quest.* Did he or not take assignments of these mortgages?

Ans. I think he did.

7 *Quest.* What was the agreement between you and Mr. Jaques in regard to his taking assignments of these mortgages, if any? [Objected to as leading.]

Ans. I was to have a chance to redeem the amount; at the same time another person came up and offered me the money. [The last line of answer objected to as not responsive to the
10 question.]

18 *Quest.* Was any conveyance of this property made to any person by you—and if so, when and to whom?

Ans. There was a conveyance made to a daughter of Mr. Jaques in July, I think—I can't state the date.

19 *Quest.* Who joined in that conveyance with you?

Ans. Amzi Dodd and his wife.

20 *Quest.* Was any consideration given to you or Mr. Dodd for this conveyance?

Ans. None to me, and I understand not to Mr. Dodd.

21 *Quest.* Why was this conveyance made?

Ans. I didn't hold the property myself; and Mr. Jaques thought it would be better in the way that we had arranged it; the daughter was to take the deed and he was to hold the mortgage; in that way it would be secure.

22 *Quest.* Secure to whom?

Ans. To me; I had been knocked around a good deal and he wanted to take me under his wing—those were the very words he used; he expressed great feeling for me, as I considered a professor of religion would. [Last clause of answer
30 objected to as not responsive to the question.]

23 *Quest.* Was there any agreement between you and Mr. Jaques—and if so, what was it, in regard to a transfer of the property back to you?

Ans. When he got his own back again, I could have it; I could do as I pleased—I was to have it back.

24 *Quest.* When were you to have it back?

Ans. Whenever I paid him; I applied to him once and he said I could have it back; I applied in the middle of the month, and he said I must take it before the end of the month.

40 25 *Quest.* When was this?

Ans. I couldn't state the time; it was about a month or two after the property was arranged; shortly afterwards he told me the property was too valuable to hat on, and wanted to put the shop on the back lot for me, and put the hat shop under Mr. Trusdale's nose.

26 *Quest.* What other agreement, if any, have you ever made with Mr. Jaques except the one you have spoken of—that you were to have the property back when you paid him? [Objected to as leading.]

Ans. There was no other agreement, except he wanted 10 me to work for him, which I did.

27 *Quest.* What, if anything, did Mr. Jaques say to you to induce you to have Mr. Dodd deed the property to Mr. Jaques' daughter?

Ans. It would be more secure in that way than where it was.

28 *Quest.* Did he give any reasons why it would be more secure?

Ans. He said he had had a matter to settle for a widow Crane, as I understood him, with Mr. Dodd, and the way he 20 had acted about that he thought that this had better be out of his hands; we went to see Mr. Dodd concerning it, and Mr. Jaques was about going to New York and wished me to walk with him to the Centre street depot, and told me this conversation about Mrs. Crane; I couldn't tell all that was said—merely that it wasn't hardly safe then; Mr. Dodd was a hard man to get along with.

29 *Quest.* Were you or not induced by the representations of Mr. Jaques to make a conveyance of this property to his daughter? 30

Ans. That was his proposition; I didn't know his daughter—I don't know that I ever see her.

The question being repeated, the witness says—I was so induced.

30 *Quest.* Were there any other encumbrances of mortgage or judgment upon the property, except those you have mentioned?

Ans. No, sir; the three mortgages were on.

31 *Quest.* Was there not a judgment in favor of Harriet Pierson against you? 40

Ans. Yes, sir.

32 *Quest.* Was not this a lien upon the property?

Ans. It was no lien as long as it staid in Amzi Dodd's hands.

33 *Quest.* What became of this judgment?

Ans. Mr. Jaques paid it.

34 *Quest.* Do you know whether a sale of the property by the sheriff was made under the judgment?

Ans. There was.

35 *Quest.* To whom was it sold?

10 *Ans.* To Jaques.

36 *Quest.* Was it or not understood that this conveyance by the sheriff was for your benefit? [Objected to as leading.]

Ans. Yes, sir; I would like to state when the sale commenced I didn't know until I heard about it, and told Jaques that I did not think it was worth while; and he said that was required—that would end all the matter.

37 *Quest.* After this sale by the sheriff, for whose benefit was it understood the property was to be held?

Ans. For my benefit.

20 38 *Quest.* When was this sale made by the sheriff?

Ans. I couldn't state the time; I think it must have been some time in the first of the fall of 1863; it might have been the last of the summer.

39 *Quest.* Did what is known as the Baldwin lot belong to the property you have been speaking of, or did Mr. Baldwin in 1863, own it?

Ans. Mr. S. W. Baldwin owned it.

40 *Quest.* Did this Baldwin lot formerly belong to you—and if so, when did you convey it away, and to whom, and
30 for what consideration?

Ans. It did formerly belong to me; I couldn't tell now when I conveyed it, some three or four years previous; I conveyed it to S. W. Baldwin; the consideration was between \$1500 and \$1600; there was an understanding when I conveyed it—the understanding was, that when I got able I was to take the lot back for my son, just the same as when I sold it—the same price.

41 *Quest.* How does this Baldwin lot lie as regards the rest of the property occupied by you?

Ans. On the back of the property, fronting on Mechanic street.

42 *Quest.* How would the value of the whole property be affected by taking off the Baldwin lot?

Ans. It would lessen the price of the balance.

43 *Quest.* When did Mr. Baldwin convey away this lot—and to whom, and for what price?

Ans. I couldn't state the exact time; I think it was along in the summer of 1863; he conveyed it to Mr. Jaques for \$1200. 10

44 *Quest.* How came he to convey it to Mr. Jaques—state the circumstances?

Ans. Mr. Jaques talked to me about it in the first place—said that lot had ought all to be originally one, and wanted me to see Mr. Baldwin about it. I saw Mr. Baldwin; he said whatever arrangements I wanted to make would be done—the conveyance was to be for me.

Adjourned until to-morrow morning at 10 o'clock.

Wednesday, December 19th, 1866. Parties appeared as before, and continued the examination of the complainant. 20

45 *Quest.* What do you mean by the conveyance was to be for you?

Ans. It was conveyed to Jaques in trust for me.

46 *Quest.* When, if ever, was he to convey it to you?

Ans. When I paid the money and interest.

47 *Quest.* What money do you mean?

Ans. The money he paid to Mr. Baldwin for the lot.

48 *Quest.* How much was that lot worth at that time—and what did Mr. Baldwin ask for it, if you know?

Ans. It was worth from \$1800 to \$2000; it was under my 30 control, the selling of it; whenever any one wanted to buy they came to me.

49 *Quest.* Did the encumbrances you have spoken of cover this Baldwin lot?

Ans. No, sir.

50 *Quest.* Since the conveyance by Mr. Baldwin to Mr. Jaques, who has had possession of this lot?

Ans. I have had possession.

51 *Quest.* Is there a fence between this lot and the other property?

Ans. No, sir.

52 *Quest.* At the time of the conveyance by you and Mr. Dodd to Caroline Jaques, what valuation did you put upon the property exclusive of the Baldwin lot?

Ans. My price was \$7000 at that time.

53 *Quest.* Had you an offer at or about that time of a price more than all the encumbrances upon the property?

10 *Ans.* Yes, sir; I was offered \$5000 without the buildings, for the purpose of building a church.

54 *Quest.* What did you consider the buildings worth?

Ans. Well, they was worth between \$2000 and \$3000.

55 *Quest.* What buildings were there then, and what are there now on the place?

Ans. A dwelling-house, and shop, and barn, both then and now.

56 *Quest.* Was this offer before or after the conveyance to Caroline Jaques—and if so, how long?

20 *Ans.* It was before—only a short time before.

57 *Quest.* How did you and your wife come to unite with Mr. Dodd and wife in the conveyance to Caroline Jaques?

Ans. He promised to hold it the same as Mr. Dodd.

58 *Quest.* Who do you mean by “he?”

Ans. Mr. Jaques.

59 *Quest.* I understood you to say that all the business was transacted with Mr. Jaques, and that you never saw the daughter—am I correct?

Ans. Yes, sir.

30 60 *Quest.* Have you ever paid to Mr. Jaques any interest on his claim—and if so, how much, state as near as you can?

Ans. I think it was something over four hundred dollars.

61 *Quest.* What other property, if any, have you than this real estate?

Ans. I havn't any at all besides what is there.

62 *Quest.* What is your age?

Ans. Forty-nine the eighteenth of November last.

63 *Quest.* Have you ever offered to repay to Mr. Jaques the principal and interest of his claims upon the property,

and for all trouble he has had in the matter, and all the expenses he has incurred in regard to this property ?

Ans. I have ; it was in July, 1865, I think it was.

64 *Quest.* Did he accept it, or refuse ?

Ans. He refused.

Cross-examined by Mr. Runyon.

1 *Quest.* Whose property was this property in question at the time of the giving of the encumbrances of which you have spoken—I now refer to the front lot ?

Ans. It was my property.

10

2 *Quest.* Of whom did you buy it ?

Ans. I bought it of Charles R. Akers ; I bargained for it—the property was a foreclosure, and it went through the hands of Van Buren Ryerson to me ; the mortgages covered more, and it went through Ryerson's hands on that account ; the property covered more ground than there is now in the place, and a street was cut through and divided the property.

3 *Quest.* Who conveyed the property to you ?

Ans. Van Buren Ryerson.

4 *Quest.* When ?

20

Ans. I think it was in 1845.

5 *Quest.* What did you pay for it ?

Ans. \$2750.

6 *Quest.* Were the buildings on it ?

Ans. Yes, sir.

7 *Quest.* The same that is there now.

Ans. Yes, sir.

8 *Quest.* How old was the house then ?

Ans. I couldn't say ; I had not been in the place long at the time, and didn't know when it was built.

30

9 *Quest.* Was it not an old house then ?

Ans. It was a very good house—it was not a new house.

10 *Quest.* The question is repeated.

Ans. If I knew how many years made an old house I could tell you ; it might have been built ten years, but I couldn't say about that.

11 *Quest.* Have you never heard when that house was built ?

Ans. No, I don't know that I ever inquired.

12 *Quest.* Is not the roof of it, at this time, falling to pieces of natural decay?

Ans. It leaks some on the front part.

13 *Quest.* Is it not a shingle roof?

Ans. Yes, sir.

14 *Quest.* Is it not falling to pieces from natural decay?

Ans. It is wearing out, decaying—whatever you are mind to call it.

15 *Quest.* Is not the front stoop falling away from the same
10 cause?

Ans. No, sir.

16 *Quest.* Has not the front stoop fallen away from the same cause?

Ans. I took it away myself, for the purpose of putting another there, but didn't do it.

17 *Quest.* When was that?

Ans. Well, I couldn't say—perhaps it was four or five years ago.

18 *Quest.* How much was there of the Van Buren Ryerson
20 property?

Ans. The Van Buren Ryerson property comprised all that there is now, with a small gore lot of about half of twenty-five feet lot; I owned the lot on the other side, from which this gore lot came off.

19 *Quest.* How much money did you pay for that property?

Ans. \$1750.

20 *Quest.* How?

Ans. I paid it in money, or the same as money—that and Hay & Ayres' paper.

30 21 *Quest.* How much money?

Ans. I couldn't state that.

22 *Quest.* You say that Van Buren Ryerson conveyed this property to you—how long did you hold it?

Ans. I couldn't state that—perhaps four, five, or six years, perhaps longer—I couldn't state now.

23 *Quest.* Did you convey it away then?

Ans. No, sir.

24 *Quest.* Why did you say that you held it four, five, or six years, if you did not convey it away?

40 *Ans.* I got involved, and it was sold by the sheriff.

25 *Quest.* Under judgments against you?

Ans. Under a judgment.

26 *Quest.* Who bought the property at the sheriff's sale?

Ans. John Baldwin.

27 *Quest.* Did you ever buy it of John Baldwin?

Ans. Yes, sir; I bargained for it, by paying what he paid for it.

28 *Quest.* Did you pay him what he paid for it?

Ans. Yes, sir.

29 *Quest.* What did you pay?

Ans. There was nobody at the sale, and I think it went 10 for \$20 above the encumbrance.

30 *Quest.* Was that what you paid him, the \$20?

Ans. Yes.

31 *Quest.* Who was John Baldwin?

Ans. He was a native of Orange.

32 *Quest.* Had you any other judgments against you at the time of the sheriff's sale, or did you owe any other debts, except the judgment under which that sale was made?

Ans. I think there was one—I couldn't say whether it was a judgment or debt; perhaps there was more, I can't recollect now.

33 *Quest.* Who held it, or in whose favor was it—such other judgment?

Ans. Jacob Remer.

34 *Quest.* How much was it?

Ans. About \$250.

35 *Quest.* Were you not, at that time, largely indebted to other persons than John Baldwin and Jacob Remer?

Ans. I think not; I was not much involved at that time.

36 *Quest.* You were indebted to other people besides these two, were you not?

Ans. I don't think I was; I had lost a good deal of money.

37 *Quest.* Did you not owe Hay & Ayres?

Ans. I never owed them a penny in the world.

38 *Quest.* Did you owe John Baldwin—if so, how much?

Ans. I didn't owe him anything.

39 *Quest.* Under whose judgment was the property sold at sheriff's sale, as you have mentioned?

Ans. I think it was Jacob Remer's.

40 *Quest.* Can you not tell me any more definitely who

John Baldwin was than by saying, as you have, that he was a native of Orange—was he not your father-in-law?

Ans. He was.

41 *Quest.* You say you paid him what he paid at the sheriff's sale for the property—that you bought it of him for that price—did he convey it to you?

Ans. Well, he conveyed it to Jacob Remer by my consent, or through my influence.

42 *Quest.* Did he not convey it to Jacob F. Remer by your
10 direction?

Ans. He did.

43 *Quest.* Did not the property belong to you all the time the title was in Jacob F. Remer?

Ans. I put it in his hands to secure him; I was to have it when I paid him.

44 *Quest.* How long did he hold it?

Ans. Well, I couldn't state exact—perhaps four or five years.

45 *Quest.* To whom did he convey it?

20 *Ans.* To Amzi Dodd.

46 *Quest.* By whose direction?

Ans. By my direction.

47 *Quest.* Did you take anything from Mr. Dodd to show on what terms he held the property?

Ans. Nothing at all.

48 *Quest.* When was it that the property was conveyed by Remer to Amzi Dodd?

Ans. I don't think I could state the time—there are papers here to show.

30 49 *Quest.* Was not that property, while Mr. Dodd had it, yours, in fact?

Ans. Yes, sir.

50 *Quest.* Harriet Pierson got a judgment against you in 1857, or thereabouts, did she not?

Ans. Yes.

51 *Quest.* On what was that judgment recovered?

Ans. On a debt; I held a debt against Jabez Pierson and he held one against me; he put all his effects out of his hands and died—my debt was not allowed, and he got his.

40 52 *Quest.* When was this debt to Pierson contracted?

Ans. I couldn't state—perhaps in 1854 or 1855—I couldn't say.

53 *Quest.* Why did you not take the title of this property from Mr. Remer to yourself, instead of to Amzi Dodd?

Ans. Well, what I owed to Mr. Remer was still standing under an arrangement we made; Mr. Remer wanted his money and Mr. Dodd furnished it, or secured him so that he could make use of it.

54 *Quest.* How did he secure it?

Ans. I take it it was by a mortgage, and S. W. Baldwin, 10 too.

55 *Quest.* Did Mr. Dodd hold the title to the S. W. Baldwin property?

Ans. I think he did.

56 *Quest.* How did he get it?

Ans. He got it of Mr. Remer.

57 *Quest.* Do you mean to say that Mr. Dodd gave his bond for your debt to Jacob F. Remer?

Ans. Well, it was done at that time; it might have been my bond, or it might have been together, it was done at that 20 time.

58 *Quest.* Was it not your own bond, and not yours and his together?

Ans. I couldn't say.

59 *Quest.* How came Mr. Samuel W. Baldwin by the title of the Baldwin lot?

Ans. I think it was from Mr. Dodd and me.

60 *Quest.* How much was the amount, as you have said, secured to Remer?

Ans. I couldn't exactly state, whatever I owed him at the 30 time—I had dealings with him all the while.

61 *Quest.* Dealings of what kind?

Ans. I had money of him—I had trade with him some—I couldn't state now what our dealings were.

62 *Quest.* What was your trading done in—groceries?

Ans. Yes, sir.

63 *Quest.* For your family?

Ans. I suppose so, or my hands—I don't know which.

64 *Quest.* Do you mean to say that you do not know whether your trading in groceries with Remer was for your 40 family's use, or for your hands employed by you?

Ans. It might have been both and money.

65 *Quest.* The question repeated.

Ans. Wherever I dealt—sometimes the hands dealt too; that is the only answer I can give.

66 *Quest.* About how much did you owe him at the time of the conveyance to Amzi Dodd?

Ans. It might have been \$600 or \$700.

67 *Quest.* Was it as much as \$600?

Ans. Yes, sir.

10 68 *Quest.* Did not Mr. Dodd convey to Samuel W. Baldwin at your request?

Ans. He did.

69 *Quest.* Has the debt to Remer been paid?

Ans. Yes, sir.

70 *Quest.* When was it paid?

Ans. About the same time—all this arrangement was made with Mr. Remer—the conveyance to Dodd.

71 *Quest.* Who paid it?

Ans. S. W. Baldwin paid it or I paid it, I don't know
20 which way you may take it; the arrangement was made with Morris and Essex railroad stock at the time, which Mr. Remer took.

72 *Quest.* Who gave that stock to Remer?

Ans. It was S. W. Baldwin's stock, the way I considered it; I took the stock and paid Mr. Remer with it—I didn't handle the stock.

73 *Quest.* What did you pay Mr. Samuel W. Baldwin for the stock?

Ans. I paid him a hundred cents on the dollar for the stock,
30 and secured him by a mortgage on the front property.

74 *Quest.* How came Baldwin to purchase what you call the Baldwin property?

Ans. To secure him what I owed him.

75 *Quest.* What you owed him for what?

Ans. Dealings we had together.

76 *Quest.* What dealings?

Ans. I couldn't state that; we had dealings of every description—perhaps a balance of all our dealings.

77 *Quest.* When you gave Baldwin this mortgage, did he
40 not agree that he would not part with it?

Ans. He did.

78 *Quest.* Did he part with it?

Ans. It seems that he did.

79 *Quest.* Did not Baldwin, after the conveyance to him, have the property, so conveyed, in the market for sale?

Ans. No, sir; not only by my directions.

80 *Quest.* The question is, did he have it in the market for sale, whether by your direction or otherwise?

Ans. I think it was in the market—the whole together.

81 *Quest.* Was not this Baldwin property in the market for sale, whether by your direction or otherwise? 10

Ans. Well, I offered it for sale—I can't say about Baldwin.

82 *Quest.* Did you not go with Mr. John G. Trusdell to Mr. Baldwin to buy the property for \$1300, or some such sum?

Ans. I don't think there was price set—that is, agreed upon.

83 *Quest.* Was not the price mentioned—the sum I have mentioned—\$1300 or some such sum?

Ans. I think it was nothing more than an offer.

84 *Quest.* By whom—who made it? 20

Ans. I think it was Trusdell.

85 *Quest.* Don't you know it was Trusdell?

Ans. Yes.

86 *Quest.* How much did Baldwin ask for the property at that time, and in that interview?

Ans. \$1800.

87 *Quest.* Did he not offer and try to sell the property to a person or persons in Mechanic street, in East Orange, for \$1500?

Ans. Not that I know of. 30

88 *Quest.* You say that Mr. Jaques wanted to put the hat shop under Trusdell's nose—were Mr. Jaques and Mr. Trusdell good friends?

Ans. Mr. Jaques didn't like the man.

89 *Quest.* The question repeated.

Ans. I couldn't say.

90 *Quest.* Was there not a stone wall put up along the front of the property—a fine cut stone wall?

Ans. There is a wall there, put up.

91 *Quest.* When was it put up, and who put it up? 40

Ans. I couldn't state when exactly—it was put up by Jaques.

92 *Quest.* State as nearly as you can when?

Ans. It was in 1864, perhaps.

93 *Quest.* Who has repaired the fences on that property since July 22, 1863?

Ans. Well, I was away, when I came home there was a young man to work there.

94 *Quest.* Where had you been?

10 *Ans.* I can't state where, to New York, perhaps; there was some old box timber brought up there and nailed on the fence; it was on the back line by Trusdell.

95 *Quest.* Was it not the whole of the fence on that line of the fence except what Trusdell was to maintain?

Ans. Yes.

96 *Quest.* How long did it take to fix that?

Ans. There might be a day's work for a man—I couldn't say.

97 *Quest.* Were there not three men to work there more than two days?

Ans. I don't remember of only one there; there might have been more there.

98 *Quest.* Your absence to New York—was it more than a few hours?

Ans. It generally takes me a whole day.

99 *Quest.* Did not Mr. Jaques amend that fence at that time?

Ans. He sent the man to do it, as I understood it.

100 *Quest.* Did you not show the man about the work?

30 *Ans.* The work was partly done before I got there; I might have showed the man about the line; we might have talked about the line, I don't remember.

101 *Quest.* Did not Mr. Jaques set out trees on that property?

Ans. Somebody set them there; I was not at home; when I came home they was set on the lot.

102 *Quest.* Are they there yet?

Ans. Yes.

103 *Quest.* How many of them were there?

40 *Ans.* I never counted them.

104 *Quest.* Were there a dozen ?

Ans. Well, I can't state positive ; I never thought of the matter at all ; I had as leave state positive, if I knew.

105 *Quest.* Who paid the taxes on that property since July 22d, 1863 ?

Ans. I didn't ; I could'nt state who.

106 *Quest.* Did you not pay those taxes once since that date, with money sent to you for the purpose by Mr. Jaques ?

Ans. I went and got some money once to pay taxes ; he put it down on his account he had. 10

107 *Quest.* Did you pay the tax with that money ?

Ans. I paid the tax.

108 *Quest.* The question repeated.

Ans. Well, I might, and I might have paid it with other money.

109 *Quest.* What, then, did you mean a few moments ago, when you swore that you didn't pay the tax, and could not tell who had paid it ?

Ans. Well, I didn't see him pay it, and I could not swear to a thing that I didn't. 20

110 *Quest.* Has not Mr. Jaques, since July 22d, 1863, repaired the roof of the shop on the premises ?

Ans. Well, there was some work done there, but none of any consequence ; there was a little tin put on—I could never see no difference in the roof at all.

111 *Quest.* The question is, did not Mr. Jaques do it ?

Ans. I suppose he sent a man to do it.

112 *Quest.* Did you know Aaron Peck in his lifetime ?

Ans. I did.

113 *Quest.* Were you and he on friendly terms ? 30

Ans. No, sir.

114 *Quest.* How long were you on unfriendly terms ?

Ans. I got on bad terms with him when he failed the last time.

115 *Quest.* About how long ago was that ?

Ans. Perhaps twelve years.

Adjourned to Friday, the 21st, at 10 A. M.

December 21st, 1866. Parties appeared as before.

116 *Quest.* Have you not, since October, 1863, been looking for a place to move to off of this property?

Ans. No, sir.

117 *Quest.* Have you not stated since that date, that you had been to Hoboken, Jersey City, Elizabeth, and up the North river, "where you came from," to find a place to move to off of this property?

Ans. After I was notified to leave the place I did go up the river, but I didn't look for a place.

10 118 *Quest.* That is not the question, the question is repeated.

Ans. I don't think I did, only up the North river—I never stated so.

119 *Quest.* Did you not say so to Mr. Jaques, in the spring of 1865?

Ans. I don't think I stated any particular place.

120 *Quest.* Did you not so state to Thomas Brown, in 1864 and 1865, or one of those years?

Ans. I don't know Mr. Brown.

20 121 *Quest.* Did you not so state to a man who was engaged in carting brick, cement, or other building material to this place, in 1864 or 1865?

Ans. I don't remember anything about having any conversation about it.

122 *Quest.* Did you not, in or about July, 1863, rent this front property from Mr. Jaques, by the year, at a rent of \$250 a year, payable monthly?

Ans. No, sir; I didn't consider it rent.

30 123 *Quest.* Were you not charged monthly, on your pass book with Mr. Jaques' firm while you were manufacturing for them, after the last date, with such rent?

Ans. I paid interest, he might have charged it rent.

124 *Quest.* How was it charged?

Ans. I wanted to pay what the interest would be, but he said I was not able, and I think he charged it rent.

125 *Quest.* Was it not charged as rent?

Ans. I think it was, but I objected to it.

126 *Quest.* Do you not know that it was charged as rent?

Ans. It was so charged on the pass book.

40 127 *Quest.* Did you not, before Mr. Jaques purchased this

front property, urge him to buy it, to keep it out of the hands of Aaron Peck?

Ans. I didn't urge him to buy it, only to help me out of it.

128 *Quest.* Question is repeated.

Ans. I would have done the same if anybody else would have bought, for I considered it was worth more than the encumbrance.

129 *Quest.* Did you not tell him that Aaron Peck was your enemy; and if Peck got the property, you would be immediately turned out of doors? 10

Ans. I expected to be, whoever bought it.

130 *Quest.* The question is, did you not tell him so?

Ans. I might have told him so.

131 *Quest.* Did you not tell him so?

Ans. I couldn't state positive whether I did tell him so—I might, or I might not.

132 *Quest.* What occasioned the difficulty between you and Aaron Peck? [Objected to.]

Ans. He failed and owed me considerable money, and tried to get all the goods before he failed; that commenced 20 the difficulty, and it was brought before the church, and he was turned out of the church; that was the amount of it.

133 *Quest.* Did you not, before the purchase by Mr. Jaques, say that you would rather any one else should have the property than Aaron Peck?

Ans. Well, I can't say that I did—I don't remember.

134 *Quest.* Did you not, before the sheriff's sale was set aside, allege that the purchase by Oscar L. Baldwin, at the sheriff's sale under foreclosure, was for Aaron Peck?

Ans. I didn't know it until after the sale; I think that 30 Oscar Baldwin told me so; I went to see him about it, and he told me; he understood I intended to let it go; he told me if I wanted to keep it, he would assist me to get it back—he would do anything to favor me. [The answer from "I went to see him," objected to.]

135 *Quest.* Who was the person whom you say offered you the money to pay off the encumbrances on the front property?

Ans. Jabez Elverson found a person and came up to see me about it; he was up there twice, and urged me to take the money. 40

136 *Quest.* Name the person?

Ans. I don't know the man—I don't remember the name.

137 *Quest.* Where is Mr. Elverson now?

Ans. He is in the city of Newark; he lives, I think, in Wallace street—he did at that time.

138 *Quest.* How did you work for Mr. Jaques, as you have said—what work did you do?

Ans. I made soft hats, and sized soft hats, and made military hats, and sized military hats, some of them, and some I
10 got up.

139 *Quest.* Where was this work done?

Ans. Orange.

140 *Quest.* Who furnished the material?

Ans. Mr. Jaques.

141 *Quest.* Did you not work for others at the same time?

Ans. Not while I was to work for him, he did not allow me to.

142 *Quest.* How many hands did you keep about?

Ans. I generally got all I could—I couldn't get many
20 hands; I was obliged to employ them for less than wages, and had to take them as they came along.

143 *Quest.* How long did you work for Mr. Jaques' firm after July, 1863?

Ans. In the neighborhood of two years, off and on, at different times.

144 *Quest.* How much time in two years?

Ans. I could not state; sometimes there would not be anybody, and I had to wait; I didn't work for anybody else; I got some work from Hachers & Gutman, whether it was
30 during this time or not, I couldn't say—I think not though.

145 *Quest.* Did you not, during this time, make up work for yourself?

Ans. I did, for myself.

146 *Quest.* Did you not, during this time, make up work for Charles I. Hedden or John H. Myers?

Ans. No, sir.

147 *Quest.* Did you not size bodies for them, or one of them, during that time?

Ans. My son, when he had no work, once in a while would
40 get a few there.

148 *Quest.* Where was your son's shop?

Ans. He worked with me.

149 *Quest.* How old was he?

Ans. He is twenty-four now, a little over.

150 *Quest.* How long did he work for Mr. Jaques, and what did he earn?

Ans. I don't know how long, and don't know what he earned.

151 *Quest.* Did he work a week for Mr. Jaques?

Ans. I think he did and more; he worked for him until 10 that raid in Pennsylvania; he started to go there and was called back.

152 *Quest.* Was he not discharged by them on account of improper work?

Ans. Well, I shouldn't think so, when he complained to me that he left—that is, Mr. Jaques complained.

153 *Quest.* Did he work for them a fortnight?

Ans. I think he did.

154 *Quest.* How long then?

Ans. Well, I can't say.

20.

155 *Quest.* Who made the offer of \$5000, of which you have spoken—and what was the property for which that sum was offered?

Ans. I suppose it was the committee of this new church—Presbyterian church—Matthias Dodd, and some others; one was Mitchell, I think his name was Aaron, I can't name the others; it was for the front part of the property.

156 *Quest.* How old is the barn on this property?

Ans. I couldn't say; it was built before I came in the place.

157 *Quest.* How did you pay the interest you say you paid 30 to Mr. Jaques?

Ans. It was charged to me.

158 *Quest.* On what?

Ans. On my account of work.

159 *Quest.* Where was it charged?

Ans. On the account against me.

160 *Quest.* What account?

Ans. On my account of work with Jaques.

161 *Quest.* How often was it charged—monthly?

Ans. Well, I think it was charged, not at first, he might 40

have charged it afterwards; it was not charged monthly at the start.

162 *Quest.* Did you ever take any receipt for it?

Ans. No, sir; I never was there when it was charged.

163 *Quest.* What written evidence have you of those payments?

Ans. I see it charged on the pass book.

164 *Quest.* Have you not, at different times, in 1864 and 1865, stated that the property in question in this suit was
10 Mr. Jaques', and spoken of it as being his property?

Ans. No other way than I always did speak the same as when Mr. Dodd held it. [The question being re-read to him, he says—No, sir; I never did.]

165 *Quest.* What do you mean by the first part of your last answer?

Ans. Well, I didn't own it myself; it was owned by somebody else—that is, for me.

166 *Quest.* What is the extent of the stone wall built by Mr. Jaques along the front lot—its length and height?

20 *Ans.* It might be a hundred feet, I don't think it is though—it does not run the whole length of the lot; it might be a foot high on one end, and three feet on the other.

167 *Quest.* Where does it commence?

Ans. It commences at the shop.

168 *Quest.* Where does it run to?

Ans. It runs towards Orange, within twelve or sixteen feet of the line.

169 *Quest.* How near the line is it at the shop?

Ans. Betwixt twenty-five and thirty feet.

30 170 *Quest.* How long was this wall in building?

Ans. This is impossible for anybody to tell—it was built in pieces, at different times—by men that were drunk and were quarrelling all the time—were fighting.

171 *Quest.* How many of them?

Ans. Well, there was, I guess there were three, and a laborer.

172 *Quest.* During how long a time was the wall in building?

Ans. Well, I couldn't state that at all.

40 173 *Quest.* How many weeks, as near as you can say?

Ans. It would be only guess work if I were to say; they quit at one time on account of wages.

174 *Quest.* Have you no idea whether that wall was one or more weeks in building?

Ans. It was more than one.

175 *Quest.* In what year was this?

Ans. It must have been in 1864—I think it was—I am not certain about that—it might have been in 1865.

176 *Quest.* Was not the stone for that wall, a large part of it, cut on the floor of the hat shop on the premises? 10

Ans. There was some cut on the floor.

177 *Quest.* Was not the material for that wall, much of it, lime, cement, &c., kept in that shop, and the mortar made there?

Ans. The mason asked permission to set things in there, and I told him if the things did not injure the floor he might set them in; the mortar was not made there at all; they cut a few stone there when it was bad weather.

178 *Quest.* Was not the water for cement and mortar for building the wall taken from the well at the house on the 20 premises?

Ans. It was; I never would refuse a man water.

179 *Quest.* Did you not say to the mason when he was building the wall, that if the place was yours, instead of putting up the wall to save the trees you would cut the trees down?

Ans. I don't recollect of having any conversation with him at all.

180 *Quest.* Did you not ask him while he was so engaged, how many houses Mr. Jaques intended to build on the pro- 30 perty?

Ans. There never was a word said like that—nothing of the kind.

181 *Quest.* Did you not ask him what Mr. Jaques was agoing to do with the old building?

Ans. No, sir.

182 *Quest.* When you filed the bill in this suit, had not Mr. Jaques a large quantity of building material on the ground, suitable to be used in building a house?

Ans. A mess of old bricks brought there until I stopped it.

183 *Quest.* Did not Mr. Jaques take the hay from the property in each of the years 1864, 1865, and 1866?

Ans. I did—by force.

184 *Quest.* By what force and how, in 1864?

Ans. In 1864 I did not object—I had no use for the hay, and did not say anything about it.

185 *Quest.* By what force and how, in 1865?

10 *Ans.* In 1865 Mr. Jaques had some—I cut some myself—Mr. Jaques had a man; I gave it green to different ones that came along; Mr. Jaques' own man came and got a load, and on his way down he sent another man that lived over the mountain for a load; Mr. Jaques' man cured some of it on the place and took it away.

186 *Quest.* On what part of the property was this hay cured?

Ans. On the Baldwin lot.

187 *Quest.* On what part was the green hay?

20 *Ans.* On the lot towards the front—there might be some on both.

188 *Quest.* Did not Mr. Jaques take the hay from the Baldwin lot in 1866?

Ans. He took it by force.

189 *Quest.* You say you offered to pay Mr. Jaques his money in July, 1865—how much did you offer to pay him?

Ans. I offered to pay him whatever I had of him—I asked for his bill and offered the full amount.

190 *Quest.* What was the amount of the bill?

30 *Ans.* He would not give me the bill.

191 *Quest.* Do you mean to say that he made out any bill?

Ans. He didn't make out any bill—he showed me his account before that.

192 *Quest.* When and where and what account was that?

Ans. It must have been in 1864—I think it was, in his back office—I couldn't state exact how much—it was in the neighborhood of \$3700.

193 *Quest.* What was the account in?

40 *Ans.* That I couldn't state; I think it was in a regular book—in a kind of memorandum book, or something of the kind.

194 *Quest.* Did you tender, in July, 1865, to Mr. Jaques, any money whatever?

Ans. I had the money to give him, but he would not make out his account or have anything to do with it.

195 *Quest.* Had you the money in your own possession then?

Ans. I hadn't it with me, but I could have called for it and got it.

196 *Quest.* Had Mr. Trusdell agreed to let you have it?

Ans. No, sir.

197 *Quest.* Who was with you?

Ans. Mr. Ranney.

198 *Quest.* How long was this before the bill was filed?

Ans. A few days—I couldn't state how long—about the same time.

199 *Quest.* Was not this interview and offer had and made in view of bringing this suit?

Ans. I didn't intend to bring this suit if he had delivered it up.

Direct examination resumed.

20

1 *Quest.* The wall which you have spoken of, which was built by Mr. Jaques along a part of the front of the property—why did you permit Mr. Jaques to build that wall?

Ans. There was a promise that he would put the shop on the back lot for me; if he had not have done that I would have objected to have the wall put up. [The last part of the answer objected to.]

2 *Quest.* What proposition, if any, did Mr. Jaques make to you in regard to the front and the back lots?

Ans. He wanted a place for himself, by putting me on the 30 back lot—I would be free from debt.

3 *Quest.* How did he propose to receive the money he had advanced for you?

Ans. I suppose in this way; by taking a portion of the property.

4 *Quest.* What portion did he propose to take to relieve you from your indebtedness to him—and what portion did he propose that you should have?

Ans. Well, I suppose the back lot—the Baldwin lot; he

proposed to take the front, and I should have the back lot, on Mechanic street.

5 *Quest.* Was this proposition ever reduced to an agreement between you?

Ans. No, sir; it was not.

6 *Quest.* You have spoken of some trees which were set out on the property by Mr. Jaques in your absence—can you now tell us about how many there were, what kind, and how large these trees were?

10 *Ans.* There was about a dozen—pair trees—about as big as a man's finger.

7 *Quest.* How many of these trees were set in the front lot?

Ans. There was only two in the front lot.

8 *Quest.* Are these all the trees which have ever been set out by Mr. Jaques on the place?

Ans. Yes, sir.

9 *Quest.* You have spoken of the house and shop as being a number of years old—of what are the frames of those buildings composed, and in what condition?

20 *Ans.* The shop part is solid oak, all through; the rafters are all of one piece of oak; the roof has leaked for some years; the frame of the house is oak, too—oak floors; the frame of the shop is all good; the frame of the house, the sill of the house in front, is decayed—that is, a part of it, the rest is good.

10 *Quest.* Are these frames composed of heavy or light timber?

Ans. Very heavy timber.

11 *Quest.* The hay from the place in the years 1864 and
30 1865—did you consider it of any value to you?

Ans. Well, I didn't at the time—I had no cow; it wouldn't have paid me to cut the hay.

12 *Quest.* The fence which you have spoken of as having been repaired—upon what line of the property is it?

Ans. On the line of Trusdale's property.

13 *Quest.* Was this a picket fence?

Ans. It was what you call a paling put on; it was not picketed yet.

14 *Quest.* The palings which you say were nailed on to the

fence—of what were they composed, and have they ever been sharpened at the top?

Ans. They are composed of boxes, fur cases, sawed up, of pine wood; they have never been sharpened at the top.

15 *Quest.* This fence, I understand, is between the Baldwin lot and Mr. Trusdell's property—is that so?

Ans. Yes, sir.

16 *Quest.* Did the fact, as you supposed, that Mr. Aaron Peck was to have the property at the time of the sheriff's sale change your conduct, or stimulate your endeavors to 10 have that sale set aside?

Ans. No more than if anybody else had bought it.

17 *Quest.* Do you mean to say that you would have made the application to have the sale set aside if any one else had bought it?

Ans. I would have made the application if anybody else had bought it.

18 *Quest.* Did you ever state to Mr. Jaques that you wished him to have the property in order to keep it out of the hands of Aaron Peck? 20

Ans. I never did.

19 *Quest.* State, if you remember, what time it was that Mr. Jaques was negotiating the sale of this property to Mr. Trusdell?

Ans. I think it was in 1865; I am not certain.

20 *Quest.* When you heard of this did you speak to Mr. Jaques about it—and if so, how long after you heard of it?

Ans. As soon as I knew it I went down to see him, and had quite a talk with him; he said, if I felt so bad about it, he wouldn't sell it. 30

21 *Quest.* You were asked in you cross-examination, if you had not stated that you had been to Jersey City, and other places to hunt up a place to move to off of this property—what is the fact; did you so go to get a place?

Ans. No, sir; I might have said something about leaving the place after I found out I was going to be cheated out of it.

22 *Quest.* Did you take any writing from Mr. Jaques to show that he held the property in trust for you—and if not, why not?

Ans. I did not; I had all confidence in him, that he would 40

do right; I was advised to take writing but did not think fit to do so, on that account.

Cross-examined.

1 *Quest.* On what part of the property were the trees that were not put out on the front part, set out?

Ans. On the Baldwin lot.

2 *Quest.* When were these trees set out?

Ans. I don't think I could state when—a couple a year ago—it might be longer.

10 3 *Quest.* Was it before or after the wall was built?

Ans. It didn't differ much from that time.

4 *Quest.* What is the length of the fence between Trusdell and the Baldwin property?

Ans. About 212 feet.

5 *Quest.* Did not Mr. Jaques make one-half of that fence?

Ans. The lot is 212 feet, and he repaired the fence for half of the lot.

6 *Quest.* Did he not make a new fence for one half of the lot?

20 *Ans.* The posts that were used were there; he might have used some of the old stuff, I couldn't say.

7 *Quest.* Since July, 1863, have the buildings on the property been insured—and if so, by whom have they been insured?

Ans. No, sir; not that I know; I had an insurance on them, but let it run out some years ago.

JAMES N. HOGAN.

Sworn and subscribed before me, at Newark, this 21st day of December, A. D. 1866.

30

S. S. MORRIS, *M. C.*

Counsel for complainant here offers in evidence a certified copy of an assignment, made by Henry H. Jaques to Phebe Ann Goble, of a mortgage made by James N. Hogan and wife to Charles R. Akers, which I have marked *Exhibit No. 8*, for the complainant.

Adjourned to December 26th, inst., at 10 A. M.

Depositions for Defendant.

[Filed February 5, 1868.]

Peter Morrow, a witness produced by the defendant, being duly sworn, in answer to questions put by counsel, saith—I live at No. 5 Beaver street, in the city of Newark, N. J.; am 51 years old; I am a mason by trade; I am following that business now; I am employed by Mr. Jaques, the defendant 10 in this suit; have worked for Mr. Jaques pretty near twelve years; I know James N. Hogan, of East Orange; I first became acquainted with him when working on his place at East Orange; had seen him before; I worked at his place in East Orange in the spring of 1864; I had seen him before, down at Jaques & Duryea's factory.

1 *Quest.* What work was you doing for him at his place in East Orange, as you say?

Ans. I was building a stone wall.

2 *Quest.* How long was you engaged in putting up that 20 stone wall?

Ans. From six to seven weeks.

3 *Quest.* Did you have any one to help you—and if so, who were they, and how many?

Ans. I had two masons to help me, and sometimes one and sometimes three laborers to help me; the masons' names were George Blaukenhorn and Owen McGuire; the laborers were James Bolin, another was Knox, I can't give his first name, and I cannot recollect the name of the third.

4 *Quest.* Where was this wall built—and what kind of a 30 wall was it?

Ans. It was built on the front of the place, and was a fine cut stone wall, such as is put up on gentleman's places; it was 115 feet eight inches long, and two feet thick, and five feet eight inches high at one end, and three feet ten at the other, besides the foundation laid down deep enough to keep the frost out, and allow the side walk to be laid down.

5 *Quest.* How was the outside of the wall finished?

Ans. It was finished in the best style, fine dressed stone, with five sides finished, nicely pointed, and the joints cut.

6 *Quest.* What was the cost of that wall at that time?

Ans. It cost about \$500 at that time, and it would not cost less than thousand at the present time.

7 *Quest.* Where was the wall located?

Ans. It was built right in face of Orange street.

8 *Quest.* And how in reference to the house on the place?

Ans. It was in the front of the old house.

9 *Quest.* What openings were left in the wall?

Ans. There was only one opening left, and that was for a 10 carriage way about fourteen feet wide, and at the west end.

10 *Quest.* What was the effect to the entrance from the street to the house in which Hogan was then living by putting up this wall?

Ans. It cut it off.

11 *Quest.* With reference to what was this wall built?

[The foregoing testimony in reference to this wall having been objected as the same was being given, the said objection is now made as being irrelevant. The last question is hereby also objected to by counsel of complainant.]

20 *Ans.* The wall was made to make the place look good; Mr. Jaques was going to build a nice house there, and he wants to have the wall nice to have the house look better.

12 *Quest.* Did you know, before the wall was built, where the new house was to be located?

Ans. I did.

13 *Quest.* Who employed and paid you and the other men, for building that wall?

Ans. Mr. Jaques.

14 *Quest.* How often, while you was building that wall, 30 did you see Mr. Hogan, the complainant, on or about the place?

Ans. I did see him pretty nearly every day.

15 *Quest.* Did you and Mr. Hogan, the complainant, have any conversation about the wall or excavations for the wall—if so, what were they?

[Question objected by counsel of complainant, who inquires of the counsel of defendants if it is his intention by this witness to contradict the testimony of the complainant already given.]

40 *Ans.* Well, in cutting down the bank, and to save the trees,

we came pretty close to the trees, and Mr. Hogan told me that if the place was his he would cut down the trees, and Mr. Jaques ought to cut down the trees so the place would look nicer.

16 *Quest.* Was any inquiry made by Mr. Hogan of you, while you were so employed, as to the location of the new house?

Ans. Yes, sir.

17 *Quest.* What was it, and what was your answer?

Ans. He was asking me where Mr. Jaques was going to build a house; I told him right back of the old one where Mr. Hogan lives.

18 *Quest.* Did he ask you anything about the shop—and if so, what, and what was your reply?

Ans. He asked me what Mr. Jaques was going to do with the shop, I told him as Mr. Jaques was going to pull it down and use it up for barn and stable purposes.

19 *Quest.* Where were the stone used for that wall cut?

Ans. Part of it in the basement of the shop, and part of it outside.

20

20 *Quest.* During the time you was engaged in putting up that wall, what did Mr. Hogan say, if anything, about it?

Ans. He did not say anything about it except that I was putting up a strong wall, that was all he said about it.

21 *Quest.* What do you mean when you say you first became acquainted with him when working on his place?

Ans. He was living there at that time I ought of right to say on Mr. Jaques' place.

22 *Quest.* Of what nation are you?

Ans. I am a German.

30

Examination adjourned by consent to March 12th, eleven o'clock A. M.

March 12th, eleven and a half o'clock A. M. Examination of Peter Morrow continued in presence of respective counsel.

Cross-examination of witness. In answer to questions put by counsel of complainant, witness said—

1 *Quest.* What part of Germany did you come from to this country, and when?

Ans. I came from Baden Hauden in the year 1848, on the 5th of January.

2 *Quest.* What are you doing for Mr. Jaques now—what particular branch of your business are you working at, and where?

Ans. I am working at mason's trade; carpenters' business at the present time, in the factory.

3 *Quest.* Specify the mason's work you are doing now for Mr. Jaques?

10 *Ans.* Repairing the buildings, pointing outside.

4 *Quest.* Have you worked for him all the time, for nearly twelve years past?

Ans. I have, sir.

5 *Quest.* Who owns the house in which you live?

Ans. That is more, gentlemen, than I can tell; whether it is Mr. Jaques or it is the firm that own it—it is in the bargain.

6 *Quest.* Who do you pay rent to, if anybody?

Ans. I don't pay no rent.

7 *Quest.* How long have you lived in the house free of
20 rent?

Ans. I live eleven years in it.

8 *Quest.* Where did you learn your trade of mason?

Ans. I learned it in the old country.

9 *Quest.* How long did you serve in learning your trade?

Ans. I served the time just according the law was, and I think that will do; my father was a boss mason, and I was not compelled to serve the time the law demanded; a boss mason may make his son a general mason at any time; I was carrying on the business in my father's name for the firm
30 when I was sixteen.

10 *Quest.* When did you commence this wall in East Orange, you have spoken of?

Ans. I commenced it early in the spring of 1864.

11 *Quest.* How long were you at work at it?

Ans. From six to seven weeks.

12 *Quest.* Were you there all the while during the six or seven weeks?

Ans. I was not there all the time, I was some days away.

13 *Quest.* Did not Mr. Jaques discharge you from his em-
40 ploy while you were putting up that wall?

Ans. He did not.

14 *Quest.* Which of the men did he discharge, if any?

Ans. He didn't discharge any, to my knowledge.

15 *Quest.* Did he not send you away and tell you not to come back there on that work?

Ans. He did not.

16 *Quest.* Where were you working during that six or seven weeks while you were not engaged on this wall?

Ans. I was working in the factory; I had to come down, he had business there I had to attend to. 10

17 *Quest.* Where is George Blaukenhorn, and where is Owen McGuire, and where is James Bolin, whom you say worked on that wall with you?

Ans. I can't say for sure where they are; I think they are living in the city yet; I didn't see two of them this long time.

18 *Quest.* Have you measured that wall since you built it?

Ans. I did.

19 *Quest.* When?

Ans. After it was finished. 20

20 *Quest.* How long after it was finished?

Ans. I measured it just at the time we finished it.

21 *Quest.* Have you measured it since that time?

Ans. I did not.

22 *Quest.* Did you make any memorandum of its dimensions?

Ans. I did.

23 *Quest.* Where is it?

Ans. I gave it to Mr. Jaques.

24 *Quest.* When did you give it to Mr. Jaques, and when 30 did you see it last?

Ans. I gave it to Mr. Jaques after it was finished; he wanted it to pay for the stones by; I did not see it last, I gave it to Mr. Jaques a few days after the wall was finished, and did not see it since.

25 *Quest.* You are not able to understand the English language very well, are you?

Ans. Well, I do not mean to say I understand to say like a lawyer, but I think I understand to explain it.

26 *Quest.* Will you swear that that wall was of the dimen- 40

sions you have stated it to be in your direct examination, and will you swear that that wall was ever finished?

Ans. Yes, sir; I can swear that it was finished so far as we meant to finish it, except the capping.

27 *Quest.* Have you seen the wall lately—and do you know in what condition it is?

Ans. I have not; I don't know what condition it is in.

28 *Quest.* How much did Mr. Jaques pay you for what you did on that wall?

10 *Ans.* Well, I can't say exactly what he paid me; I was working by the day—just according to the days I was working there.

29 *Quest.* What were the dimensions of that wall?

Ans. Does that mean what it was put up for—I don't understand the meaning of that word—dimensions, that is the size of the wall, ain't it?

30 *Quest.* Yes, I mean the size of it?

Ans. The size of the wall is 115 feet 8 inches long, 5 feet 8 inches high on one end, 3 feet 10 inches on the other, 2 feet thick, and foundation thick enough to keep the frost out and grade the sidewalk down.

31 *Quest.* How much did Mr. Jaques pay these other men who worked on that wall?

Ans. He paid them according to the wages that was at that time, and the time they worked.

32 *Quest.* What did he pay for the stone used in the wall?

Ans. He paid about from \$70 to \$80, I think, besides his own.

33 *Quest.* What kind of trees were they that you speak of
30 in your direct examination—how many, and how large were they?

Ans. They were elm trees, and there were three of them; they were about from fourteen to sixteen inches in diameter.

34 *Quest.* Who told you that Mr. Jaques was going to build a house on the back part of that lot?

Ans. Mr. Jaques told me himself as he was going to build a house right where Mr. Hogan lives.

35 *Quest.* Do you know Mr. Jaques' daughter, Caroline, now Mrs. Mitchell?

40 *Ans.* Yes, I do.

36 *Quest.* Did she ever say anything to you about that wall?

Ans. She did, as far as I remember; she told me to hurry up, to get through with it.

37 *Quest.* When did she tell you this, if ever?

Ans. I met her down here in her father's house when I was coming home from work; that was all she asked me about it.

38 *Quest.* Was this after the wall was finished?

Ans. It was before it was finished, while I was working at it. 10

39 *Quest.* How came she to say this?

Ans. She just asked me, "What time will you get through—hurry up and get done."

40 *Quest.* When did you first tell Mr. Jaques of these conversations which you say you had with Mr. Hogan?

Ans. It was at the time I was working at the wall.

41 *Quest.* How came you to tell him of these conversations then?

Ans. Mr. Jaques was coming out sometimes to see me, and I told him what Mr. Hogan said, as you ought to cut the trees down; Mr. Jaques said he would not cut the trees down, he wanted to save them. 20

42 *Quest.* Was that all you told Mr. Jaques?

Ans. I told Mr. Jaques more than that; I told him as Mr. Hogan say as the place was his as he would cut down the trees, and Mr. Jaques ought to do also and make the place look nicer.

43 *Quest.* Have you ever talked with Mr. Jaques about this suit?

Ans. I have not. 30

44 *Quest.* How did you know there was a suit pending between Mr. Hogan and Mr. Jaques?

Ans. Mr. Jaques was telling me as there was a law suit going on and he thinks he must bring me on the stand as a witness.

45 *Quest.* Did he tell you what to swear to?

Ans. He told me to swear to what's right, what I hear and see.

46 *Quest.* Did he remind you of what you told him about the trees? 40

Ans. No, sir.

47 *Quest.* Did he tell you how large the wall was?

Ans. He did not tell me; I told him the size of the wall.

48 *Quest.* Then you talked with him about the size of the wall, did you not?

Ans. I had a talk with him about it before we begun, about the strength of it—the size of it we had.

49 *Quest.* Do you mean to say that you have never, since the commencement of this suit, talked with Mr. Jaques on
10 the subjects you have testified to here?

Ans. I never had any talk with him except lately, when he told me as I have told here before.

50 *Quest.* When was this late conversation?

Ans. 'Twas about two or three months ago.

51 *Quest.* Has he never spoken to you about this suit since?

Ans. He was speaking to me once, and told me as he was thinking he would have to call upon me.

52 *Quest.* While you were building that wall did not you and the other men who were there have a fight one day?

20 [Question objected to.]

Ans. Well, that was no fight; there was only little quarreling about something what often happens amongst working men.

53 *Quest.* Did you not throw one of the men off from the wall? [Question objected by defendants counsel.]

Ans. I did not throw him off the wall; I only told him if he did not do as we told him, we would not work with him, or would not have him.

54 *Quest.* Where did you throw him? [Question objected
30 to.]

Ans. I did not throw him at all; I only got a hold of him and told him if he did not do as was told him, he had got to leave the place.

Being re-examined in chief by counsel of defendant.

1 *Quest.* What do you mean when you say that you have lived and now live in that house free of rent?

Ans. Well, I mean as the house I live in is along with the bargain I made for wages.

2 *Quest.* In that bargain, was any allowance made for rent?

Ans. There was nothing mentioned; the house was to go along with the wages—so much wages and the house free.

3 *Quest.* What was the bargain to which you refer?

Ans. The bargain was to get so much a day and the house.

4 *Quest.* How long was that bargain for?

Ans. That was for one year.

5 *Quest.* Was the gate-way in that wall finished?

Ans. It was not.

6 *Quest.* What was yet to be done?

Ans. Calculation was made with Mr. Jaques as there was 10 to be two cut stone pillars to hang the gates.

7 *Quest.* You have spoken of the foundation of that wall—what was its depth and how was it prepared?

Ans. Well, the depth was deep enough to keep the frost out, and allow to grade the sidewalk down; it was made out of small field stones and cement, with dry small field stones at the bottom to allow the water to run, and small stones and cement on the top of it.

8 *Quest.* Do you know when Mr. Jaques intended to build the new house? [Question objected by complainant's counsel.] 20

Ans. I do; we was going to build that very summer, as soon as the wall was finished—we intended to go on as soon as Mr. Hogan was out.

9 *Quest.* Which is your greatest difficulty—in understanding English, or speaking it?

Ans. I think as I am more able in speaking of it than understanding it.

10 *Quest.* Have you any difficulty in understanding ordinary conversations about those matters with which you are familiar? [Question objected by complainant's counsel.] 30

Ans. I have no difficulty about common conversations.

PETER MAURER.

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

John J. Till, a witness produced on the part of defendant, being duly sworn according to law, in answer to questions put by counsel, saith—I live in Newark; have lived here for 22 years; am a hatter, and 39 years of age; I am employed

now at Duryea & Jaques', hat manufacturers; Mr. Jaques, the defendant, is a member of that firm; I have been in their employ for 22 years, about; I am now superintending the manufacturing department; I know James N. Hogan, the complainant in this suit; he is a hatter by trade; I have known him for 15 years.

1 *Quest.* Since you have been engaged as stated with Duryea & Jaques, and their predecessors in business, has James N. Hogan ever been employed by them or either of them as a
10 journeyman? [*Question objected to by counsel of complainant.*]

Ans. No, sir.

2 *Quest.* Has he done work for them?

Ans. Yes, sir.

3 *Quest.* In what way?

Ans. In taking out work, as all other men do.

4 *Quest.* Where did he do the work, that he took out of your factory?

Ans. At Orange.

20 5 *Quest.* In whose shop, and with whose employees?

Ans. In his own shop, and his journeymen hands.

6 *Quest.* In the month of July, 1863, and in the month of June, 1863, was Hogan doing any work for Duryea & Jaques?

Ans. He was.

7 *Quest.* What work?

Ans. Manufacturing hats, making hats, and sizing hats.

8 *Quest.* About that time was you present at a conversation between Mr. Hogan and Mr. Jaques in reference to Hogan's property in East Orange—if so, state when that conversation
30 was had, where, and what was said?

Ans. I think it was the latter part of June or the first of July, in the back office of the factory; Mr. Hogan wished Mr. Jaques to buy his place; Mr. Jaques told Mr. Hogan that he had not the money to spare; Mr. Hogan said that it was sold at sheriff's sale, and he could not keep it—said if Mr. Jaques did not take it, it would fall into the hands of Mr. Peck, and he would rather Mr. Jaques would have it than any other man; he said there was fine fruit trees on the place, and it would make Mr. Jaques a desirable place; Mr.
40 Jaques said he could not do anything of the kind—but he would see about it and let him know.

9 *Quest.* In that conversation, did Hogan say why he did not want Peck to have the place?

Ans. He said Mr. Peck was his enemy.

10 *Quest.* Did you see Hogan at Mr. Jaques' office after that?

Ans. I did.

11 *Quest.* How long afterwards?

Ans. It might have been a day or two afterwards.

12 *Quest.* Do you know the object of his calling?

Ans. Well, I am sure I couldn't say.

10

13 *Quest.* Did you hear any conversation between Mr. Hogan and Mr. Jaques on that occasion, or do you know what they were talking about? [The latter part of question objected to by counsel of complainant.]

Ans. I do not know what they were conversing about.

14 *Quest.* You have said that the conversation was in the back office of the factory—whose factory?

Ans. Duryea & Jaques.

Being cross-examined by complainant's counsel, witness said—

20

1 *Quest.* Do you know Mr. Hogan's son—and was he not in the employ of Mr. Jaques in June and July, 1863?

Ans. I think it was after July, 1863, that he was in their employ.

2 *Quest.* At the time of this conversation you speak of, had the sheriff's sale been set aside?

Ans. I suppose it was, from the way Mr. Hogan spoke of it.

3 *Quest.* Had Mr. Jaques, at that time, taken the assignment of the mortgages and decree under which that sheriff's sale was made? [The witness here states that he wishes to make an explanation, that he did not understand question No. 2, and that nothing was said about the sheriff's sale being set aside.]

Question No. 3 being read to witness, he answers—

Ans. I do not know.

4 *Quest.* Was anything said in that conversation in regard to Mr. Jaques taking an assignment of the mortgages and decree which I have mentioned?

Ans. No, sir.

5 *Quest.* Was anything said by Mr. Hogan or Mr. Jaques in regard to Mr. Jaques' taking an assignment of a judgment against Mr. Hogan held by Harriet Pierson, or any one else?

Ans. No, sir.

6 *Quest.* All that was said then, which you heard, was in reference to a sale of the property by Hogan to Jaques?

Ans. All I know about it, he wanted to sell it to Mr. Jaques.

10 7 *Quest.* How could Mr. Hogan offer to sell the property to Mr. Jaques if it had been already sold by the sheriff?

Ans. I suppose Mr. Hogan had the deed.

8 *Quest.* How came you to suppose Mr. Hogan had the deed—was there anything said about a deed?

Ans. No, sir; I supposed the property was mortgaged and the deed was made out in his name.

9 *Quest.* How then could Mr. Peck get hold of the property?

Ans. He might buy it in.

10 *Quest.* I understood you to say that Mr. Hogan said the property had been sold at sheriff's sale—to whom did you understand had the sheriff sold it?

Ans. There were no names mentioned to whom it was sold.

11 *Quest.* How came you to remember this conversation?

Ans. Three or four weeks after that we was making army work; I gave Mr. Hogan some to make; I remember distinctly well it was three or four weeks before that, the time this took place; that is about selling the property.

12 *Quest.* How do you remember it was in the latter part of June or first part of July—might it not have been in August or September, of 1863?

Ans. I remember distinctly well after this took place we had the army order in—after this took place.

13 *Quest.* When did you have the army order in?

Ans. It came in about the middle of July, 1863.

14 *Quest.* When did you tell Mr. Jaques that you overheard this conversation?

Ans. I was present when this conversation was going on; I told Mr. Jaques nothing about it, for he knew all about it, and that I knew all about it.

40 15 *Quest.* Do you mean to say you have never spoken to

Mr. Jaques about the conversation which you said you overheard?

Ans. No, sir; I don't mean to say no such thing.

16 *Quest.* When did you first talk with him about it, and when was the last time, and how many times have you talked about it with Mr. Jaques?

Ans. It may have been a year ago, and the last time today, and several times between those times.

17 *Quest.* Was you in the office, and who else was there at the time you say this conversation took place? 10

Ans. Mr. Hogan, Mr. Jaques, and myself, and nobody else.

Being re-examined in chief.

1 *Quest.* Do you know from the conversation between Hogan and Jaques, referred to by you, who, at the time of that conversation, had the title to Hogan's property?

Ans. No, sir.

2 *Quest.* What year was that conversation between Hogan and Jaques?

Ans. In 1863. 20

JOHN J. TILL.

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

Examination adjourned to March 13th, 4 o'clock P. M.

March 13th, 1867. Examination continued in presence of respective counsel.

William B. Bradner, a witness produced on the part of defendant, being duly sworn according to law, saith—I am fifty-five years old; am in the coal business, and live in the city of Newark; have lived in Newark since the spring of 30 1835; I am well acquainted with Mr. Jaques, and have been introduced to Mr. Hogan.

1 *Quest.* When and where did you become acquainted with Mr. Hogan?

Ans. I can't be positive; but I think it was three years ago fourth of July day, in the afternoon.

2 *Quest.* That would make it, if you are correct, the fourth day of July of what year?

Ans. It would make it 1863, wouldn't it?

3 *Quest.* Where did you become acquainted with Mr. Hogan?

Ans. Well, it was 'twixt here and Orange, a little beyond where Aaron Peck resided, on property that he said belonged
10 to him.

4 *Quest.* How came you to meet Mr. Hogan there?

Ans. I went there with Mr. Jaques.

5 *Quest.* For what purpose?

Ans. I went to give my opinion as to the value of the property.

6 *Quest.* What property?

Ans. That property he said was his, and he was on, and I was on also.

7 *Quest.* To whom do you refer, when you say, "he said?"

20 *Ans.* I refer to Mr. Hogan.

8 *Quest.* Where did you, at that time, see Mr. Hogan, and what did he say, if anything, at that time, about the property upon which he was then living?

Ans. I saw him in the garden or in the lot; I will say in the first place, I don't pretend to give his exact words—as near as I can remember, he stated that there were judgments or mortgages, I don't remember which, against his property, and that Mr. Aaron Peck was making efforts to get the property, and that he had been acquainted with Mr. Jaques a
30 long time; if he would purchase the property, and if there was anything to be made by it, he would rather he would make it than Mr. Peck; he considered Mr. Peck no friend of his, consequently, he did not want him to get the property at all.

9 *Quest.* Did Mr. Hogan point out the boundaries of the place?

Ans. Yes, sir.

10 *Quest.* What did he say, if anything, about the place—and state any conversation you then heard regarding it
40 between Mr. Jaques and Mr. Hogan?

Ans. He said it would be a very good place for Mr. Jaques to build on; Mr. Jaques objected to the size of the lot; Mr. Hogan said the property in the rear was in the market, and could be purchased, and Mr. Jaques could get it—he took us over in the rear, and showed us that property—pointed it out.

11 *Quest.* Did Hogan, in that conversation, speak of his ability to hold or control the property himself—if so, what did he say? [Question objected to as leading by the counsel of complainant.] 10

Ans. Mr. Hogan said that it was impossible for him to control the property, and that it would have to be sold; that was when he said he did not want Mr. Peck to be the purchaser.

12 *Quest.* Did you, at that time, and in the presence of Mr. Hogan, express your opinion of the value of the property—if so, what was it? [Question objected to by counsel of complainant.]

Ans. I gave my opinion as to the value of the property—that opinion varied a little in the course of the conversation; I said I did not think there was any great speculation in it as an investment; but if Mr. Jaques wanted it to build on, for the purposes of his own home, it might not be dear; after the rear lot was spoken of I said that would improve it and make it more valuable, if it could be added to it.

13 *Quest.* How came you to express your opinion?

Ans. At the request of Mr. Jaques.

14 *Quest.* Was Mr. Hogan present when Mr. Jaques requested you to give your opinion?

Ans. That is my impression. 30

15 *Quest.* State that conversation between you and Mr. Jaques in the presence of Hogan, regarding the value of the property, and what Mr. Hogan said, if anything? [Question objected to by counsel of complainant.]

Ans. Well, I stated before, it was my impression that Mr. Hogan was present.

16 *Quest.* At what period of the conversation related by you was it that Hogan said that the adjoining property was in the market, and could be bought?

Ans. That was when the conversation was between me and Mr. Jaques about the price.

17 *Quest.* State the conversation in which Hogan made that remark—state it just as it occurred, as nearly as you can?

Ans. Well, as I stated before, it was made in the conversation between me and Mr. Jaques about the price; Mr. Jaques repeated to me, wanted him to purchase the property, and named the price in this way; he asked me if it would do to purchase the property for \$3000, or \$3500—he named one
10 price or other, I can't be positive which; I said to him that for me I did not see any great speculation in it at that price—that was my opinion—but if he wanted it to build for himself, it might do; then my attention was called to the rear lot, that it might be purchased and added to the other; I have good reason for believing that Mr. Hogan was present when I said it.

18 *Quest.* Did Mr. Hogan hear your opinion as to the value of that property?

Ans. I have good reason to think that he did.

20 19 *Quest.* You say in your direct examination that is only your impression that he, Hogan, was present when you gave this opinion—how can you say now that you have good reasons to believe that Mr. Hogan heard this conversation between you and Mr. Jaques?

Ans. In my direct examination I wanted to explain why I had that impression, the reason for it; while we was on the property I do not remember of any moment of time when Mr. Hogan and Mr. Jaques were not together after Mr. Hogan came out of the house.

30 20 *Quest.* Did Mr. Hogan ask you to give your opinion of the value of the property?

Ans. I think not.

21 *Quest.* Then your opinion was not given to him but to Mr. Jaques—was that so?

Ans. I considered it for Mr. Jaques' benefit.

22 *Quest.* Did not Mr. Hogan state that he considered the property to be worth \$10,000, exclusive of the back lot you have mentioned?

Ans. Not in my hearing.

23 *Quest.* What was that rear lot you have spoken of, and where was it situated?

Ans. It fronted on a street running out of the main street to Orange, in the rear of this property we was on, and running along the rear.

24 *Quest.* How large a lot?

Ans. Well, I could not give you the size of the lot, enough to very materially alter the appearance of the property.

25 *Quest.* And materially enhance the value of the front property, would it not—in your opinion? 10

Ans. I thought it would increase the value of the front property if it was connected with it.

26 *Quest.* How much, in your opinion, would it increase the value of the front property—give us the ratio, one quarter, one half, or how much?

Ans. I did not form any opinion at that time, and at the present time I have no opinion.

27 *Quest.* Who held the title of that lot at that time?

Ans. If I heard I do not remember.

28 *Quest.* At what price did you understand it could be bought? 20

Ans. If I then heard I do not remember what price was named.

29 *Quest.* Who held, at that time, the title to the front lot—state, if you know?

Ans. I do not know.

30 *Quest.* Did Mr. Jaques say anything about taking an assignment of any mortgages or judgments which were or might be a lien upon the property? 30

Ans. Not in my presence.

31 *Quest.* What buildings were upon the front lot at that time, on the 4th of July you have mentioned?

Ans. There was a dwelling-house, and a house on the corner of the street that appeared like an old shop or store; my impression is that in the rear of that there was something like an old shed or stable.

32 *Quest.* Were those the only buildings on the front lot that you saw?

Ans. That is my present impression.

33 *Quest.* How large was that building on the corner of the 40 street which you call a shop or a store?

Ans. I cannot say positively, but I think the front was cut away, making a story partially under ground, and a story and a gable story above it, that is my impression; I am not certain about it.

34 *Quest.* By that you mean a two story and gable building upon the front of the street—do you not?

Ans. It is not what I would call a two-story and gable house; yet if I remember right, one corner of it would be two stories and a gable.

10 35 *Quest.* Please state the difference between this building and a two story and gable building?

Ans. If I remember right it was a cellar, all except the front part or a corner of it; but I cannot be positive of it.

36 *Quest.* How long was it on the street, and how wide was it running back from the street?

Ans. It was on two streets; I should have to guess at the front and depth of it.

37 *Quest.* Was it not a three story and basement building?

Ans. It might have been.

20 38 *Quest.* Is that building there now?

Ans. I do not know.

39 *Quest.* Was there not a large hat shop on the front lot?

Ans. I think I now remember asking what this building was, and was told it was a hat shop.

40 *Quest.* Was there not another large hat shop on the front lot, in which Mr. Hogan was then manufacturing hats for Mr. Jaques?

Ans. There was something, some kind of a house, or shed; I knew nothing about what was done in it.

30

WM. B. BRADNER.

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

Examination adjourned to March 15th, ten o'clock A. M., by consent.

March 15th, ten and a half o'clock A. M. Examination continued in presence of respective counsel.

John E. Jansen, a witness produced on the part of defendants, being duly sworn according to law, in answer to questions put by counsel, said—I shall be sixty-six years of age next May; I live in Newark; I came here in 1845; I have lived here twenty-two years; I am at present a book keeper for Duryea & Jaques; have been employed by the house twenty-three years; I know James N. Hogan, the complainant.

1 *Quest.* Has he had business transactions with the firm of Duryea & Jaques? 10

Ans. Yes, sir.

2 *Quest.* Since you have been employed for that house, as you say, for twenty-three years, for what portion of that time have you had dealings as book-keeper with Mr. Hogan?

Ans. From the first of August, A. D. 1863.

3 *Quest.* What were the business transactions of Mr. Hogan with Duryea & Jaques?

Ans. Manufacturing hats at his own place of residence.

4 *Quest.* Have you here the books of account showing the transactions referred to? 20

Ans. I have—the books are here.

5 *Quest.* What books are they?

Ans. The wages ledger—the hatters ledger—that's all.

6 *Quest.* From what other book or books, if any, is account in the books now present taken?

Ans. I wish to remark that there is another account in the "forming" ledger, from which the forming account has been transferred to one of these books.

7 *Quest.* Refer to the book containing the beginning of Hogan's account, and give the date? [The question is objected to by counsel of complainant.] 30

Ans. From the wages ledger, 1st of August 1863; I see I made a mistake, it was on the 20th of October, 1862; I refer to page 40, wages ledger.

8 *Quest.* On what page of the wages book, to which you are now referring, is the account which you say commenced in August, 1863?

Ans. Page 169.

Said wages book is here offered in evidence of counsel of

defendants, and marked *Exhibit J No. 1*, on part of defendant.

[The complainant's counsel objects to said book, it appearing by the testimony of witness, that the said book is not the book of original entries, and insists that if evidence is to be given, that the whole series of books shall be produced.]

9 *Quest.* Is Hogan's account transferred or carried forward to any other page in this book—and if so, to what page?

Ans. From page 169 to page 376.

10 10 *Quest.* What does the account on page 169 show? [Question objected to, the book being the best evidence.]

Ans. The debit and credit side.

11 *Quest.* From what book is the account on the credit side taken?

Ans. The credit side is taken from the bills rendered by Mr. Hogan.

12 *Quest.* And from what book is the debit side taken?

Ans. From a book kept by Mr. John J. Till, and from a cash book.

20 13 *Quest.* Book being shown to witness—What book is this?

Ans. Day book.

14 *Quest.* Kept by whom?

Ans. Kept by Mr. John J. Till.

15 *Quest.* Who is Mr. Till, and how is he employed?

Ans. He is foreman in the hatters' department of Duryea & Jaques.

Day book offered in evidence by counsel of defendant, and marked as *Exhibit J 2*, on part of defendant.

30 Book objected to by counsel of complainant, and counsel of defendants is asked—For what purpose the book is offered in evidence?

To which the counsel of defendant answers—It is offered as one of the books of original entries to prove Hogan's account.

16 *Quest.* Is *Exhibit J No. 2*, a book of original entries?

Ans. Yes, sir.

17 *Quest.* In Hogan's account, on page 169, *Exhibit J No. 1*, and also on page 376, there appear, among other charges, 40 charges for rent—from what book or books, if any, were those charges taken?

Ans. Those charges were taken from no book at all; they were charged regularly monthly, same as we charge other tenants, without any reference to books.

18 *Quest.* Do you mean to say that those charges for rent, as they now appear on pages 169 and 376, original charges?

Ans. They are, sir.

19 *Quest.* Is Hogan's account continued in any other book—if so, what book?

Ans. It is continued in book called hatters ledger, page 300. 10

20 *Quest.* Where is that book?

Ans. It is here before me.

21 *Quest.* Are there any charges in this continued account for rent? [Question objected to by counsel of complainant, who says the account itself will show if book is offered in evidence.]

Ans. There are.

22 *Quest.* From what book or books, if any, were those charges for rent taken?

Ans. From no books at all; we charged the rent regularly 20 monthly, to every tenant.

23 *Quest.* Are the books *Exhibits J Nos. 1 and 2*, which you term ledgers, such ledgers as are known ordinarily in book-keeping?

Ans. They are, under different names.

24 *Quest.* At whose suggestion were those entries of charges for rent in Hogan's account made?

Ans. By Mr. Jaques; he gave me the monthly price—the yearly rent—payable monthly.

25 *Quest.* Who kept the books *Exhibits J Nos. 1 and 2*? 30

Ans. I did.

26 *Quest.* How often were settlements made with Mr. Hogan, and by whom were they made?

Ans. There has no final settlement been made with Mr. Hogan.

27 *Quest.* How often were partial settlements made with Mr. Hogan, if any, and with whom did he make them?

Ans. No partial settlements either.

28 *Quest.* During the time that Hogan was employed with

Duryea & Jaques, was any money paid to him—and if so, by whom was it paid?

Ans. Sometimes by Mr. Jaques, and mostly by myself.

29 *Quest.* Has Mr. Hogan had a copy of his account contained in *Exhibits J Nos. 1 and 2*?

Ans. He has up to a certain time; I have often requested Mr. Hogan to leave his book, but his excuse has been from time to time that he could not find it, so that the latter portion of his account has not been entered in his book.

10 30 *Quest.* Up to what time was his account entered in his book, and what kind of a book was his?

Ans. His book was what we called a “pass book,” but up to what time it was entered I cannot remember.

31 *Quest.* Who kept Hogan’s pass book, and how often did he leave it with you, and for what purpose did he leave it with you?

Ans. I kept Hogan’s pass book; he left it with me as often as he brought in a bill of hats—sometimes left it with me half an hour, and sometimes a week; and he left it with
20 me to have it written up.

32 *Quest.* State, as near as you can, the date of the last entries made by you in Hogan’s pass book? [Question objected to by counsel of complainant.]

Ans. As near as I can guess, it was the 1st of April, 1865.

33 *Quest.* Are you sure, when you asked Hogan to bring in his pass book, that he said what you have stated?

Ans. I am sure of that, and no mistake in it.

34 *Quest.* What was the difference, if any, between Hogan’s account, as it appears in *Exhibit J Nos. 1 and 2*, and
30 the account in his pass book up to the time of the last entry made in it by you? [Question objected to by counsel of complainant.]

Ans. That I can’t tell, as I can’t tell up to what time his account was made up in his pass book.

35 *Quest.* Question repeated to witness.

Ans. I cannot tell.

36 *Quest.* If the last entry made in Hogan’s pass book made by you was as you say, about the 1st of April, 1865, what was the difference, if any, between the two accounts?

40 *Ans.* I can’t give the difference, because I have not Hogan’s book.

37 *Quest.* So far as Hogan's pass book was written up, what is the difference, if any, between the entries in Hogan's pass book and your books?

Ans. I can't tell, for I have not Hogan's books.

38 *Quest.* What did you enter in Hogan's pass book?

Ans. I entered in Hogan's pass book, so far as it goes, both debits and credits.

39 *Quest.* Taken from what?

Ans. The credits, from bills rendered by Mr. Hogan; the debits, from day book, cash book, and pay book. 10

40 *Quest.* Which entries were first made by you—those in these books or those in Hogan's pass book? [Question objected to, and counsel of defendants is asked to which books he intends to direct the attention of the witness. To which defendant's counsel replies, *Exhibit J Nos. 1 and 2*, and also the hatters' ledger, referred to by the witness; which last book defendants counsel here offers in evidence, and I have marked the same as *Exhibit J No. 3*, on part of defendants.]

The complainant's counsel objects to the introduction of 20 the book in evidence, because it is not the book of original entries, and calls for the production of all the books containing the account between Mr. Jaques and Mr. Hogan.

Ans. In these books before me first, and from these books into Hogan's pass book.

41 *Quest.* To what rent do the charges in Hogan's account refer—to rent for what? [Question objected to by counsel of complainant.]

Ans. To rent for residence in Orange.

42 *Quest.* What objection did Hogan ever make, if any, to 30 these charges for rent?

Ans. None whatever.

43 *Quest.* Were the entries made by you in Hogan's pass book taken from any other book or books than *Exhibit J Nos. 1 and 3*?

Ans. No—only from his bills.

44 *Quest.* What bills?

Ans. Bills sent in by Hogan.

45 *Quest.* Were not all of those bills entered in *Exhibit J Nos. 1 and 3*, before you wrote up Hogan's pass book? 40

Ans. They were.

46 *Quest.* Were the charges against Hogan for rent as the same appears in his account in *Exhibit J Nos. 1 and 3*, entered by you in his pass book up to the time that you wrote up his pass book? [Question objected to by counsel of complainant.]

Ans. That I am not sure of, because I could not get Mr. Hogan's pass book.

47 *Quest.* Up to the time when you did make entries in
10 Hogan's pass book, did you enter in his pass book the charges for rent, as they appear in that account? [Question objected to by counsel of complainant.]

Ans. I did, regularly, every month.

48 *Quest.* After you would write up Hogan's pass book, what would you do with it?

Ans. Hand it back to him.

49 *Quest.* And when would you get it again from Hogan?

Ans. As soon as he brought it in again.

50 *Quest.* You have said, in answer to question forty-seven,
20 that the charges for rent in Hogan's pass book were entered therein as they appeared in that account—what account do you refer to? [Question objected to by counsel of complainant.]

Ans. To my wages ledger, and hatters ledger.

51 *Quest.* Was Mr. Hogan's son in the employ of Duryea & Jaques—and if so, can you state for how long, and how much he earned during the time?

[A book is shown witness, and the question asked. [Question objected to by counsel of complainant.]

30 *Ans.* He was in their employ three weeks—he earned \$27.

52 *Quest.* What is the book to which you are now referring?

Ans. The finisher's work book.

Which said book is offered in evidence by counsel of defendants, and marked *Exhibit J No. 4*, on part of defendants. [To which complainant's counsel objects, for the reason that it has not been proved according to law.]

53 *Quest.* When was that time made by Hogan's son?

Ans. It was on the 6th, 13th, and 20th of June, 1863.

54 *Quest.* In whose handwriting is that book kept?

Ans. By the foreman in the finishing room, I can't tell his name.

55 *Quest.* Who made up, in this book, the amount which young Mr. Hogan earned?

Ans. It is either made by the foreman or one David Jaques.

56 *Quest.* Did Mr. Hogan, the complainant, ever have more than one of his sons in the employ of Duryea & Jaques?

Ans. Not that I know of.

Being cross-examined by complainant's counsel, witness said— 10

1 *Quest.* At what question of your direct examination was the examination adjourned this noon?

Ans. At question forty seven, and after the answer thereto.

2 *Quest.* Have you not been in consultation with Mr. Jaques since the adjournment?

Ans. Positively not.

3 *Quest.* With whom have you consulted since the adjournment?

Ans. With nobody whatever.

4 *Quest.* Who composes the firm of Duryea & Jaques, and who did compose the firm in 1863, 1864, and 1865? 20

Ans. It is composed of Henry H. Jaques and Henry W. Duryea; in 1863 I cannot tell, unless I refer to the books, who composed the firm in 1863; if I remember right, up to the 1st November, 1863, the firm consisted of Peter S. Duryea, Henry H. Jaques, and Henry W. Duryea—from that time it was Duryea & Jaques.

5 *Quest.* Were you the only book-keeper they employed?

Ans. I was.

6 *Quest.* What books did you keep, and what books were kept by the firm? 30

Ans. In New York a regular set of mercantile books, in Newark a set of manufacturing books; I keep a set of manufacturing books.

7 *Quest.* Specify the books which you keep, and which you kept in those years?

Ans. A wages ledger, a hatters ledger, a forming ledger, a pay book, and part of the cash book.

8 *Quest.* Who kept the other books here, and what were they? 40

Ans. The other books are kept by the foreman in each department; they were the daily work of each man; that's all I know.

9 *Quest.* Who kept the day book?

Ans. The foreman, John J Till.

10 *Quest.* You transferred from the day book to the ledgers the account's thereon, did you not?

Ans. I did.

11 *Quest.* Turn to Mr. Hogan's account on the day book and show us where it is transferred to the ledger, and tell us where it commenced upon the day book?

Ans. It is commenced on the day book July 8th, 1853.

12 *Quest.* I understood you, in your answer to question 7 in your direct examination, to say that Mr. Hogan's account commenced on the 1st of August, 1863, and on reflection corrected yourself and said it commenced on the 20th of October, 1862—how can you now swear that it commenced in July, 1853?

20 *Ans.* Because I have no recollection that we had any former transactions with Mr. Hogan so long ago; I had no idea of that.

13 *Quest.* You have had these books and these indexes before you all through this examination, have you not?

Ans. I did not examine the books previously at all where to begin.

14 *Quest.* Do I understand you then to say that you swore in your direct examination without examining the books which lay on the table before you?

Ans. I swore to the best of my belief.

30 15 *Quest.* From what was your belief obtained?

Ans. To answer all questions as correct as I can.

16 *Quest.* To what did you refer when endeavoring to answer those questions as correct as you can—did you not refer to the books before you?

Ans. The first examination of the books was by me this morning.

Quest. repeated.

40 *Ans.* I say the first examination of the books was made by me this morning, and I overlooked the fact of having trans-

17 *Quest.* Can you remember any of the dates, any of the items of account or the transactions, the business transactions between Mr. Jaques and Mr. Hogan, without referring to your books before you?

Ans. I cannot.

18 *Quest.* Then all the alleged facts to which you have sworn in your direct examination are derived from the books which you have produced, are they not?

Ans. Yes, sir.

19 *Quest.* Where is the forming ledger, and who kept it 10 in 1863, '64, and '65?

Ans. I kept it—it is now in the factory—it is not here.

20 *Quest.* Are the items charged to Mr. Hogan on the day book carried out so as to show the amount charged against him?

Ans. To the best of my belief, they are.

21 *Quest.* Let me refresh your memory by referring to the book itself; look at the date July 13th, 1853, and say if those are carried out?

Ans. They are carried out here on the ledger—they are 20 not carried out on the day book, because the foreman did not know the price of the articles charged.

22 *Quest.* Look at this day book and show us any charge against Hogan carried out?

Ans. There are none there carried out—they are carried out on the ledger; it was none of the foreman's business to carry them out.

23 *Quest.* You have referred frequently in your examination to page 300, in the hatters' ledger, numbered as *Exhibit J No. 3*, as containing Mr. Hogan's account—from what 30 book or books is that account made up?

Ans. From the day book, forming ledger, and cash book.

Quest. Where is the cash-book?

Ans. Not here.

25 *Quest.* I see on this page, (300) under date of February 1st, 1865, an item of "rent for February, 1865," which is written over an erasure—who made that erasure and why was it erased?

Ans. I can't remember what has been there before, but the extent is right; it might have been a spot.

26 *Quest.* On the same page, under date of "March 31st, 1865," there appears a charge if "rent for April" has been cancelled—why was that done? who did it? and by whose direction? and when was it done?

Ans. It was erased on the last day of March, 1865, by direction of Mr. Jaques, by myself.

27 *Quest.* Why did he tell you to erase it?

Ans. I don't know.

28 *Quest.* For what reason?

10 *Ans.* I can't remember no particular reason.

29 *Quest.* I see that several erasures have been made in Mr. Hogan's account on this page—why were they made? [Question objected to by counsel of defendant for its indefiniteness.]

Ans. One was made after balancing his account; the rent of April had to come off for the reason if the same rent should come off for April; the two other erasures appear to me to have been ink spots.

40 *Quest.* Where is the pay book, and where are the bills rendered by Mr. Hogan from which the ledgers are made up, and which you have produced here and have been marked as *Exhibit J Nos. 1 and 3*?

Ans. The pay book is here, and the bills I have filed away.

41 *Quest.* What do you mean by saying the pay book is here?

Ans. That is it.

42 *Quest.* Has it been introduced in evidence?

Ans. It has been applied for this forenoon and was here.

30 43 *Quest.* Where are these books kept—in whose custody?

Ans. They are kept in the safe of the factory, under lock and key.

44 *Quest.* Does Mr. Hogan have access to them?

Ans. No, sir.

45 *Quest.* Did he ever inspect them, to your knowledge?

Ans. No, sir.

46 *Quest.* Who told you to make charges for rent against Mr. Hogan?

Ans. Mr. Jaques.

40 47 *Quest.* When did he first tell you to do it?

Ans. On the first of August—to commence on the fifteenth day of July, 1863.

48 *Quest.* Did you tell Mr. Hogan of that?

Ans. I entered it in his pass book, and he saw it after it was entered.

Quest. repeated.

Ans. I entered it on his pass book—Mr. Hogan saw it was so entered or charged.

Quest. repeated.

Ans. I cannot remember that I told him, but he saw the 10 entry—I showed it to him on the book.

49 *Quest.* Do you know Peter Morrow?

Ans. I don't know him.

50 *Quest.* Is he not a mason, or carpenter, or some kind of a workman employed by Mr. Jaques?

Ans. I believe you are mistaken in the name; you call him Peter Morrell—his name is Peter Mowrer.

51 *Quest.* What is he doing now?

Ans. He does mason work and carpenters' work in the factory. 20

52 *Quest.* How much did Mr. Jaques tell you to charge Mr. Hogan as a yearly rent?

Ans. \$250.

53 *Quest.* Did not Mr. Hogan find fault with you for charging him that item on the score of rent, instead of interest?

Ans. He never did—never said a word to me about it.

54 *Quest.* Where is Mr. Hogan's pass book—we want that?

Ans. Mr. Hogan has it in his possession himself.

55 *Quest.* How can you swear to that? 30

Ans. Because I gave it to Mr. Hogan himself the last time he was in the factory.

56 *Quest.* When was the last time he was in the factory?

Ans. I cannot tell the exact date.

57 *Quest.* Tell as near as you can?

Ans. I can't tell—I can't guess exactly at the last time—the books cannot tell.

58 *Quest.* In what month or in what year was he there last?

Ans. The last bill he delivered to me was on the 16th day of February, 1865.

Quest. repeated.

Ans. I repeat again, that on the 16th day of February, 1865, he gave me his last bill.

Quest. repeated.

Ans. I cannot answer the question in any other way, and not nearer.

59 *Quest.* How do you know he delivered his last bill on
10 the 16th day of February, 1865?

Ans. By his own bill.

60 *Quest.* Where is the bill?

Ans. The bill is filed away.

61 *Quest.* Filed away where—and when did you last see it?

Ans. Filed away among the bills of purchase in the factory; the last of the bill I saw was on the 16th of February, 1865.

62 *Quest.* How do you remember the date so exactly?

Ans. By the date of Hogan's bill.

63 *Quest.* You say you have not seen it since the 16th day
20 of February, 1865—how can you, at this time, swear to the exact date?

Ans. Because it is entered on that date, on our books.

64 *Quest.* Then the only reason you can remember it to be on that day is that it is thus entered on your books?

Ans. The books are my only reference.

65 *Quest.* If it was not so entered on your books you would not be able to remember the day, would you?

Ans. My books are my only reference; I do not pretend to remember everything.

30 66 *Quest.* Then if you did not see the memorandum upon the books you would not remember anything of the transaction, would you? [Question objected to by counsel of defendants on account of its vagueness.]

Ans. In all transactions so long ago I refer to my books.

67 *Quest.* The witness does not seem to comprehend my question—please, Mr. Master, read it to him. [The question repeated by the master.]

Ans. I remember we had transactions with Mr. Hogan, but to remember every bill, I suppose I cannot without the
40 books—without referring to the books.

68 *Quest.* Did you not refer to the books in order to give us this date?

Ans. I referred to the books, to that date, this afternoon.

69 *Quest.* Could you have told the date without referring to the books?

Ans. I could not.

70 *Quest.* Did Mr. Hogan present that bill on the 16th of February, 1865, in person, or did he send it down by somebody else?

Ans. I cannot remember that Mr. Hogan presented that bill in person, or sent somebody else, but the bill was sent in—I got possession of the bill.

71 *Quest.* From whom did you get possession of the bill on the 16th day of February, 1865?

Ans. Usually Mr. Hogan himself left the bills with me—I cannot remember who left the bill with me.

72 *Quest.* Can you swear that Mr. Hogan was in your office on the 16th day of February, 1865?

Ans. No, I cannot.

73 *Quest.* Can you swear that you saw him on that day?

Ans. No, I cannot swear to it.

74 *Quest.* Can you swear that you delivered the pass book to him on that day?

Ans. I cannot positively swear that I delivered it to him on that date.

75 *Quest.* Please give us then the date when you did deliver it to him?

Ans. I do not remember.

76 *Quest.* Give us the date that Mr. Hogan last visited the office of Mr. Jaques?

30

Ans. I cannot tell.

77 *Quest.* In what year was it?

Ans. In February, 1865.

78 *Quest.* How do you know it was that month—and can you give us the date of the month?

Ans. By reference to our books—that's all the answer I can give to that question.

79 *Quest.* Is that the only way you know?

Ans. That is my only way.

80 *Quest.* Then if I understand you, exclusive of the books

40

now before you, you could not tell the year, the month, or day, of Mr. Hogan's last visit at your office?

Ans. No.

81 *Quest.* How, then, came you to swear that Mr. Hogan was there on the 16th of February, 1865, and that you, on that day, gave him that pass book?

Ans. I did not swear any such thing.

82 *Quest.* What did you swear—when was it that you gave him the pass book, and what entries did it contain?

10 *Ans.* I did not swear that I handed Mr. Hogan the pass book on the 16th of February, 1865, I did not swear to that—I swore that I could not positively tell the date I handed Mr. Hogan the pass book; I cannot recollect the exact date when I gave him the pass book; it contained different charges, in different debits and credits.

83 *Quest.* In what year was it that you gave him the pass book?

Ans. Mr. Hogan had a pass book in 1853, another in 1862, another in 1863.

20

J. E. JANSEN.

Further examination of this witness adjourned to March 16th, 10 o'clock A. M., and the examination of George Mitchel, a witness produced on the part of defendants, taken up.

March 16th, 11 A. M., cross-examination of Mr. Jansen renewed, in presence of counsel of parties.

84 *Quest.* How many times was Mr. Hogan in the office of Mr. Jaques after the 1st of January, 1865?

30 *Ans.* I have to refer to the books to show me; Mr. Hogan, has been in the office on the 4th of February, 1865; at that time he received \$100 cash; as an evidence that he was at that time in our office, Mr. Hogan had his pass book with him at that time, to enter the cash item, I paying out never any cash, unless the man presents his pass book to enter the cash on; after that I cannot ascertain that he has been in the office or not; yes I can too, on or about the 16th of February 1865, he was there to deliver his bills.

85 *Quest.* Have you any remembrance of his being there at all, aside from the books which you now have before you?

Ans. I cannot remember whether he has or not, since the time previously stated.

86 *Quest.* Tell us when you gave him that book the last time—do it without referring to the books?

Ans. I can't tell anything about it without referring to the books.

87 *Quest.* Do you not know that that pass book had been lost long prior to the 16th day of February, 1865?

Ans. I don't know anything about the pass book being lost; Mr. Hogan told me two or three times that he could not find it.

88 *Quest.* Have you not, you or Mr. Jaques, now got that book in your possession?

Ans. We have not.

89 *Quest.* Will you swear that any charge was entered on that book—I mean the pass book—in February, 1865?

Ans. I can swear up to the 4th of February, 1865, when Mr. Hogan received the cash.

90 *Quest.* Did you give that pass book to Mr. Hogan on that day? 20

Ans. As far as I remember, I did.

91 *Quest.* Was that the last time you saw it?

Ans. That I cannot positively tell.

J. E. JANSEN.

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

Aaron E. Ballard, a witness produced on the part of defendants, being duly sworn according to law, saith—I am 74 years old; I am a real estate agent, and have been for ten years, and have resided in Newark for fourteen years, and 30 upwards; I am acquainted with Mr. Jaques and Mr. Hogan.

1 *Quest.* When and where did you become acquainted with Mr. Hogan, and by whom was you introduced?

Ans. I was introduced by Mr. Jaques, the early part of July, 1863, at Mr. Hogan's residence, at East Orange.

2 *Quest.* How came you to go there?

Ans. By request of Mr. Jaques.

3 *Quest.* For what purpose?

Ans. To look at the property.

4 *Quest.* Where did you first then and there see Mr. Hogan?

Ans. On the lot where he lived, in the rear of his house.

5 *Quest.* What did you hear Mr. Hogan then and there say, if anything, about the property?

Ans. He talked with Mr. Jaques about selling it to him—wanted him to buy it.

6 *Quest.* What did Hogan say, if anything, about its being a nice place for Mr. Jaques to build a house upon—and what
10 reply, if any, did Jaques make? [Question objected by counsel of complainant, as leading.]

Ans. Mr. Hogan said considerable about the property, spoke about its advantages, about the nice fruit upon it, and many other advantages for a nice country seat; Mr. Jaques said there were not land enough; Mr. Hogan said there was a lot to be purchased cheap; he went with us to show us the lot which joined his premises; there was a great deal said upon that occasion about the property, about the fruit, &c.

7 *Quest.* Did Hogan, when speaking of the adjoining lot,
20 that it could be purchased, say anything about its having been in the market—and if so, what? [Question objected to as leading.]

Ans. He said it had been in the market some time, and it could be bought cheap; the price I forget about.

8 *Quest.* Where was the adjoining lot Mr. Hogan showed you and spoke about?

Ans. The lot adjoins the lot he was trying to sell to Jaques, on the north side or end.

9 *Quest.* Was the price of Hogan's property spoken of in
30 Hogan's presence, and did you, in Hogan's presence, express your opinion of its value—and if so, state what was said?

Ans. Just before we left the price was named, \$3500, if I remember right; I think it was that—I made the remark at once, I said that would not do for an investment; that was said to both of them; we were all standing together; I further said that it would do for him to build him a nice country residence, not else; he said he wanted to sell it, and he further said Peck wanted it, but he said he couldn't or shouldn't have it.

10 *Quest.* Did he give any reason why Peck shouldn't have it?

Ans. I disremember now what the reasons were—couldn't tell the words.

Being cross-examined, witness said—

1 *Quest.* What time in July was this?

Ans. In the early part of July, and I think not far from the 4th—the day before or the day after, very near that day, in the early part of July.

2 *Quest.* Did Mr. Jaques carry you up there? 10

Ans. He did; he came to my office and wanted me to go up with him, and I rode up with him in his carriage.

3 *Quest.* How large was the place?

Ans. It was a nice building lot, with two buildings upon it; perhaps three quarters of an acre—I did not measure it.

4 *Quest.* Were there any buildings upon it—and if so, what buildings?

Ans. There was quite a large hat shop on the corner and an old house in the rear, and there was, I think, a kind of shanty in the rear of it, going north. 20

5 *Quest.* This property is situated upon the ridge on the main road to Orange, directly opposite the residence of Aaron Peck, is it not?

Ans. It is on the ridge, rather; I think it is not far from being opposite residence of Mr. Peck.

6 *Quest.* It had a front on two streets, had it not?

Ans. It fronted on the main Orange road, and bounded on the street east of it; I don't remember its name.

7 *Quest.* You say that you remarked that it would not do to pay \$3500 for that lot as it then was, as an investment— 30 do you still retain that opinion?

Ans. I say that that was my judgment at that time, when I was there with Mr. Jaques putting a value upon it—I can't tell anything about it now.

8 *Quest.* Do you not now consider that the opinion that you expressed then was erroneous?

Ans. No, sir; I was honest in my opinion.

9 *Quest.* If that property could have been bought at that time for \$3500, and could have been sold within two and a

half years afterwards for \$12,500, you would have considered it a good investment, would you not?

Ans. You are going entirely into the future, and I can't answer that.

10 *Quest.* What did Mr. Jaques say the property was worth, in his opinion, at that time?

Ans. Mr. Jaques said but little about it—was hesitating even when we parted that night.

11 *Quest.* What was that little he said about it?

10 *Ans.* He thought a great deal of my opinion; the most he said was that he thought my opinion was good.

12 *Quest.* Did not Mr. Jaques himself express some opinion himself as to the value of this property?

Ans. I don't think he did, directly—he seemed to go solely upon my opinion while we were together.

13 *Quest.* Did he conclude to purchase the property?

Ans. Not while with me.

14 *Quest.* Did not Mr. Hogan state there at that time that he had a standing offer of \$5000, cash, for the front lot, and
20 that he would not sell it for any such money?

Ans. I heard no such conversation.

15 *Quest.* Was there anything said in regard to Mr. Jaques taking assignments of any mortgages upon the property and judgments upon the property?

Ans. Not in my presence, if I remember right.

14 *Quest.* Did not Mr. Jaques express a great deal of sympathy and kindness towards Mr. Hogan?

Ans. They appeared to be friendly.

15 *Quest.* Did he not express himself, that it was too bad
30 that James should lose his property, and seemed to feel very deeply for him?

Ans. I don't know how he felt—I heard no expression of the kind; I was there only on one occasion.

Being re-examined in chief, witness said—

1 *Quest.* You have been asked and given in reply a part of the conversation between yourself and Mr. Jaques—in that conversation did Mr. Jaques say for what purpose he should put that property in case he bought it?

Ans. I think in coming home I said to him that it would

not do for an investment, but only for a residence; and he replied that if he bought it he would clear away the buildings and put up a residence.

Being again cross-examined—

1 *Quest.* Did Mr. Hogan ride home with you to Newark?

Ans. No, sir.

A. E. BALLARD.

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

George Mitchell, a witness produced on the part of defend- 10
ants, being duly sworn according to law, saith—I am 34
years of age; I live in East Orange, and am a farmer and
milk man; I am acquainted with James N. Hogan and Henry
H. Jaques, the parties to this suit.

1 *Quest.* Did you have any business transactions with Mr.
Jaques in the spring of 1864?

Ans. I did; I think it was in the spring of 1864.

2 *Quest.* When did you first become acquainted with Mr.
Jaques?

Ans. I think it was in the spring of 1864. 20

3 *Quest.* Where was it, and who, if any one, introduced Mr.
Jaques to you?

Ans. It was at our cow-house; Mr. Hogan introduced him
to me.

4 *Quest.* What was the transaction that you had with Mr.
Jaques?

Ans. He wished to purchase stone for a wall in front of,
originally, Mr. Hogan's place, or the place in contest, which-
ever you will have it; I stated my price; he came a few days,
and he came in a few days after to see them. 30

5 *Quest.* What did Mr. Hogan say when he introduced Mr.
Jaques to you?

Ans. That he, Mr. Jaques, wished to purchase stone for
the wall at that place.

6 *Quest.* Who paid you for the stone?

Ans. Mr. Jaques did—\$75 was the gross amount.

7 *Quest.* Who carted the stone, and where were they carted to?

Ans. My teams drew them, and they were delivered on the sidewalk, in front of Mr. Hogan's place.

GEORGE L. MITCHELL.

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

Owen Gannon, a witness produced on part of defendants, being duly sworn according to law, saith—I am 33 years old,
10 I think; I am a laborer, and work for Mr. Jaques—drive his carriage, and work about the shop, and around at a good many things; I have worked for him going on thirteen years—in the thirteenth year—I mean working for the company, in the establishment.

1 *Quest.* Were you present at any conversation between Mr. Jaques and Mr. James N. Hogan, the gentleman here present?

Ans. Yes, sir.

2 *Quest.* When was it, as near as you can recollect?

20 *Ans.* Its over a year ago, going on two years, in the best of my opinion.

3 *Quest.* What were the circumstances?

Ans. One morning Mr. Jaques were driving together—I was driving—we came from Bloomfield to Mr. Hogan's place; Mr. Jaques told me to hold up there, as he wanted to see Mr. Hogan; Mr. Hogan came out of his house to the wall where we stopped; Mr. Jaques did not get out of his carriage; I did not pass any remarks about the first part of the subject till Mr. Hogan got kind of excited; Mr. Jaques never told
30 me that he was going to stop, or that I should pass any remarks on the subject at all; Mr. Jaques asked Mr. Hogan when he expected to move out; he, Mr. Hogan, told Mr. Jaques he had been looking all over the country for a place—had been to Orange, Bloomfield, Elizabethtown, and every place he could think of, and as soon as he could get a place to move to he would go out; if he could not get a place he would store up his things; Mr. Jaques told him he would give him help to move, and help him to set up—fix

him up a shop somewhere else—that was the understanding I had of it; Mr. Hogan told Mr. Jaques he got the place cheap, and he thought he might give him \$500; Mr. Jaques told him he would give him \$200; Mr. Hogan didn't say whether he would take it or not, but to the best of my opinion, I could not say which, but it was from sixty to ninety days, that Mr. Jaques gave him to go out—that is all.

OWEN GANNON.

Examination adjourned to March 18th, 1867, at 11 o'clock
A. M. 10

March 18th, 11½ o'clock. Examination of Owen Gannon continued pursuant to adjournment.

4 *Quest.* Who took the crops off the place that year?

Ans. I assisted taking the crops off, sir; there was a crop of hay—it was taken to Mr. Jaques' barn.

5 *Quest.* Did you see Mr. Hogan while you was removing the crop—and what objection did he make, if any, to your taking it off?

Ans. I saw Mr. Hogan while I was removing the crop; he made no objection. 20

Being cross-examined, witness said—

1 *Quest.* What time in the year was it when you drove Mr. Jaques to Mr. Hogan's house?

Ans. I think, to the best of my opinion, it was after moving the hay.

2 *Quest.* In what year was it?

Ans. In 1865.

3 *Quest.* Can't you give us the month?

Ans. I cannot—I did not pass any remarks upon the month.

4 *Quest.* Was it cold weather? 30

Ans. No, sir.

5 *Quest.* How long after you took the hay off, you say was it?

Ans. I could not say whether it was two or three months after; it was neither cold weather or warm.

6 *Quest.* Did you move any hay from the front lot that year?

Ans. We moved it from the lower corner, below Mr. Hogan's house, towards the Orange road, all there was on there; I did not know the difference between the lots, 'twas all in one patch, and we took all there was there.

7 *Quest.* Do you know John Denman of this city?

Ans. I know a man of that name.

8 *Quest.* Did you not relate to him the conversation between Mr. Hogan and Mr. Jaques which took place on the occasion you have mentioned?

10 *Ans.* I don't mind that I did, except that Mr. Jaques gave Mr. Hogan such a length of time to leave that house, to move out.

9 *Quest.* What did you tell him on that subject? [Question objected to by counsel of defendants.]

Ans. All I told him was that Mr. Jaques, as I have told in the first part of my examination, gave Mr. Hogan sixty to ninety days, I can't remember which, to go out of that house.

10 *Quest.* What did you tell him that Mr. Jaques offered Mr. Hogan to leave?

20 *Ans.* \$200, to help set himself up.

11 *Quest.* What else did you tell him?

Ans. I told him, I believe, that Mr. Hogan demanded \$500 from Mr. Jaques previous to the offer; that is all I mind of—all I recollect that I told him.

12 *Quest.* Didn't you tell him that Mr. Jaques offered Mr. Hogan \$500, and that Hogan became excited, and refused to take it?

Ans. No, sir.

13 *Quest.* You said in your direct examination that Mr. Hogan got kind of excited—what was the cause of this?

Ans. On the remarks he made about Mr. Peck.

14 *Quest.* What remarks about Mr. Peck did he make?

Ans. He said Mr. Peck was in hell.

15 *Quest.* How came he to make this remark.

Ans. That I can't tell, as I did pay any attention to the conversation previous to this.

16 *Quest.* Did you, in your direct examination, state all that was said between Mr. Jaques and Mr. Hogan?

Ans. I did not state all that was said between them, as I

said I did not pass any remarks as to what was said till Mr. Hogan got excited.

17 *Quest.* Then all that you heard Mr. Hogan say was said by him when excited, was it not?

Ans. I can't say as Mr. Hogan was excited, that was my opinion—that was my opinion on the remarks he passed on a dead man.

18 *Quest.* Where were you born, and how old are you, and how long have you been in this country?

Ans. I was born in Ireland—I could not say exactly how old I am—I am between 33 and 34; I did not take any record of it; I came here in 1852.

19 *Quest.* How often have you talked this matter over with Mr. Jaques?

Ans. I don't mind ever telling him a word about it, except three times.

Being re-examined in chief—

1 *Quest.* When were those three times?

Ans. One of these times was, I think, last fall, I could not tell the time; one about a month ago, or somewhere near 20 that time—and one later, sir.

2 *Quest.* What were the talks to which you refer? [*Question objected to by counsel of complainant.*]

Ans. The first time Mr. Jaques asked me if I minded any conversation between him and Mr. Hogan; I told him I did; he told me to bear in mind that he would call upon me to give evidence; the other times he told me to bear in mind that I would be called upon to state what I heard that morning—that is all.

OWEN GANNON. 30

Sworn and subscribed before me.

HENRY J. MILLS, *M. C.*

John A. Jackson, a witness produced on part of defendants, being duly sworn, saith—I am 58 years of age; reside in Newark; my business is putting on composition roofs.

1 *Quest.* Did you do any work on property in possession of

James N. Hogan, in East Orange—if so, when was it, and what was it?

Ans. I done some work there for Mr. Jaques; the work I done was on the hat shop; I second coated the roof all over; it was in 1864—Mr. Jaques paid me for it.

2 *Quest.* While you was doing that work, did you have any conversation with Mr. Hogan about the property—if so, what was it?

Ans. I spoke first about it; and said it was a nice place to
10 build, and supposed Mr. Jaques would build there before long; he made answer, and supposed he would.

3 *Quest.* Did you repair the roof of the house?

Ans. No, sir.

4 *Quest.* Why not? [Question objected to by counsel of defendants.]

Ans. I told Mr. Hogan that Mr. Jaques wanted me to look at the roof; and after he showed it to me, I told him and Mr. Jaques that it would not do.

5 *Quest.* Why would it not do?

20 *Ans.* Because it was an old shingle roof; I could do it, but it would not pay.

6 *Quest.* Was anything said between you and Hogan as to where Mr. Jaques intended to build a new house on the lot? [Question objected to as leading by the counsel of complainant.]

Ans. No more than I said, I suppose Mr. Jaques will build on the corner, and he said he supposed he would.

Being cross-examined by complainant's counsel—

1 *Quest.* What year was this work done?

30 *Ans.* In 1864, I believe.

2 *Quest.* What makes you believe it was in 1864—are you sure that was the year?

Ans. I think it was about that time, as near as I can recollect; I think it was—that's as far as I can say.

3 *Quest.* Where was this hat shop situated on the lot?

Ans. It stood on the corner.

4 *Quest.* On the corner of what streets?

Ans. On the corner of a street, I don't know what they call it, and the road that runs to Orange.

5 *Quest.* In what month was this work done?

Ans. I can't recollect—in the summer time, I think—in the summer or fore part of the fall.

6 *Quest.* How much did Mr. Jaques pay you for this work?

Ans. \$25.

7 *Quest.* Were you acquainted with Mr. Hogan then?

Ans. I don't know who showed me, whether it was Mr. Hogan, or some one else—I did not know Mr. Hogan.

8 *Quest.* Had you then ever seen Mr. Hogan to your knowledge? 10

Ans. Before—no I don't recollect ever having seen the man before.

9 *Quest.* Then you do not know that it was with Mr. Hogan or somebody else that you had this conversation?

Ans. No, sir.

Being re-examined in chief—

1 *Quest.* Where did you see and have the conversation with the person that you understood was Mr. Hogan?

Ans. 'Twas on top of the roof that I had the conversation?

2 *Quest.* Look at that gentleman and say whether he is the person with whom you had that conversation? 20

Ans. I couldn't tell; it was a man about that size—but that it was him, I could not say, yes or no.

3 *Quest.* How do the two persons correspond in age—the gentleman you saw then and the one you see now?

Ans. I don't know that I took so much notice as to tell about that.

4 *Quest.* Who did you ask to see, if any one, when you went there to do that work?

Ans. I did not ask for any one in particular; I said Mr. Jaques sent me up to do the work, and some one there would show me.

5 *Quest.* Did you examine the roof of the house?

Ans. I examined no further than from the roof of the shop; I looked across from the roof of the shop; it was a steep roof—could not get on it without a ladder.

6 *Quest.* Who went with you, Mr. Jackson, to do that work?

Ans. 'Twas a man by the name of Jacob Shepard, and my son.

7 *Quest.* Did you have all of the conversation which you have stated, with the same person, or with different persons; I mean the conversation which you have spoken of as having had with Mr. Hogan?

Ans. With only the one who showed me the roof.

J. A. JACKSON.

Sworn and subscribed before me.

10

HENRY J. MILLS, *M. C.*

John Bageley, a witness produced on part of defendants, being duly sworn, said—I live in Newark; have lived here fifteen years, off and on; I have worked over thirteen years for Mr. Jaques; am about 57 years old; I know where Mr. Hogan lives, in East Orange; I was there two years ago last fall, putting up a fence; Mr. Henry Sisco and Patrick Kenan were with me; it was the back fence, between Trusdell and Mr. Jaques; Mr. Jaques sent me to put the fence up; we were about three days putting it up; I dug the holes, the
20 carpenter put up the posts; there were old posts there before; that man, the neighbor, had it straightened; Mr. Trusdell was the neighbor; the carpenter did not know what to do about straightening it, so he went for Mr. Hogan; Mr. Hogan came to the ground and said that the old posts were the right bearing.

1 *Quest.* Who took away the crops off the place?

Ans. Mr. Jaques' men, by his orders.

2 *Quest.* What, if anything, did you do there about the crops?

30 *Ans.* Yes, sir; I was there—I helped them to fill up the load and rake up the ground, raking up the grass I mean; they hauled it away with the wagons of Mr. Jaques, and by his men, and fetched to their own barn or place, so far as I know; I stopped in the field.

3 *Quest.* While this work you have spoken of was going on, did you see Mr. Hogan—[The witness at this point answered "no"]—and what objection, if any, did he make to the

work—I mean was the putting up of the fence and taking care of the hay?

Ans. I see him while we were putting up the fence, but I did not see him while we were taking away the hay; I never heard him make no objection.

Being cross-examined, witness said—

1 *Quest.* What year was this?

Ans. In 1855 the hay came off; the fence was two years, last fall.

2 *Quest.* Do you mean that the hay was taken off in 1855? 10

Ans. Yes.

3 *Quest.* What year was it that you built the fence?

Ans. I did not pass the remark what year it was, but it was two years ago last fall.

4 *Quest.* Was the hay carted away the same day it was cut?

Ans. No, it was all cut when we went there.

5 *Quest.* Did not Mr. Hogan forbid the taking away of this hay?

Ans. No, I did not see him we were taking it away that 20 day at all.

6 *Quest.* How can you remember that it was in 1855 that you took the hay away?

Ans. It was in 1856 we took it away.

Being re-examined in chief—

1 *Quest.* When you say 1855, do you not mean 1865?

Ans. Yes, sir.

2 *Quest.* And when you say in 1856, do you not mean in 1866?

Ans. The time I mean is in 1866.

30

JOHN BAGELEY.

Sworn and subscribed before me.

HENRY J. MILLS, M. C.

Further examination adjourned, by consent, to March 20th, at 10 o'clock A. M.

March 20th, 1867. Examination continued, according to adjournment, in presence of respective counsel.

Jacob Sheppard, a witness produced on part of defendants, being duly sworn, saith—I live at 318 South Market street, Newark; I am 53 years of age, and live in Newark; I drive an express wagon between Newark and New York, for Messrs. Buck & Pomeroy; I know John A. Jackson, the tar-roofer.

1 *Quest.* Have you done any work in connection with him, at East Orange—if so, when, where, and what was it?

Ans. Yes, sir; I can't tell exactly when it was, think it was something like two or three years ago; it was on a hat shop, putting a composition roof on.

2 *Quest.* Have you ever seen Mr. James N. Hogan, the complainant in this suit, before—and if so, when and where?

Ans. I saw him whilst we was putting on the roof, several times.

3 *Quest.* Is he now present?

Ans. I think that's the gentleman, there.

20 4 *Quest.* What did you hear him say at that time, if anything, in regard to the property upon which you were?

Ans. I heard him and Mr. Jackson talking together, that Mr. Jaques had bought that property; I was passing through the gate; I was going upon the building to sweep off, and heard them talking as I passed; heard Hogan say that Mr. Jaques had bought the property.

Being cross-examined by counsel of complainant—

1 *Quest.* Where were they, Hogan and Jackson?

30 *Ans.* They were standing right betwixt the gate-way and the path, where we turned round to go into the building.

2 *Quest.* Do you know Mr. Hogan?

Ans. I don't know Mr. Hogan; never saw him except when we were there at work.

3 *Quest.* Were you introduced to him?

Ans. No, I was not.

4 *Quest.* Have you ever seen him since?

Ans. Not before I saw him here this morning.

5 *Quest.* Will you swear that you have seen him here this morning?

Ans. Well, I would not be willing to swear that he was here or not here; but to the best of my knowledge, that gentleman is the same person who was there that day; I did not know him by name.

6 *Quest.* Was there any more than one man there, who talked about the property?

Ans. No, sir; I didn't see but one man there, and two or three little children. 10

7 *Quest.* Was that man on the roof?

Ans. Well, sir, I would not be willing to say whether he was on the roof or not; I was down to the kettle most of the time, attending to that.

8 *Quest.* Who was that man?

Ans. I don't know the gentleman's name—to the best of my knowledge that is the man sitting there, but I won't swear that it is, or I won't swear that it isn't.

9 *Quest.* Do you know Thomas Porter?

Ans. No, sir. 20

10 *Quest.* Where was that hat shop situated—how large was it, and how many stories high from the street?

Ans. Well, it fronts, I believe, on Main street, the end to the street, and then it runs on a street to the rear; I don't know the name of the street; it was two stories high.

11 *Quest.* What year was it that you did this work?

Ans. Well, sir, I don't know as I could tell what year it was.

12 *Quest.* How came you to be here to-day?

Ans. I had business here to see General Runyon, and at 30 the door I met Mr. Jaques; he asked me if I remembered putting on a roof at Orange; I said I did; he asked me where it was; I told him; he asked me if I would know the gentleman I saw on the property if I saw him; I told him I thought I would, but I would not be willing to swear to the man; well, then he asked me if I heard any conversation about the property; I then told him what I heard betwixt Mr. Jackson and the man, as I was passing by.

13 *Quest.* When did you last see Mr. Jackson?

Ans. Not since last Saturday. 40

14 *Quest.* Where did you see him then?

Ans. I saw him in East Canal street.

15 *Quest.* Did he come to see you?

Ans. No, sir; I met him in the street; he did not speak about this case.

16 *Quest.* Who told you that General Runyon wished to see you this morning?

Ans. I did not say General Runyon wanted to see me at all; I wanted to see him on business?

10 17 *Quest.* What business?

Ans. Well, I was going to tell him that I had business to see him, about this bounty money.

18 *Quest.* As I understand you, the only conversation you heard, was while you were passing the gate—is that so?

Ans. Yes, sir; that is, about the property.

JACOB ^{his} ~~X~~ SHEPPARD.
mark.

Sworn and subscribed before me, the 30th day of March,
A. D. 1867.

HENRY J. MILLS, *M. C.*

20 *Ebenezer C. Aber*, a witness produced on the part of the defendants, being duly sworn (by ceremony of the uplifted hand), in answer to question put by counsel, saith—I am 54 years of age; I am in the shoe business; I live in Newark; have lived in Newark and its vicinity since 1828; I don't know Mr. Hogan, only by reputation; I know Mr. Jaques; in 1863 I lived in East Orange, on my own property, in Main avenue; I don't know where Mr. Hogan lived in 1863; I know where his property was; the property was on the corner of Main and Mechanic street; it consisted of between an
30 acre and an acre and a half.

1 *Quest.* Do you know where the Baldwin lot, so called, was?

Ans. I did not know, but supposed the whole belonged to the Hogan property.

2 *Quest.* On Mechanic street, according to your understanding, how far did the Hogan property extend—who did it adjoin?

Ans. To the line of John G. Trusdell.

3 *Quest.* What, in your opinion, was that property worth in 1863—in the summer of that year?

Ans. I should value it at about \$4000.

4 *Quest.* Are you conversant with the value of property in East Orange at that time?

Ans. I was.

Being cross-examined, witness said—

1 *Quest.* How many feet front on Main street did this property extend—and how many feet on Mechanic street? 10

Ans. How am I going to answer that—I never measured it; I can guess—two hundred feet on Main street, five hundred feet on Mechanic.

2 *Quest.* Was this a rectangular lot, or was it of irregular shape?

Ans. I suppose you can call it a rectangular lot; it extended in a westerly direction into the rear of what was called Capt. Peck's lot; I do not know who owned what is called the Captain Peck lot.

3 *Quest.* Did you have your attention particularly called to 20 this property in 1863?

Ans. I did.

4 *Quest.* By whom?

Ans. I hardly know how to answer that question; it was in the market for sale; that's what called my attention to it.

5 *Quest.* What time in 1863 was it that it was in the market for sale?

Ans. All through 1863, or nearly so.

6 *Quest.* State what time in that year, or in 1864, was it taken out of the market? 30

Ans. That I can't tell; I only heard it had been sold.

7 *Quest.* To whom did you hear it had been sold?

Ans. To Mr. Jaques.

8 *Quest.* Who told you?

Ans. I can't tell who told me—I heard it.

9 *Quest.* This is a very nice property, is it not—and was it not such in 1863?

Ans. So far as the land was concerned it was; it was a beautiful site for a residence.

10 *Quest.* Did you observe this property from the road only as you rode along, or did you go over it to look at it?

Ans. I have noticed it from both roads; I never have been on it, except in the barn which stood upon it; I had a cow "pounded" there.

11 *Quest.* How much, in your opinion, is that property worth now?

Ans. Why did you not say what would it bring—well, if that was the question I could answer it better.

12 *Quest.* Well, what would it bring?

Ans. From \$8000 to \$10,000, if cut up into building lots.

13 *Quest.* How far from this property did you live in 1863, and in what direction from it?

Ans. About three-quarters of a mile, in a southwesterly direction.

14 *Quest.* How far from Main street, upon which this property fronts?

Ans. About half a mile.

15 *Quest.* How much per foot on Main street, and how much
20 per foot on Mechanic street, was this property, in 1863, worth—say 200 feet deep?

Ans. Property at that time was not valued by the foot.

16 *Quest.* How was it valued?

Ans. By lots or acres.

17 *Quest.* How many lots or acres were there in this Hogan property?

Ans. I should judge between an acre and an acre and a half.

18 *Quest.* Did you estimate the value of this property by
30 the acre—and if so, how much an acre was it worth, in your opinion?

Ans. I thought, at the time, this was worth about \$4000, or was cheap at that as a residence.

19 *Quest.* If it should turn out that there were two and a half acres, the value, in your opinion, would be increased—would it not?

Ans. If there was more of the property than inclosed, which I saw at that time, it might be worth more.

20 *Quest.* Well, give us your estimate, per acre, of the
40 value of this property, in 1863?

Ans. Two thousand, to twenty-five hundred dollars per acre.

Being re-examined in chief, witness said—

1 *Quest.* Did you hear of this property in the market after you understood that Jaques had bought it?

Ans. I did not; I understood he was going to build there. [The latter part of the answer objected to by counsel of complainant, as volunteer, and uncalled for.]

2 *Quest.* Do you own real estate now in East Orange? [Question objected to by counsel of complainant.] 10

Ans. I do.

3 *Quest.* What was the condition of the real estate market in East Orange in the summer of 1863?

Ans. Exceedingly dull.

4 *Quest.* How was it in 1864, and how has it since been?

Ans. Property has increased rapidly in value since the close of the war.

5 *Quest.* Did you offer your own property, on which you resided in 1863, for sale—and if so, was you able to sell it?

Ans. I did have it for sale, but could not sell it. 20

6 *Quest.* Have you since sold it—and if so, at what advanced price above what you offered to take in 1863? [Question objected to as irrelevant by the counsel of complainant.]

Ans. I sold it in the fall of 1864, at an advance of \$2000 or \$3000 at least, than I would have taken in 1863.

7 *Quest.* Was there any change in the condition of the real estate market in East Orange between the summer of 1863 and the close of the war?

Ans. None at all; it remained just about the same.

8 *Quest.* Did you not get more for your property in 1864 than you could get in 1863?

Ans. I did—I had no offer for it in 1863.

E. C. ABER.

Sworn and subscribed before me, the 20th day of March,
A. D. 1867.

HENRY J. MILLS, M. C.

Andrew B. Anderson, a witness produced on the part of the defendants, being duly sworn according to law, in answer to questions put by counsel, saith—I am 63 years old; I live in East Orange, what used to be called Mechanic street—now called Maple avenue; have lived there between thirty-eight and forty years; I am a hatter.

1 *Quest.* Do you own any property in East Orange?

Ans. I do not; I have owned property there.

2 *Quest.* Do you know Mr. Hogan and Mr. Jaques, the
10 parties to this suit?

Ans. I believe I do; I do, sir.

3 *Quest.* Where does Mr. Hogan live?

Ans. On the corner of Mechanic street, or Maple avenue, as we call it, and Main street.

4 *Quest.* Where do you live now, and how far from the property on which Mr. Hogan lives?

Ans. In Mechanic street, opposite the property on which Mr. Hogan lives, right across the road.

5 *Quest.* Do you know where what is termed the Baldwin
20 lot is—and where is it?

Ans. I do; it is opposite part of the property I live on, right across the road.

6 *Quest.* Leaving out the “Baldwin lot,” what was the value, in 1863, of the property occupied by Mr. Hogan?

Ans. Well, I should think at that time it was worth from \$3000 to \$4000—probably \$3500.

7 *Quest.* Do you know whether or not the “Baldwin lot” was in the market for sale—and if so, how long had it been in the market?

30 *Ans.* I know it was in the market, but I don’t recollect the time; that is, I don’t recollect the year, I mean.

8 *Quest.* Do you recollect for how long the “Baldwin lot” was in the market, and at what price?

Ans. Well I can’t say for how long it was—I understood the price was \$1500 if they took it altogether, and if they split in two, and two purchased it, it was \$1800.

9 *Quest.* What was the condition of the real estate market in the summer of 1863, in East Orange?

Ans. Well, it was very dull there.

Being cross-examined, witness said—

1 *Quest.* From whom did you understand the price of the "Baldwin lot" was \$1500, if it was taken altogether?

Ans. From Mr. Hogan himself, I think.

2 *Quest.* From anybody else?

Ans. There was a gentleman there from New York by the name of Mr. Swords, and I worked for Mr. Hogan at the time; and they came into the shop together, and was talking the matter over; Mr. Swords did not want the whole of it; and at that time Mr. Trusdell thought of taking a part with him; they looked at it two or three times; he did not buy it.

3 *Quest.* Is that all? [The answer of the witness is objected to, and the question is repeated.]

Ans. I did not hear it from anybody else.

4 *Quest.* Did Mr. Hogan appear to have control of this Baldwin lot? [Question objected to by counsel of defendants.]

Ans. No, sir.

5 *Quest.* Who did?

Ans. Samuel W. Baldwin. 20

6 *Quest.* What control did Mr. Baldwin exercise over this lot?

Ans. Well, sir, he planted it with corn, or had it done; the next year he sowed it with oats, and seeded it down to grass.

7 *Quest.* Did you ever hear Mr. Baldwin set a price upon that lot?

Ans. No, sir.

8 *Quest.* Did you ever have a conversation with Mr. Baldwin about it? 30

Ans. I did not, to my knowledge.

9 *Quest.* On whose property do you live?

Ans. I live on my son's property.

10 *Quest.* From whom did your son get it?

Ans. He got it of Robert C. Anderson.

11 *Quest.* Did you formerly own it.

Ans. I did.

12 *Quest.* Did Samuel W. Baldwin help pay for it—and did you ever pay him? [Question objected to by counsel of defendants.] 40

Ans. I do not understand your question.

13 *Quest.* Is not that property your own to-day, and do you not keep it in the hands of your son for the purpose of keeping off your creditors? [Question objected to by counsel of defendants.]

Ans. I was sold out at sheriff's sale by sheriff Orsborn, and I have not owned any property since, except a burying lot.

14 *Quest.* Do you know who cut the hay on Mr. Hogan's property last year?

Ans. I don't know who cut it; when I came home from Newark Mr. Jaques and his men were there, and I suppose he cut it.

15 *Quest.* Had you seen Mr. Jaques that morning before—and if not, who did you see—and tell that Mr. Hogan was about to cut and gather the hay upon that lot?

20 *Ans.* I went to Newark that morning, the same as other mornings, and I left my son at his store, 289 Broad street; I did not get out of the wagon nor see any one to have a word of conversation with, until I got inside of a quarter of a mile of home; then Mr. Hogan was coming down as I was going up; he stopped square, and come up to the wagon to me, and he wanted to know what I had been telling Mr. Jaques; he was considerably riled; I told him I hadn't told him nothing, and hadn't seen him; he talked to me pretty sharp, and left me, going towards Newark, threatened suing for the taking of the hay.

Examination adjourned to 4 o'clock P. M.

4 $\frac{3}{4}$ P. M. Examination renewed.

30 16 *Quest.* How soon after the hay was cut from Hogan's place, was it carried away?

Ans. When I came home from Newark they were cutting and carrying it away at the same time, as fast as they cut it, so far as I could see; I was not on the lot.

17 *Quest.* What was the reason, Mr. Anderson, of this haste? [Question objected to.]

Ans. How should I know—I don't know the reason.

18 *Quest.* There was great haste, was there not? [Question objected to.]

Ans. I wasn't there but a few minutes.

19 *Quest.* Is that the usual way of curing hay—cutting and carrying it away at the same time? [Question objected to.]

Ans. I am not a farmer.

20 *Quest.* Cannot you tell us, Mr. Anderson, why the hay was carted off that place in such haste—carted away as fast as it was cut? [Question objected to.]

Ans. I believe I have answered that question—I am not a 10 farmer; I did not know why it was carried away so fast at the time.

21 *Quest.* Do you know now why it was carted away so fast?

Ans. I was to'd why, the same day; I was told by a man in Mr. Hogan's employ.

22 *Quest.* What were you informed was the reason they were carting the hay away as soon as it was cut? [Question objected to.]

Ans. I was not informed they was carting it away as soon as it was cut. 20

23 *Quest.* You say you saw that they were doing it—what reason did you learn they had for doing so? [Question objected to.]

Ans. Yes, sir; I saw them doing it; between ten and eleven o'clock of that day, I had a little patch of grass I was cutting, and I asked this man of Mr. Hogan's to help me get it on poles, to pole it in; while he was helping me he made the reply that Mr. Hogan meant to have his hay cut on the fourth of July day, and the man objected to it, and said he would cut it the next day; he made the reply that "Boney," 30 or Jaques, had got the start of him; I forget whether he said "Boney," or Jaques, he goes by that name.

24 *Quest.* Question repeated.

Ans. I did not learn any other reason than that.

25 *Quest.* Than what?

Ans. I stated.

26 *Quest.* What did you state?

Ans. I don't know of any other reason, only there was strife between the two.

27 *Quest.* Between what two? 40

Ans. Between Mr. Hogan and Mr. Jaques.

28 *Quest.* Do you know John Badgely?

Ans. I do not, sir; not that I know of.

Being re-examined in chief—

1 *Quest.* Do you know about the time when Samuel W. Baldwin sold the lot in Mechanic street, that you have spoken of?

Ans. I don't know the precise time.

2 *Quest.* When was it that you heard the conversation between Mr. Hogan and Mr. Swords?

10 *Ans.* It was while Samuel W. Baldwin owned the property.

3 *Quest.* Do you recollect hearing of his selling the property—and if so, how long before that was this conversation between Mr. Hogan and Swords.

Ans. I could not tell exactly; I think it was in the fall when Mr. Swords was out there; it might have been in the spring when Mr. Baldwin sold it.

4 *Quest.* In the conversation between Hogan and Swords, 20 what was said about the ownership of that lot?

Ans. Mr. Swords had been up to see Mr. Baldwin, and when he came back, (he was an acquaintance of Mr. Wallace, who lived opposite), after he came back, and he couldn't buy it, Hogan tried to sell him a piece off his property where his shop stood.

5 *Quest.* Did Hogan say anything about the value of his property—and if so, what? [Question objected to.]

Ans. I don't remember that he said what the price of it was.

30 6 *Quest.* You say that when you came back from Newark, the day the grass was cut and carried away, you saw Mr. Hogan—what did he say, if anything, to you?

Ans. He came up with me before I got home—I did not see him after I got home.

Being re-cross examined, witness said—

1 *Quest.* What year was the Baldwin lot in the market—and in what year did Mr. Hogan and Mr. Swords have this conversation?

Ans. While Mr. Baldwin owned the lot, I presume—I can't say what year it was.

2 *Quest.* How many years ago was it?

Ans. I can't say, sir.

3 *Quest.* How do you know that Mr. Swords saw Mr. Baldwin?

Ans. From the conversation.

4 *Quest.* What conversation?

Ans. The conversation between Mr. Swords and Mr. Hogan. 10

5 *Quest.* Why did Mr. Swords go to Mr. Hogan about the lot?

Ans. He came there for to view the lot—while there, I can't say whether he went out, or Mr. Hogan came in the shop—I can't say which.

6 *Quest.* Did you ever want to buy that lot?

Ans. No, sir.

7 *Quest.* Did you not go to Mr. Hogan and endeavor to purchase or trade for that lot, or a portion of it?

Ans. No, sir-ee. 20

8 *Quest.* Have you played the part of the spy on Mr. Hogan for some years past, and reported, or caused to be reported, to Mr. Jaques, his actions, and what he did on the place?

Ans. No, sir.

9 *Quest.* Do you mean to say that you have not reported, or caused to be reported to Mr. Jaques, what Mr. Hogan was doing upon the premises at East Orange? [Question objected to.]

Ans. I hav'nt. 30

A. B. ANDERSON.

Sworn and subscribed before me, the 20th day of March, 1867.

HENRY J. MILLS, *M. C.*

Further examination adjourned to Monday, March 25th, at 10 o'clock, at Mr. Ranney's office, by consent.

Monday morning, March 25th, 10½ A. M. Examination continued in presence of counsel.

Henry H. Jaques, one of the defendants, being sworn, in answer to questions put by counsel, saith—I am fifty-two years of age; I live in Clinton street, Newark; have lived here for fifty years; I am a hat manufacturer, now of the firm of Duryea & Jaques, lately of Duryea, Jaques & Co., and formerly of Rankin, Duryea & Co.

[The examination of this witness is objected to by counsel of complainant, on account of his incompetency.]

1 *Quest.* Did you buy the premises in question in this suit?

10 *Ans.* I did.

2 *Quest.* Under what circumstances?

Ans. In the latter part of June, 1863, Mr. Hogan, James N. Hogan, called upon me at my office, and stated that his property had been sold by the sheriff, by the executor of one Charles R. Akers, and that one Mr. Aaron Peck, now deceased, who was his enemy, had made arrangements, he believed, to get his property, and turn him out of doors; he was greatly desirous to foil him in this, as he and Peck were enemies, and had had a church difficulty; and if there was
20 any benefit in the property, he was anxious some friend of his should have it—benefit of the purchase of the property; he had tried to raise the money to pay the encumbrances, but could not do it, but was extremely anxious that Peck should not get the property; it was for that reason, and that reason only, that he desired me to purchase the property.

3 *Quest.* When did you purchase the property?

Ans. Near the middle of July, 1863—the exact day I don't remember.

4 *Quest.* Did Mr. Hogan, when he first spoke to you about
30 the matter, mention any sum as the price—if so, what was that price?

Ans. He did; he mentioned that it would take about \$2500.

5 *Quest.* Was this first conversation before or after the sheriff's sale, of which you have spoken, was set aside?

Ans. It was before the sale was set aside.

6 *Quest.* The sum of \$2500 you have mentioned as having been stated by Mr. Hogan as the price—how did he fix that sum—what was it?

40 *Ans.* It was the encumbrances upon the property.

7 *Quest.* Did you then agree to purchase the property?

Ans. I did not.

8 *Quest.* Why not?

Ans. I declined because I had not the money to spare from my business.

9 *Quest.* Did you subsequently agree to buy—and if so, when?

Ans. After repeated urging by Mr. Hogan respecting the value of the property, even if at an inconvenience, I concluded to buy; he representing the value of the property as 10 the inducement.

10 *Quest.* Did you take any means to satisfy yourself as to the value of the property—if so, what?

Ans. I did; I took a friend of mine, a gentleman in whose judgment I had confidence, on to the property, to get his opinion of its value; I also took a real estate agent on the property, to get his opinion of its value; Mr. William B. Bradner was the friend; I took him there in the afternoon of the fourth of July, 1863; Mr. Aaron E. Ballard was the real estate agent, and I think that was a day or two after. 20

11 *Quest.* When was it that you concluded to buy the property—before or after these visits to the property?

Ans. I reluctantly consented to buy the property prior to taking Mr. Bradner and Mr. Ballard on the property, laboring under the impression, from Mr. Hogan, that about \$2500 would clear it from its encumbrances, and buy it; on an investigation, I found it would take over \$3000 to pay the encumbrances; I then demurred; he then importuned me again—I mean Mr. Hogan; I then took these gentlemen I have named, Mr. Bradner and Mr. Ballard, to get their 30 opinion of its value; when I took Mr. Bradner there, Mr. James N. Hogan came out of his dwelling-house to us in the garden, and there, in the presence of Mr. Bradner, urged me to buy the property, as it would make me a fine location for a residence, and that if I did not purchase, it must go into the hands of Mr. Aaron Peck; I stated to Mr. Hogan that there was not room enough, ground enough, for me to build a private residence; he then stated to me that there was an adjoining lot, owned by one Samuel W. Baldwin, was in the market for sale, and invited Mr. Bradner and myself to ac- 40

company him on to the said property; after going over the Baldwin and Hogan property, the three of us together, and Mr. Hogan recommending it, Mr. Bradner stated, as the price had been named, that it would take from \$3000 to \$3500 to purchase the Hogan property; it would not do as an investment, but as I wanted a place to build on for my family, it might do; we then left, Mr. Bradner and myself; it may have been a day or two after—I am not positive that it was the next day, or the day after—I took Mr. Ballard, as he had
10 advised with me before with regard to real estate that I had purchased, I took him up with me to give his opinion as to the value of the Hogan property; whilst on the property, examining it with Mr. Ballard, Mr. Hogan came to us and again, as in the case with Mr. Bradner, urged me to buy the property, or it would fall into the hands of Aaron Peck; I stated to Mr. Hogan the same objections I did when Mr. Bradner was with us, that the grounds were too small to build a house upon for my family; he urged me to buy it on account of the fruit upon the place, that the Baldwin property
20 could be bought; Hogan stating that Mr. Baldwin had offered the property for sale for some three years, but could find no one to purchase it on his terms; he stated that Mr. John G. Trusdell had tried to buy the property, and wanted it very much, and Baldwin had offered it to him for \$1300, part cash, part some other security, but Baldwin would not sell it unless he got the money down, and Hogan thought that \$1200 would buy it; we then, that is Mr. Ballard, Mr. Hogan, and myself, walked over both the Baldwin and Hogan property; I got Mr. Ballard's opinion and then left; his opinion
30 was in accordance with Mr. Bradner's; I intended to say or convey the idea that Mr. Baldwin wanted all cash for his lot when he offered it to Mr. Trusdell; I am giving you simply what Mr. Hogan stated; I then again concluded to buy it, after these people had given me their opinions.

12 *Quest.* How did you take the title?

Ans. I took the title from Amzi Dodd, under the advice of counsel; from Amzi Dodd, esq., and wife, and James N. Hogan and wife, to save a re-sale by the sheriff of the property, and under the advice of counsel, the assignment of the
40 mortgages as a fortification to the title.

13 *Quest.* In whose name did you take the title ?

Ans. My eldest daughter, Caroline, now the wife to John D. Mitchell.

14 *Quest.* Why did you take it in her name ?

Ans. The most of the money that purchased the property was trust funds, that belonged to my wife and children, derived from my deceased mother's estate.

15 *Quest.* Did you subsequently cause the property to be sold by the sheriff ?

Ans. On a further investigation into the title of the property, my counsel found a judgment or judgments ; one held by Miss. Harriet Pierson, and under his advice, the judgment was purchased, and the property was sold and purchased by me.

16 *Quest.* What did you pay for the Harriet Pierson judgment ?

Ans. \$569.77, or thereabouts.

17 *Quest.* What did this property, irrespective of the Pierson judgment, cost you ?

Ans. Over \$3000, that is for the Hogan property. 20

18 *Quest.* When did you buy the Baldwin property, and under what circumstances ?

Ans. I think I negotiated it in the month of August, 1863 ; the circumstances were thus—Mr. Hogan had called my attention to this property of Samuel W. Baldwin's as an inducement to buy his, stating that he thought he could buy it for me better than I could buy it for myself ; if Baldwin knew that I wanted it before he named the price, he might ask me more for it ; I told Mr. Hogan if he would call upon Mr. Baldwin and get his lowest cash price I would pay him 30 for his trouble ; Mr. Hogan called upon me, said that he had seen Mr. Baldwin, that Mr. Baldwin wanted to sell the property, and would take \$1200 cash for it ; I took my wife, (after learning this from Mr. Hogan,) in my buggy, and drove up to Mr. Baldwin's, in Orange ; Mr. Baldwin met me right by the road side, stated to me the price of the property—Mr. Hogan had seen him, and he stated there in the presence of my wife that he would take \$1200 for the property, which money I paid him in cash, and took a deed for the property.

19 *Quest.* State the conversation between you and Mr. Baldwin on that occasion fully?

Ans. I stated to Mr. Baldwin that I had called upon him to see what his lowest terms were for a piece of property he owned in Mechanic street, of which Mr. Hogan had stated he had spoken about; he stated to me he wanted to sell the property, wanted the money; he had been trying to sell it, and he had been offered more money than he had told Mr. Hogan he would take for it; but he wanted the cash for it, 10 and \$1200 was his price; I do not recollect anything more being said about the purchase of the property, which was consummated then and there.

20 *Quest.* Did Samuel W. Baldwin tell you that the land he was selling to you was held by him for Hogan's benefit, or that he, Baldwin, was governed in the sale by Hogan's wishes in the matter?

Ans. He did not.

21 *Quest.* Did he tell you so at any time?

Ans. He did not.

22 *Quest.* Did you then, or at any time, tell or give Mr. Baldwin to understand that you were buying the Baldwin tract for Mr. Hogan, or on his account, or for his benefit in any way?

Ans. I did not.

23 *Quest.* Did you then, or at any time, tell Mr. Baldwin, or give him to understand that you had bought, or taken, or were about to buy or take the front lot, that you call the Hogan property, to befriend Mr. Hogan, and that you wanted the Baldwin lot as part and parcel of the property, to attach 30 to it for Hogan's benefit, or on his account in any way, or either of those things?

Ans. I never did.

24 *Quest.* Did you then, or at any time, tell Mr. Baldwin, or give him to understand, that in the purchase of the front lot, or the Baldwin lot, your design was simply to befriend Hogan, or that in the language he has used, you were doing the whole thing to befriend Hogan?

Ans. I never did.

25 *Quest.* Did you then, or at any time, say to Mr. Baldwin, or give him to understand, that you had purchased the 40

Hogan property, or were about to purchase it, so that Hogan could redeem it?

Ans. I never did.

26 *Quest.* Or that you had befriended Hogan, or were about to befriend him, by buying his property and holding it so that he could redeem it at a future time?

Ans. I never did.

27 *Quest.* Did you ever tell Mr. Baldwin, or give him to understand, that you had procured or taken a conveyance of the front property, or Hogan property, to yourself or anybody else, for Hogan's benefit, or on his account in any way?

Ans. I never did.

28 *Quest.* Did Mr. Baldwin, at any time, say to you, in words or substantially, that you could have the property for \$1200 if you wanted it for Hogan's benefit?

Ans. He did not; Mr. Hogan was never named, so far as any benefit in the property was concerned.

29 *Quest.* In the purchase of the front lot, or in the purchase of the Baldwin property, or in the conveyance of them, or either of them, to you or to your daughter, was there any trust expressed or understood, in any way, in favor of Mr. Hogan?

Ans. There was not.

30 *Quest.* Were the conveyances just referred to, or was either of them, in any wise for the benefit of Mr. Hogan?

Ans. They were not, nor was either of them.

31 *Quest.* Was there any understanding between you and Mr. Hogan, in any way at any time, that you or your daughter were to hold that property, or any part of it, for the benefit of Mr. Hogan in any way, or that he was to have the right to redeem it? [Question objected to by counsel of complainant as leading.]

Ans. There was no understanding of the kind; I bought the property as fairly as I ever bought a peice of property in my life; I contributed, or my family, every dollar and every farthing to the purchase of these properties; as I recited in the first, Mr. Hogan's desire was, earnest desire was, that Mr. Aaron Peck, with whom he had quarrelled and been at variance with for years, as Mr. Hogan represented as his

enemy, would get the property, but Mr. Hogan was anxious that he should not have it, but preferred, and was desirous, that if there was anything in the property, some friend should have it.

32 *Quest.* You are represented as saying in your last answer, I perceive, that Mr. Hogan's desire was that Peck, his enemy, would get the property—did you mean to say that?

Ans. Why, no.

33 *Quest.* Did you ever tell Mr. Hogan that you would
10 raise the money for him to relieve him from his situation in connection with the foreclosure, under which the sheriff's sale had taken place?

Ans. No, sir.

34 *Quest.* Did you ever promise, or offer, or agree, to lend or advance any money to or for him, in connection with these two purchases, or either of them?

Ans. I think that the morning that Mr. Hogan came to me in regard to the sale, the first sale of his property—he wanted advice from me to what lawyer to go to in regard to
20 that sale; I advised him to go to my lawyer, Mr. Fred. T. Frelinghuysen, for advice; he went, and stated that Mr. Frelinghuysen was not at home; I then advised him to go to Genl. Runyon for advice; he came back to me, Mr. Hogan did, and I went over with him and Mr. Runyon; Hogan took Mr. Runyon's advice in regard to setting aside the sale; and I stated to Mr. Runyon that I would be responsible for the costs.

36 *Quest.* Did you ever tell Mr. Hogan that you would raise the money for him, or advance the money for him, to
30 save the property from sale under foreclosure and hold the mortgages yourself, or anything like that? [Question objected to as leading by counsel of complainant.]

Ans. I never did.

36 *Quest.* Did you ever agree with him that he was to have a chance to redeem the property by paying the amount of the mortgages, or the amount of whatever you had paid?

Ans. I never did.

37 *Quest.* Was there any agreement for the redemption of the property between you, or any understanding to that
40 effect?

Ans. There never was.

38 *Quest.* Was there ever any agreement or understanding between you, that you were to transfer the property to him, either the front lot or the Baldwin lot?

Ans. There was not.

39 *Quest.* Did you tell him, at any time, that you thought it would be better for your daughter to take the deed, and you to hold the mortgages, and in that way the front property would be secure to him, or anything to that effect?

Ans. I did not; the reason, as I have stated before, of my daughter's taking the deed was, on account of the trust funds that belonged to the wife and children, and the assignment of the mortgages for the fortification of the title.

40 *Quest.* Did you tell Mr. Hogan, at any time, that you wanted, or proposed to take him under your wing or protection?

Ans. No, sir.

41 *Quest.* Did Mr. Hogan ever apply to you to redeem the property, or any part of it, prior to the time when he and Mr. Ranney came to you, just before the commencement of this suit?

Ans. He never did.

42 *Quest.* Did you ever, at any time, tell him he must take the property before the end of the month, or fix any other time for the redemption of it?

Ans. I never did.

Examination adjourned to 4 o'clock P. M.

4 o'clock P. M. Examination continued.

43 *Quest.* Did you, at any time, tell Mr. Hogan that the front lot was too valuable to hat on, and that you wanted to put the shop on the back lot, under Mr. Trusdell's nose, or anything of that sort?

Ans. No, sir.

44 *Quest.* Did you ever give to Mr. Hogan, as a reason for the conveyance by Dodd, that the property would be better out of Mr. Dodd's hands, or anything of that sort?

Ans. No, sir; I did not know that he held the property, until it was found on record.

45 *Quest.* Did you ever advise Mr. Hogan to take the property out of Mr. Dodd's hands, on account of transactions with widow Crane, or anything else?

Ans. I did not; I had the highest regard, and have to-day, for Amzi Dodd.

46 *Quest.* Did you communicate to Mr. Hogan the fact that a sale was to take place, or had taken place, under the
10 Pierson judgment?

Ans. I did not; I had nothing to do with Hogan about the Pierson judgment.

47 *Quest.* After that sale, was there any agreement or understanding between you and him, in regard to the redemption of the property by him?

Ans. No, sir.

48 *Quest.* Who has had possession of the Baldwin lot since your purchase of it?

Ans. I have, sir.

20 49 *Quest.* What have you done upon it?

Ans. I have made and repaired the fences; I have cut and cured the hay, or had it done, and taken it to my barn, and have set out trees, or had it done.

50 *Quest.* What fence was this?

Ans. I made my part of the line fence between Mr. John G. Trusdell—half of said fence—and repaired some fence between Mr. Pierson, I think, and myself; Pierson is owner of the adjoining property.

51 *Quest.* During what years have you taken the hay?

30 *Ans.* 1864, 1865, and 1866.

52 *Quest.* Who has paid the taxes on this property—the whole property, I mean?

Ans. I have; I sent the taxes of 1863 by Mr. Hogan; I paid the taxes of 1864, 1865, and 1866; I have the collector's receipts—these are two of them, for 1864 and 1866; that of 1865 I have not here, it is at home; I thought I had it with me.

The two tax receipts for 1864 and 1866 are here offered in evidence by the counsel of defendants, and are marked as

Exhibit J, No's 5 and 6, on part of defendants. [Objected to on part of complainant.]

53 *Quest.* Did you make any charge for any money paid for the tax on the property for 1863 against Mr. Hogan?

Ans. No, sir.

54 *Quest.* Have you done any repairs to premises—to the buildings on them?

Ans. Mr. Hogan complained that the roof of the shop leaked; I sent a man, who puts on roofs, to repair it and any other roofs that needed it on the place, and paid him for it. 10

55 *Quest.* Have you set out trees on the place—and if so, what and when did you do it, as near as you can tell?

Ans. I think it was—I am not positive whether it was in the spring of 1864 or 1865; I think it was twenty-four, twenty or twenty-four, I am not positive on this point; I sent to Fishkill, in state of New York, to a nurseryman, and purchased those trees and had them set out; they were pear trees, standards of every kind.

56 *Quest.* On what part of the property were these set out?

Ans. Most of them were set out on the Baldwin property; 20 a few, I don't know how many, on the Hogan property; I think it was in 1864, come to recollect, when I set out those trees.

57 *Quest.* Have you built a stone wall there—if so, when did you build it, where did you build it, what kind of a wall was it, how long was it in being built, and what did it cost?

Ans. I built a stone wall there, or had it built; to preserve the trees, large elm trees, in front of the property, or fronting the property on Main street, was the reason of my building this wall, so that I might preserve the trees for the house 30 that I was about to build, a little ways in the rear of them; to get the stone to build this wall after consulting with Mr. Hogan what I wanted to do, the preparation for the building of the house, he told me where I could get stone convenient to build the wall, and took me and introduced me to one Mr. George Mitchell, who was the owner of a quantity of stone which I bought of him; a part of the wall was built of that stone, and a part with stone furnished by myself; there is the receipt for the stone; these were field stones; the bill is for sixty-six and two thirds perch of stone, \$75; the other stone 40

was furnished by myself, was field stone; the workmen commenced in February, 1864, to build the wall, and finished, I should think, about or near the first of May; I paid to the workmen who built that wall between \$300 and \$400; I paid for sharpening the tools for the stone cutters, in the neighborhood of \$15; I paid for the sand, lime, and cement, and teaming, in the neighborhood of \$50.

58 *Quest.* Since 1863, and during the time this lot was being built, where did Mr. Hogan live?

10 *Ans.* He lived in East Orange, on a property on the corner of Main and Mechanic streets; this property, the front lot.

59 *Quest.* On what terms did he reside on this property after your purchase?

Ans. On the fifteenth day of July, 1863, he commenced paying me rent at the yearly rate of \$250, payable monthly, in advance.

60 *Quest.* How long did that arrangement continue?

Ans. He paid me from July 15th, 1863, to March 1st, 1865, monthly—and so entered on our books and his pass book.
20 [The answer objected to as irresponsive and volunteer.]

61 *Quest.* Did Mr. Hogan ever object to the entry of the rent upon the pass book?

Ans. He did not.

62 *Quest.* Since the purchase of this property, has he ever paid you any money by way of interest?

Ans. He has not.

63 *Quest.* When did Mr. Hogan's son work for you, and how long did he continue to work for you?

Ans. He commenced, the books show, on the 6th day of
30 June, 1863, and worked sixteen days, leaving about the 25th.

64 *Quest.* How came he to leave?

Ans. His work was so poorly done the foreman could not have him any longer.

65 *Quest.* Did you complain to Mr. Hogan of his son's leaving your employment?

Ans. No, sir.

66 *Quest.* Did you at any time show to Mr. Hogan any account of moneys expended by you for or on the property?

Ans. No, sir.

67 *Quest.* Was there any agreement or understanding between you and him entered into or had, about the time of commencing to build the stone wall upon the property?

Ans. No, sir.

68 *Quest.* Did you ever agree to put the shop on the back lot for him?

69 *Quest.* Did you ever propose to divide the property with Mr. Hogan?

Ans. I never did.

70 *Quest.* Did you give Mr. Hogan notice to leave the 10 premises?

Ans. I gave him verbal notice, and afterwards sent him legal notice served on him.

71 *Quest.* How long before the commencement of this suit?

Ans. In December, I think, of 1864, I gave him verbal notice; about the 1st of April, 1865, I gave him legal written notice.

72 *Quest.* To your verbal notice did Mr. Hogan make any response?

Ans. He did, at different times; he told me at first that he would look about and find a place to move, and would be off of the premises by the 1st day of April; at another time, I came through Orange from Bloomfield; Mr. Hogan came out of the house to the buggy, and I asked him when he was going to move off of the property; he told me he had been looking for a place to move at the city of Elizabeth, Hoboken, Jersey City, and up in the country, and he had failed to find a place yet; but just as soon as he could he would move off.

73 *Quest.* Did you get any permission from Mr. Hogan to put the stone wall upon that property?

Ans. I did not.

74 *Quest.* Did you tell Mr. Hogan that if he felt so bad about the property you would not sell it, or to that effect?

Ans. No, sir.

75 *Quest.* Did you ever have any conversation with John H. Meyers concerning this property, or any part of it?

Ans. No, sir.

76 *Quest.* Is he friendly to you?

Ans. He is not.

77 *Quest.* How long has he been unfriendly to you?

Ans. It is over two years—between two and three years.

78 *Quest.* Did you ever have any conversation with Charles I. Hedden concerning this property?

Ans. I had not.

79 *Quest.* Is he friendly to you?

Ans. He is not—he has tried every way to injure me; he is largely in my debt, and has greatly wronged me; he is the brother-in-law of Mr. John H. Meyers.

10 80 *Quest.* How long has Mr. Hedden been unfriendly to you?

Ans. About the same time as Meyers; they had business together.

81 *Quest.* What did this front lot bring at the first sheriff's sale?

Ans. I do not remember—I don't know as I ever knew.

82 *Quest.* Did you tell Mr. Trusdell that you thought this property was worth \$15,000?

Ans. Why, no.

20 83 *Quest.* Did you ask him \$15,000 for it?

Ans. I did.

84 *Quest.* Did you want, or were you going to buy a small place for Hogan, or anything of that substance?

Ans. I did not.

85 *Quest.* Did you say to him that you proposed to compromise with Hogan, or would go and see Hogan, and try and compromise the matter, or anything like that, or like either of these expressions?

Ans. I did not.

30 86 *Quest.* Did you tell him that you had taken hold of the property to help James or Mr. Hogan, and that Mr. Hogan did not try to help himself, or anything of that purport?

Ans. No, sir.

87 *Quest.* Did you tell him you had taken hold of the property to help Hogan, or anything like that?

Ans. I did not.

88 *Quest.* Did you tell him that when Hogan paid you what money you had advanced for him, it would be time enough for him to talk about disposing of the property, or 40 anything equivalent to that, or of that purport?

Ans. I did not.

89 *Quest.* Did you tell him that you had advanced money for Hogan, in connection with the property, or any part of it?

Ans. I did not.

90 *Quest.* Did you request Jos. Booth to see Aaron Peck, in regard to a claim which Mr. Peck had against Mr. Hogan?

Ans. I did.

91 *Quest.* State the circumstances.

Ans. I think it was a day or two after the sheriff's sale under the foreclosure of Charles Akers' executor; Mr. Hogan 10 called upon me to see if I would not get Jos. Booth, and go with him and try to settle a difficulty in regard to some account between Mr. Aaron Peck and Mr. Hogan; Mr. Hogan thought that I had influence with Mr. Peck, and that Mr. Booth also had influence with him. After hearing Mr. Hogan's story, I advised him to take an elder of the Presbyterian church, and go to the pastor of Capt. Peck's church, and wait upon the captain, and settle the difficulty or difficulties; he did not fall in with that plan; I told him I would call upon Mr. Booth that afternoon; that I did not think it was best 20 for me to wait upon the captain; this was prior to my purchase of the property; Mr. Booth waited upon the captain, and stated to me, as the result of the interview, the statement that Mr. Hogan had made was wrong, and he would exact principal and interest of the claim.

92 *Quest.* Did you tell Mr. Booth that you had taken, or were about to take, a deed for the property, or a part of the property, occupied by Hogan?

Ans. I have no recollection of the kind; there was a good deal said at the time about Hogan's misrepresenting the 30 transaction with Capt. Peck.

[The latter part of the answer objected to by counsel of complainant, and the defendant's counsel offered to cross off the part of said answer objected to. The complainant's counsel declined the offer.]

93 *Quest.* Did you tell Mr. Booth you were assisting Hogan to save his property?

Ans. Only in that light: to benefit him if this trouble with Capt. Peck could be healed, and no other.

94 *Quest.* Did you tell George Harrison that you had taken 40

the property—the Hogan property or the Baldwin—for Mr. Hogan?

Ans. No, sir.

95 *Quest.* Did you tell him that you wanted to give Hogan a chance; that Hogan and his son were working for you, and could soon work it off, or pay for it, or anything like that?

Ans. I did not.

96 *Quest.* Did you tell him you had taken the property for Hogan's benefit in any way?

Ans. No, sir.

H. H. JAQUES.

Further examination adjourned to March 26th, 4 o'clock P. M., by consent.

Further examination adjourned, by consent, to Thursday, March 28th, 10 o'clock.

Thursday morning, March 28th, 10½ A. M., examination continued pursuant to adjournment.

97 *Quest.* Mr. Jaques, is this paper the tax receipt for 1865?

20 *Ans.* It is.

98 *Quest.* Is this the bill for tax paid by you for 1863, on this property?

Ans. Yes.

(The two tax receipts, for 1865 and 1863, here offered in evidence by defendant's counsel, and marked as *Exhibits J*, Nos. 7 and 8, on part of defendant.) [Objected to on part of complainant.]

99 *Quest.* Of whom did you purchase the trees you mention—and have you the bill of them here?

30 *Ans.* Of E. Brinckerhoff & Co., of Fishkill; I have the bill here—I wish to state that in reference to the bill it is 16, instead of 20 or 24 trees, as I stated.

Being cross-examined, witness said—

1 *Quest.* How long have you known Mr. Hogan?

Ans. Some twenty years.

2 *Quest.* How long have you been acquainted with the property on which he resides?

Ans. I suppose some thirty years or more—passing it.

3 *Quest.* Has Mr. Hogan been employed by the firm with which you are connected, frequently, within the past twenty years?

Ans. Not frequently—occasionally, once in a great while, perhaps, at different periods; I think he worked for us a little in the early spring of 1863, and left taking out work, and commenced in the latter part of July; I am only giving you 10 this from recollection, I can't state positively without the books; in the latter part of July or August he commenced again.

4 *Quest.* Were those the only times he worked for you in the past twenty years, and how long did he continue after commencing in July or August, 1863.

Ans. He may have worked in twenty years, with the last time mentioned, three or four times, or he may have worked one or two—it is a mere guess—I don't remember; I can't tell without referring to the books; I cannot tell how long 20 he continued after commencing in July or August, 1863.

5 *Quest.* Were you on friendly and intimate terms with Mr. Hogan in the summer of 1863?

Ans. I was on friendly, but never on intimate terms.

6 *Quest.* Do you remember when his property was sold by the sheriff, in the summer of 1863?

Ans. I remember Mr. Hogan telling me when it was sold; as for personal knowledge of the sale, I don't know.

7 *Quest.* Was all your knowledge concerning that sale derived from Mr. Hogan? 30

Ans. The first of my knowledge was derived from Mr. Hogan—afterwards, I may have derived it from the papers.

8 *Quest.* Did you not see the sheriff, A. M. Reynolds, with regard to the sale—and if so, how long after the sale took place?

Ans. I may, and I think I did see Mr. Reynolds, but am not positive to the fact; and how long afterwards I don't know.

9 *Quest.* Why did you go to see Mr. Reynolds, if you did go?

Ans. A day or so, I think, after—it is just coming to my 40

mind, I have no clear recollection—after Mr. Hogan came to me in regard to the sheriff's sale, my impressions are I went there to serve a notice upon him.

10 *Quest.* What notice?

Ans. I think it was a legal notice, I can't tell where from.

11 *Quest.* By whom was it signed, and who asked you to take it there?

Ans. I don't know by whom it was signed; I cannot tell who told me to take it there.

10 12 *Quest.* Was this before or after you went with Mr. Hogan to see Gen. Runyon?

Ans. From the circumstances, I think it must have been immediately or soon after.

13 *Quest.* What circumstances induce you to think it was soon after?

Ans. The circumstances of Mr. Hogan coming to me about the sale; I knew nothing about the sale before.

14 *Quest.* What did you say to the sheriff when you served the notice upon him, you have mentioned?

20 *Ans.* I cannot say; I interested myself for Mr. Hogan; it is all I can say in the matter, and this was prior to any purchasing the property.

15 *Quest.* You did, then, feel an interest in Mr. Hogan's affairs at the time—did you not?

Ans. I have never felt otherwise.

16 *Quest.* Did you not express then to Sheriff Reynolds, great kindness to Mr. Hogan, and deep sympathy that he should loose his property for the amount of the encumbrances upon it?

30 *Ans.* I have no recollection what passed in the least—I feel as kindly towards Mr. Hogan to day as I did then.

17 *Quest.* Did you not tell Sheriff Reynolds that it was too bad that James should lose his property for the amount of the encumbrances upon the property?

Ans. I have stated before, I have no recollections of what passed; sheriff Reynolds has tried to buy the property of me since, for himself.

18 *Quest.* When did he try to buy the property of you, and what did you ask for it?

40 *Ans.* I think it was, I am giving you the recollections of

it, in the spring of 1865, at the same time Mr. Trusdell was trying to buy it; I told him the same price I told Mr. Trusdell, which was \$15,000, which was more than I thought the property was worth.

19 *Quest.* Did you not tell Mr. Reynolds that you thought the property was worth \$15,000?

Ans. I think not, sir; he was astonished at the price, and went away, and never returned.

20 *Quest.* What did you tell him it was worth?

Ans. I have no recollection of telling him anything; I was 10 preparing to build; my family had purchased the property. [The latter part of the answer objected to by counsel of complainant.]

21 *Quest.* What was the purport of the notice you say you served upon the sheriff?

Ans. I don't know—I did not read the paper.

22 *Quest.* Where did you get the notice from—who gave it to you?

Ans. I don't remember.

23 *Quest.* Why did you serve it upon the sheriff—who asked 20 you to do it?

Ans. I don't remember.

24 *Quest.* How long after the sheriff's sale was this?

Ans. I don't know, for I don't know when the sheriff's sale was, the day.

25 *Quest.* How many times did you see sheriff Reynolds in regard to this matter?

Ans. I don't remember.

26 *Quest.* More than once—tell us as near as you can how many times you saw him? 30

Ans. As I have stated, I don't remember.

27 *Quest.* Where did you see him, when you served the notice upon him?

Ans. My impressions are, at his house.

28 *Quest.* How came you to interest yourself in this matter of Mr. Hogan?

Ans. As I have stated before in my direct examination.

29 *Quest.* What did you state to be your reason in your direct examination?

Ans. Mr. Hogan came to me and stated to me about the 40

sheriff's sale that had taken place, and that Mr. Peck was about to get his property, and turn him out of doors.

30 *Quest.* Then, as I understand you, your reason for interesting yourself in this property was to keep Aaron Peck from getting it—am I correct?

Ans. The representations that Mr. Hogan made to me of Mr. Peck enlisted my feelings in his favor.

31 *Quest.* In whose favor, Mr. Peck's or Mr. Hogan's?

Ans. Mr. Hogan's.

10 32 *Quest.* Can you not give us directly your motive for interesting yourself in this property or in the behalf of Mr. Hogan?

Ans. I have done so—on the representations Mr. James Hogan made to me in regard to the property.

33 *Quest.* How long before you concluded to purchase this property, as you say, did you serve this notice upon the sheriff?

Ans. I don't know.

20 34 *Quest.* In what month and what year did you serve that notice?

Ans. It was in the year 1863, whether it was in the month of June or July, I don't know; I think it was in June; I have a very faint recollection of it.

35 *Quest.* Was it before you took Mr. Ballard and Mr. Bradner up to see the property?

Ans. I think it was, sir.

36 *Quest.* Had you concluded to take the property when you served that notice?

30 *Ans.* I cannot say; there were two periods that I had concluded to take the property; when Mr. Hogan stated that the property could be purchased for the amount of the encumbrances, \$2500, I refused to buy it, but by his importunity, afterwards agreed to; but finding that there was more money required than he had stated, I demurred, but afterwards was importuned, and consented to purchase.

37 *Quest.* Was this consent before or after you took Mr. Bradner and Mr. Ballard up to see the property?

40 *Ans.* The first time that I consented to purchase was before I took Mr. Bradner and Mr. Ballard up; the other was afterwards.

38 *Quest.* How long before was the first?

Ans. I cannot say.

39 *Quest.* What did you consider the property to be worth, in June, 1863?

Ans. I thought it was; I thought it would do for me to buy it by paying the encumbrances upon it.

40 *Quest.* How much was that?

Ans. When I speak of the encumbrances, I mean the mortgages—'twas over \$3000, I learned upon investigation.

41 *Quest.* You misapprehend my question—what did you consider that property to be worth in June and July, 1863?

Ans. I do not know its value; I would not have given \$3000 for it, had I not been drawn into the matter.

42 *Quest.* Was \$3000 all you consider all that property was worth on the 1st of July, 1863?

Ans. I don't think it would have brought that at a public sale, as everything at that time was low and depressed.

43 *Quest.* My question was not what it would have brought, but what did you consider it worth at that time?

Ans. Why, I don't know.

20

44 *Quest.* Who furnished the money to take up those mortgages and decrees, you have mentioned in your direct examination?

Ans. My family and myself, sir.

45 *Quest.* How much was furnished by your family, and how much by yourself, of this money?

Ans. The largest portion was furnished by my family, but the exact sum I cannot state; I know of one sum of \$2000 belonging to my wife and children.

46 *Quest.* Can't you give us the amount contributed by 30 your family, and the amount contributed by yourself, to take up these encumbrances?

Ans. I cannot definitely now, for I have not the account with me.

47 *Quest.* Who do you mean when you speak of your family?

Ans. I mean my wife and children.

48 *Quest.* Give us the names of your children who are interested in this money, and their ages?

Ans. Caroline E. Mitchell, Anna M. Good, Henry M. 40

Jaques, Frederick P. Jaques, Emma M. Jaques; I cannot give you the ages without referring to the family record; as near as I can, I think that Carrie E. Mitchell is in her twenty-second year; I think Anna M. Good is in her nineteenth year; Henry M. Jaques in his seventeenth year; Frederick P. Jaques in his fifteenth year, and Emma M., in her ninth year.

49 *Quest.* Where was this money deposited which you say belonged to your family, and which you say you used in
10 taking up these encumbrances?

Ans. I had the control of it, sir.

50 *Quest.* You do not understand my question—where was this money which you say belonged to your family, and which you used in taking up these encumbrances?

Ans. Part of the money belonging to the family was in my hands, invested in different securities; I think, also, about this time a mortgage was paid in, which belonged to the family.

51 *Quest.* Was that money invested in your business?
20

Ans. It is not.

52 *Quest.* Was it then?

Ans. It never was.

53 *Quest.* In what bank was it deposited?

Ans. I keep no private account in any bank; I generally use my money, that is trust moneys, in investments which I turn; at the present time I hold government securities, which I hold in trust for my family.

54 *Quest.* Where was the money which you say belonged to your family, and which you used to take up these encum-
30 brances?

Ans. It may have been in my safe; I always have money by me, or in my safe.

55 *Quest.* Was it in your safe?

Ans. Well, I cannot say as to that; I use a great deal of money—handle it; I cannot say.

56 *Quest.* Cannot you tell us from what source you got this money, more definitely than you have told us?

Ans. I cannot.

57 *Quest.* Did you pay this money in a check, or checks,
40 or did you pay it in cash?

Ans. I cannot say.

58 *Quest.* Have you ever made a statement of the amount which you used of money belonging to your family, as you say, to any member of your family?

Ans. At times my wife and myself talk together, and I show her a statement of my affairs, and the family affairs; to my children I have never given a detailed statement, as my wife knows all about my property and the property of the family.

Further examination adjourned to March 29th, 10 o'clock, 10 by consent of counsel.

March 29th, 1867. Examination adjourned to March 30th, 1867, 10 o'clock A. M.

March 30th, 1867. Examination of Henry H. Jaques resumed.

59 *Quest.* Was this money, which you say you used to take up these encumbrances, taken out of your business?

Ans. A portion was.

60 *Quest.* What portion?

Ans. The balance after \$2500, as near as I can state, \$2500. 20

61 *Quest.* Did you apply to any one to borrow this money of?

Ans. No, sir.

62 *Quest.* Did you not apply to Peter S. Duryea, and request him to lend the money, and take these encumbrances as security?

Ans. I think that I did speak to Mr. Duryea, if he did not want to make an investment, but the amount of the conversation I cannot tell.

63 *Quest.* What consideration did you or Mrs. Mitchell pay to Amzi Dodd, or to Mr. Hogan, for that conveyance? 30

Ans. Nothing but the encumbrances and the expenses, if I understand your question right—expenses attached to the property.

64 *Quest.* How large is the front, or home tract?

Ans. I will give you as near as I know—I don't know exactly; it is about 150 feet on Main street; I should judge

about 250 feet on Mechanic street, but I am not positive about that; I should think that after running about 200 feet on Mechanic street, running back about 150 feet, I should judge, then there is an L, making the other part of Mechanic street deeper, running back.

65 *Quest.* Have you a map or diagram of this property—and if so, will you produce it?

Ans. I have one, got with the property when purchased—I have not got it by me at present—I will produce it if desired.

66 *Quest.* Did you tell Mr. Hogan that you were about to purchase the Harriet Pierson judgment before you did so?

Ans. No, sir.

67 *Quest.* Did you tell him that you were about to have the property sold under that judgment?

Ans. No, sir.

68 *Quest.* Did you not know that Amzi Dodd held that property in trust for Mr. Hogan?

Ans. Not at the time I bought it.

20 69 *Quest.* When did you know it?

Ans. I don't know that I ever knew that he held it in trust prior to my purchase; I do not know to this day how Amzi Dodd came to hold that property.

70 *Quest.* In what way did you suppose he held that property?

Ans. I have no supposition about it; the whole thing about the title to that property, before it was sold by the sheriff, is a mystery to me; there had been so many owners, and consigned about, I don't know.

30 71 *Quest.* Did not Mr. Dodd tell you he held that property in trust for Mr. Hogan prior to that conveyance to your daughter?

Ans. He may have done so—I don't remember—I cannot tell.

72 *Quest.* Has Mrs. Mitchell ever received any rent from Mr. Hogan for this property?

Ans. She, individually, has not.

73 *Quest.* Did she ever make a lease to Mr. Hogan for that property?

40 *Ans.* Not to my knowledge.

74 *Quest.* You say that you gave Mr. Hogan first a verbal notice, and afterwards a legal notice to quit, or leave the premises—by whom was that written notice signed, and what was the purport of it ?

Ans. The verbal notice I gave to Mr. Hogan myself; the written notice was drawn by my counsel; whether I signed it, or Mrs. Mitchell, I cannot tell; I sent a messenger to serve it upon Mr. Hogan; I believe I have a copy of it; as near as I can remember, it was to leave the premises on or by a certain time—that was my impression. 10

75 *Quest.* When was this—what year and month—and did you serve, or cause to be served, any more than the one written notice ?

Ans. I think it was in the year 1865; I think in the month of April, I am not positive as to date; I think it was more than three months prior to the ending of the year from which he first rented the property of me; I give you this from recollection; I am not positive as to serving more than one notice.

76 *Quest.* Look at this notice now produced to you; is 20 that the notice you caused to be served on Mr. Hogan ?

Ans. It may be a copy of the notice, and it may be the notice—I cannot say.

77 *Quest.* Whose signature is that placed at the bottom of that notice ?

Ans. I should think—I am only giving you my impression, gentlemen—it was the signature of her husband—Mrs. Mitchell's husband.

[The notice here offered in evidence by complainant's counsel, and marked *Exhibit* —.] 30

78 *Quest.* Were you not very active in getting the sheriff's sale set aside; and did you not express a great deal of sympathy for Mr. Hogan, that he should lose his property for the amount of the encumbrances ?

Ans. I don't think that I was particularly active; under the representations which Mr. Hogan made to me, I felt a sympathy for him.

79 *Quest.* Did you not consider the property sold by the sheriff of greater value than \$3500 ?

Ans. I never knew what it brought, and do not know to this day; I should consider, at the time, that it was dear. 40

80 *Quest.* Did you not represent to parties that the property was worth more than \$3500?

Ans. No, sir.

81 *Quest.* Did you not, shortly after that sheriff's sale, and before it was set aside, state that the property was worth more than \$3500?

Ans. Not to my recollection, sir.

82 *Quest.* Did you not state that it was worth at least \$5000?

10 *Ans.* No, sir.

83 *Quest.* Did you not state that it was worth at least \$7000, in your opinion?

Ans. No, sir.

84 *Quest.* Are you sure about this?

Ans. I think if I had, I was fit for an insane asylum.

85 *Quest.* Do you swear that you did not make these representations?

Ans. I will, sir.

86 *Quest.* Did you not sign the petition, or some of the 20 papers connected with the petition, to have that sale set aside?

Ans. I have no recollection, if I done so; anything in regard to the valuation were made under the representations of Mr. Hogan.

87 *Quest.* Can you not tell us what you thought that property was worth, on the first day of July, 1863?

Ans. The first of July, 1863, was a dark period in the history of the country; and, judging it by other property in East Orange that could not be sold, I do not think it could 30 be sold for \$3000, unless a person wanted to build upon it.

88 *Quest.* I did not ask you what it would bring, but what, in your opinion, it was worth at that time?

Ans. My opinion was influenced by gentlemen who examined the property, no doubt, as I did not know the value of property in East Orange, and mine coincided with theirs, which was about \$3000, or in that neighborhood.

89 *Quest.* Did you not, on or about the first of July, 1863, make a statement in writing, that you knew the property of Mr. Hogan which had been sold by the sheriff; that it was 40 a valuable property, and was worth, as you believed, \$7000?

Ans. I may have signed a paper, under the representations of Mr. Hogan; I have no recollection of the circumstance.

90 *Quest.* If you did sign such a statement, it was true, was it not?

Ans. That would depend entirely upon the representations that were made to me; it might have been represented wrong, and I, having confidence in the man or the men representing to me, I may have signed such a paper; I don't know; I knew nothing about the property, only in 10 passing it.

91 *Quest.* Had you never been upon the property before the first of July, 1863?

Ans. I have no doubt I had been upon the property; but if I ever signed a paper about that property, representing its value at \$7000, it was entirely under the representations of Mr. Hogan.

92 *Quest.* If you had signed a paper that you knew the property in question, that statement could not have been made from any representation of Mr. Hogan, could it? 20

Ans. As I have said before, if I signed any such paper, that its value was \$5000 or \$7000, it was under the representations of Mr. Hogan.

Question repeated.

Ans. I knew the property from passing—its value by representations from Mr. Hogan.

93 *Quest.* What did Mr. Hogan represent the front, or Hogan lot, to be worth at that time?

Ans. Whatever I signed in the paper; I don't know that I signed any paper; if I did it was from his representations. 30

94 *Quest.* Did you ever make an affidavit that you knew that Hogan property—that it was a valuable property, and was worth, in your opinion, at least \$7000?

Ans. I don't know; if I made an affidavit in regard to the Hogan property, it was entirely under the representations of Mr. Hogan.

95 *Quest.* Do you consider it would be proper to make an affidavit as to the value of a piece of property, merely upon the representations of another man?

Ans. Under ordinary circumstances I would not.

96 *Quest.* Under what circumstances would you consider it proper?

Ans. I am not through with my answer—the circumstances were these: if I signed any such paper or made any such affidavit, I knew the location of the property, I had confidence in Mr. Hogan's integrity at that time; and the papers were doubtless executed in haste, but with no intention of wronging or injuring anybody.

10 97 *Quest.* Can you not say whether you made such an affidavit or not?

Ans. I cannot; I may have done so, but I have no recollection of it.

98 *Quest.* If you did make any such affidavit, the statements made in it were true, were they not?

Ans. Those statements may have been false, yet I, acting honestly, believing Mr. Hogan, signed such a paper.

99 *Quest.* How large a family has Mr. Hogan? [Question objected to by defendants' counsel.]

20 *Ans.* I do not know.

100 *Quest.* Have you no recollection of making an affidavit on or about the second day of July, 1863, therein stating that you knew that property of Mr. Hogan, that it was a valuable property, and worth, in your opinion, \$7000?

Ans. I may have made such an affidavit, but I don't know; I don't remember; if I did, so far as the value of the property was concerned, it was from Mr. Hogan.

101 *Quest.* Did Mr. Hogan tell you it was worth \$7000—I mean the front, or Hogan lot?

30 *Ans.* As I said before, if I have made any affidavit that this property was worth \$7000, it was from Mr. Hogan; I have no recollection of anything of the kind.

Question repeated.

Ans. I don't know—I have no recollection; if I knew I'd tell you.

102 *Quest.* What did Mr. Hogan say it was worth in July, 1863?

Ans. He represented the property to be worth a good deal more than the encumbrances, and that was one inducement 40 to me to buy it.

103 *Quest.* Who holds these mortgages and encumbrances now?

Ans. I hold them now.

104 *Quest.* Have you held them ever since you took assignments of them?

Ans. I have, with one exception; at one time I lodged as collateral security, I think, one of the mortgages, or two; I can't tell without a reference, which has since been paid.

105 *Quest.* Did you not make an assignment of one or more of those mortgages to Phebe Ann Goble? 10

Ans. I did, as collateral.

106 *Quest.* When was this, and did you at that time consider it a valid encumbrance upon the property?

Ans. I certainly did; if I failed to meet my obligation, I considered it a valid encumbrance upon the property; I think it was in the latter part or middle of August, 1863; I am not positive about that without a reference.

107 *Quest.* How old was Mrs. Mitchell in July, 1863?

Ans. I think she must have been eighteen years old, or under perhaps, or over; I can't say without the record; I 20 will bring the bible record if you wish it.

108 *Quest.* You have stated that you cut and carried away the hay grown upon this property in the years 1864-5-6—how came you to cut and carry it away, if Mr. Hogan was a tenant upon the property?

Ans. It was the Baldwin property that I cut and carried away in those years; I never rented that property to Mr. Hogan; and I suppose my right of ownership was correct, and I took off its production.

109 *Quest.* Then I understand you to say that you cut the 30 hay only on the Baldwin lot in those years—am I correct?

Ans. So far as my directions were concerned to my men, you are correct.

110 *Quest.* How was the fact?

Ans. I do not know, for I was not there, except in the last year of the cutting.

111 *Quest.* Which year do you refer to, and what was the fact then—did you cut anything then except the Baldwin lot?

Ans. No, sir; I gave the year 1866. 40

112 *Quest.* Did not Mr. Hogan forbid you trespassing upon that lot—the Baldwin lot?

Ans. When I was up there, and my men were cutting the grass upon the Baldwin lot, after part of the grass was down, Mr. Hogan came up to me ordering me off the premises, calling me a thief and a robber, and after using such language—such kind of language—I had my men continued, and cut the grass.

113 *Quest.* How long after it was cut was it carried off?

10 *Ans.* Immediately, the same day.

114 *Quest.* Where was it carried to, to be dried?

Ans. Carried to a lot of mine—a barn-yard—cured, and put in my barn.

115 *Quest.* Where is this barn situated?

Ans. This barn is situated near the Orange line, on Newbold street.

116 *Quest.* Why was such haste used by you in cutting and removing this hay?

20 *Ans.* I had heard of threats thrown out by Mr. Hogan, and I, as the owner of the property, took the proceeds from it.

117 *Quest.* Who stated to you that any threats had been made by Mr. Hogan?

Ans. I cannot give you the person's name.

118 *Quest.* Do you mean that you are unable to do so, or that you decline to do so?

Ans. This man Mr. Hogan had employed to cut it, stated the circumstances, his name I do not know.

119 *Quest.* Was not his name Cass, and has he not been in your employ for a long time?

30 *Ans.* His name was not Cass, and Cass has not been in my employ for a number of years, and I don't know any such man.

120 *Quest.* Did not Mr. Hogan tell you a short time after the sheriff's sale, and prior to its being set aside, that he had a standing offer of \$5000 for that property, and he thought it was worth a great deal more?

Ans. As I have stated before, I have no recollection of any definite sum.

40 *Quest.* Will you swear that you did not, on the second day of July, 1863, make an affidavit, in which you declared

that you knew this property—that it was a valuable property—and that it was worth \$7000? [Question struck out.]

Ans. As I have stated before, I do not remember; I may have done so; if I did, I got my impressions and judgment from Mr. Hogan entirely; if I knew how to answer you better I would.

122 *Quest.* What impressions and what judgment did you get from Mr. Hogan?

Ans. I have no impressions of any.

123 *Quest.* How can you swear, then, that if you had any 10 impressions, or formed any judgment, they were so had and formed from Mr. Hogan, if you remember nothing about it whatever?

Ans. I do not remember anything about it; I don't remember, I cannot tell; if it was so, or is so, that I signed such a paper, it was done under his inspiration or judgment, and not mine.

124 *Quest.* Did you not sign such an affidavit, and swear to it before Corra Drake, a master in chancery of New Jersey, on or about the first day of July, 1863? 20

Ans. I have no recollection of any such thing; I may have done so, but I do not remember it.

125 *Quest.* Did you not visit that property some time before the sheriff's sale, in company with Joseph Booth, and express yourself that it was a beautiful and valuable property?

Ans. No, sir.

126 *Quest.* Were you not there with Mr. Booth?

Ans. No, sir.

127 *Quest.* How many times prior to that sheriff's sale had you been upon that property? 30

Ans. I cannot say that I was ever 25 feet upon the property prior to the sheriff's sale.

128 *Quest.* Had you not been to Mr. Hogan's house frequently before that?

Ans. Never in my life, that I remember of.

129 *Quest.* Were you not there during the trial of the Burr suit against you—and if so, when was it—what year?

Ans. I may have stepped inside of his shop, alongside the street, and no doubt did, at the time of the Burr trial, but in

what year I cannot say; the Burr trial extended over four years.

130 *Quest.* Prior to your going on the property with Mr. Bradner, had you had an interview with Sheriff Reynolds in regard to the sheriff's sale?

Ans. I will give you a faint recollection that I have of that transaction; I think, on the evening of the day on which Mr. Hogan called upon me in the morning, that I went to Sheriff Reynolds' house to see him in regard to the property, or leave
10 something with him, I cannot remember; it is but a confused remembrance.

131 *Quest.* Did you not tell Sheriff Reynolds that in your estimation that property was well worth \$7000?

Ans. As I have stated before, I have no recollection of what transpired at Sheriff Reynolds'; if I stated anything about the value of the property, it was from Mr. Hogan, for I knew nothing of its value at that time.

Being re-examined in chief—

1 *Quest.* What do you mean, in answer to question 75 on
20 cross-examination, by saying you "served notice upon Mr. Hogan more than three months prior to the ending of the year from which he first rented the property of you?"

Ans. I mean, of course, more than three months prior to the ending of the then current year of his tenancy.

2 *Quest.* What do you mean by "signature," in your answer to cross-question No. 77?

Ans. I mean the handwriting of her husband.

3 *Quest.* The assignment by way of collateral security to which you have referred in your cross-examination—is that
30 all the assignment by way of collateral, of the securities, or any of them, in question?

Ans. It is.

HENRY H. JAQUES.

Subscribed and sworn before me.

HENRY J. MILLS, *M. C.*

Further examination adjourned, by consent, to Wednesday, April 3d, 10 o'clock A. M.

Wednesday, April 3d, 10 o'clock. Further examination adjourned to Tuesday, April 9th, 10 o'clock A. M.

Tuesday, April 9th, 11 o'clock A. M. Examination continued pursuant to adjournment, in presence of counsel of parties.

Abraham M. Reynolds, a witness produced on part of complainant, being duly sworn according to law, in answer to question put by counsel, saith—I reside in the city of Newark; have resided here since 1845; am a broker and banker; in 1863 I was sheriff of the county of Essex; I was such 10 sheriff from November 15th, 1861, to November, 1864.

1 *Quest.* In the year 1863, did you, as such sheriff, have a writ of execution in your hands to execute, in a case in chancery, wherein A. M. Akers and other executors were complainants, and James N. Hogan and others, were defendants, upon a foreclosure of property of James N. Hogan, in East Orange?

Ans. I did.

2 *Quest.* What did you do under that execution?

Ans. I advertised and sold under that execution. 20

3 *Quest.* What was afterwards done—was the sale set aside by the Court of Chancery?

Ans. It was set aside, or the proceedings stayed in some way.

4 *Quest.* At what time in the year 1863 was the sale made, and when, in that year, was it set aside?

Ans. I think the sale was in June; I think it was set aside within a month of that time.

5 *Quest.* Between the time of the sale, and the setting aside of the sale, did you see Henry H. Jaques? 30

Ans. I did.

6 *Quest.* State, if you remember, where you saw him—whether he sought the interview with you, or you with him—and why the interview was had?

Ans. I think it was at the sheriff's office; it is my impression that he was there in company with Gen. Runyon, and his business at the office was some way interested in the sale as it respected Mr. Hogan; he expressed an interest in

Mr. Hogan from long acquaintance, and Mr. Hogan had been in his employ, and he felt an interest in the sale being set aside; Mr. Hogan claimed that he was surprised that the sale had taken place; he claimed that I had given him an adjournment for a month, when it was for four weeks, as was usual in such cases; Mr. Jaques took an interest in Mr. Hogan on account of his embarrassed circumstances, and as I had the impression, that he took an interest in him to save his property.

10 [All the foregoing answer relative to witness' impressions, objected to by counsel of defendants.]

7 *Quest.* From whom did you get the impressions referred to in your last answer?

Ans. I got those impressions from Mr. Jaques.

8 *Quest.* Did Mr. Jaques express great kindness and sympathy for Mr. Hogan, at that time?

Ans. He expressed interest and sympathy for him.

9 *Quest.* Did Mr. Jaques serve any written notice on you?

Ans. I don't think he did.

20 10 *Quest.* Did Mr. Jaques at that time state to you "that it was too bad that James should lose his property for the amount of the encumbrances upon it," or words to that effect?

Ans. I don't remember his calling Mr. Hogan James, he may have done so; he stated that he was not willing to see Mr. Hogan lose his property for what little encumbrances there was upon it, or what encumbrances there was upon it; he gave me to suppose that the property was worth a good deal more than the encumbrance, and by his taking charge of it,
30 he would be able to save something for Mr. Hogan out of the property; it is about all I remember about it.

11 *Quest.* Did you throw any obstacles in the way of having that sale set aside?

Ans. I did not, I was rather willing it should be set aside.

12 *Quest.* For whose benefit did Mr. Jaques represent to you the interest he was taking in having this sale set aside?

Ans. For the benefit of James N. Hogan.

13 *Quest.* State, if you remember, what value Mr. Jaques placed upon that property sold by you, at that time?

Ans. I don't remember that he stated any particular

amount, only that it was worth a good deal more than the encumbrances.

14 *Quest.* You said you were rather willing that the sale should be set aside—how came you to have that willingness? [Question objected to by counsel of defendants as wholly irrelevant.]

Ans. For two reasons: the first was, I didn't wish Mr. Hogan to lose his property by any impression that he had in regard to the time of the adjournment, as that was an official act of mine; and I was glad he had a friend in Mr. Jaques, who was willing to come to his rescue, and save his property; and that my sympathies were with him, had known him for a long time, and I wanted to have him save his property on account of his poverty.

A. M. REYNOLDS.

Sworn and subscribed before me, the 9th day of April,
A. D. 1867.

HENRY J. MILLS, M. C.

Corra Drake, a witness produced on the part of the complainant, being duly sworn, saith—I am a counsellor at law, residing in Newark, and at present engaged with Messrs. Runyon and Guild, counsellors at law; in 1863 I was engaged with General Runyon; I know Henry H. Jaques and James N. Hogan, the complainant, and one of the defendants in the suit.

1 *Quest.* Do you remember, in the year 1863, of any proceedings having been taken to set aside a sheriff's sale of the property of James N. Hogan, made by virtue of any execution against him and others, defendants, and Ann Akers and others, complainants, upon a foreclosure of a mortgage upon said property?

Ans. I have no recollection of any such proceedings.

2 *Quest.* Please look at this paper, purporting to be a petition to set aside the sale mentioned in my last interrogation, and filed in the Court of Chancery July 2d, 1863—in whose hand writing is it?

Ans. It is in my hand writing, part of it; the greater part of the petition is in my hand writing.

3 *Quest.* In whose hand writing is the affidavit of James N. Hogan, annexed to that petition?

Ans. It is in my hand writing?

4 *Quest.* Before whom was the affidavit taken?

Ans. Before me, as a master in chancery, as was also the affidavit of Henry H. Jaques, annexed to said petition.

5 *Quest.* In whose hand writing is the affidavit of Henry H. Jaques, mentioned by you and annexed to that petition.

Ans. General Runyon's, I believe.

10 6 *Quest.* Did Mr. Jaques swear to that affidavit before you as a master in chancery of this state?

Ans. I believe he did; I am not apt to sign the jurat unless the person making the same is sworn; I mean by that I never do.

7 *Quest.* Did Mr. Jaques at that time know the contents of that affidavit?

Ans. I don't know, I suppose he did.

8 *Quest.* Is it your custom to take the oath of a person to an affidavit without informing him of its contents or allowing him to read it?

Ans. Not unless he admits that he knows the contents of the affidavit.

9 *Quest.* Was that your custom in 1863?

Ans. It always has been my custom.

10 *Quest.* Can you say then that Mr. Jaques knew the contents of that affidavit that he subscribed and swore to?

Ans. I believe he did.

11 *Quest.* What representations at that time did Mr. Jaques make to you in regard to the value of the property, and in regard to the interest which he took in the property?

Ans. Not any, to my knowledge or recollection.

The petition, the affidavit of Mr. Jaques annexed thereto, and all the papers in the cause lately depending in the Court of Chancery, wherein Ann and Charles Akers, executors, &c., of Charles R. Akers, deceased, were complainants, and James N. Hogan and others were defendants, which I have severally marked *Exhibits* —

CORRA DRAKE.

Sworn and subscribed before me, this 9th day of April, A. D. 1867.

HENRY J. MILLS, *M. C.*

Oscar L. Baldwin, a witness produced on part of complainant, being duly sworn according to law, saith—I reside in Newark; have resided here for twenty years last past; I am cashier of the Mechanics National Bank of this city; have been cashier of said bank for four years last past; I know James N. Hogan and Henry H. Jaques, the parties to this suit; I am acquainted with the property on which James N. Hogan resides; I remember a sale of the front or Hogan part of that property in 1863, made by Sheriff Reynolds to me; I purchased it.

1 *Quest.* Was there any agreement or understanding between you and Aaron Peck that he, Aaron Peck, should have that property? [Question objected to by counsel of defendants as irrelevant.]

Ans. There was not.

2 *Quest.* Was that sheriff's sale set aside; if so, how long after it took place was it set aside? 20

Ans. It was very soon after; I think it was within thirty days after the sale was made.

3 *Quest.* Did you throw any obstacles in the way of having that sale set aside?

Ans. I did not.

4 *Quest.* Between the time the property was sold to you, and the time when the sale was set aside, did you see Mr. Jaques in regard to the sale?

Ans. Mr. Jaques came to see me in reference to it, on behalf of Mr. Hogan, as I understood. 30

5 *Quest.* Did he, or did he not, express great sympathy for Mr. Hogan at that time? [Question objected to by counsel of defendants as leading.]

Ans. He did.

6 *Quest.* State, as near as you can, what he said to you in regard to this property?

Ans. I can't undertake to tell a conversation which occurred three years ago, word for word; he told me that Mr. Hogan was a poor man—that it was taking the roof off from

the head of his family—and he called to see me, to see if some means could not be taken to save the property for Mr. Hogan; he appeared to think that I had taken some advantage of Mr. Hogan, in buying the property.

7 *Quest.* Did he state to you his reason for taking this interest in the property, or for having the sale set aside?

Ans. I don't recollect that he did.

8 *Quest.* What motive did he mention, if any, which induced him to come to you in regard to it?

10 *Ans.* I think he expressed none, except friendship to Mr. Hogan.

9 *Quest.* Are you in any way related, by marriage or otherwise, with Charles R. Akers, deceased, who held the mortgages upon this property?

Ans. I married his daughter.

10 *Quest.* Then you were interested that this mortgage encumbrance should be paid, were you not? [Question objected to as leading by counsel of defendants.]

Ans. I was.

20 11 *Quest.* Was that your only interest in buying the property?

Ans. I held a mortgage myself, in addition to the one held by my father-in-law.

12 *Quest.* What interest had you that induced you to purchase the property?

Ans. I thought that if the property could be bought for the encumbrances it was a bargain.

13 *Quest.* When Mr. Jaques came to you, did he say anything about taking the property for himself?

30 *Ans.* I think he told me he would help Mr. Hogan redeem the property.

14 *Quest.* Was this redemption you have mentioned, to be made for his own benefit, or the benefit of Mr. Hogan—how did he express it? [Question objected to by counsel of defendants.]

Ans. He expressed a desire to save the property for Mr. Hogan.

40 15 *Quest.* Would you have consented to have had that sale set aside if you had supposed that Mr. Jaques was to reap the benefit of that setting aside, and not Mr. Hogan? [Question objected to by counsel of defendants.]

Ans. I should certainly have opposed it.

16 *Quest.* Then, as I understand you, you placed no obstacles in the way of having this sale set aside, because you thought it would enure to the benefit of Mr. Hogan—am I right? [Question objected to by counsel of defendants.]

Ans. You are.

17 *Quest.* From whom did you receive this information, that if the sale was set aside Mr. Hogan would reap the benefit of it? [Question objected to by counsel of defendants.]

Ans. From Mr. Hogan, Mr. Jaques, and a number of other 10 friends Mr. Hogan sent to see me about it; I think General Runyon among the number.

Being cross-examined by defendants' counsel—

1 *Quest.* What is your age?

Ans. I am thirty-five.

2 *Quest.* What did you give for this property at the sheriff's sale?

Ans. I can't recollect; I think it was struck off for the encumbrances, I am not sure.

3 *Quest.* What do you mean by the encumbrances? 20

Ans. I mean the mortgages.

4 *Quest.* What mortgages?

Ans. I have no memorandum of them.

5 *Quest.* Cannot you say what mortgages you mean, when you refer to the mortgages as the encumbrances?

Ans. I cannot.

6 *Quest.* What amount did you authorize to be bid for you on that property?

Ans. I don't recollect.

7 *Quest.* Have you no idea at all? 30

Ans. I can't give the precise amount.

8 *Quest.* I do not ask for the precise amount, but for the best of your memory?

Ans. I think it was between \$4000 and \$5000, but I am not sure.

9 *Quest.* Did you not tell your brother-in-law, Charles Akers, the executor, that if the property went below a certain price to buy it in and you would take it?

Ans. I presume I did; he bought it for me.

10 *Quest.* Was not that price the amount of two mortgages and interest, one the Akers' mortgage, and the other the Samuel W. Baldwin mortgage, held by you?

Ans. I think it was; I am not sure if there were any other encumbrances or not; I can't recollect.

11 *Quest.* Did the amount of principal and interest on those two mortgages amount to \$4000 or \$5000?

Ans. I don't know.

10 A paper being shown witness, purporting to be testimony given by him in this court, on the petition to open biddings, he is asked, after reading that testimony—do you say that there were any more than those two mortgages?

Ans. I do not.

12 *Quest.* Do you mean to be understood as saying that the sheriff's sale was set aside by your consent?

Ans. I mean to say that I made no opposition to it; if I recollect right, I did not consent or oppose it in any way.

13 *Quest.* When was it that you had these interviews with
20 Mr. Jaques and others in regard to this property?

Ans. Between the time of the sale and the time it was set aside.

14 *Quest.* Did you ever have more than one interview with Mr. Jaques on the subject?

Ans. No, sir; at least I have no recollection of it.

15 *Quest.* Were you related to Aaron Peck in any way?

Ans. He was my uncle by marriage; he married my aunt.

16 *Quest.* Was not the interview which you had with Mr. Runyon, one in which he approached you simply as counsel
30 of Mr. Hogan?

Ans. I don't know, I presume so.

17 *Quest.* Were you not charged, sir, at that time, of having purchased this property for Aaron Peck?

Ans. I was.

18 *Quest.* Did not Mr. Hogan so charge.

Ans. He did.

19 *Quest.* When did you buy the Samuel Baldwin mortgage?

Ans. Perhaps thirty days before the sale, perhaps longer,
40 I don't know.

20 *Quest.* How came you to buy it?

Ans. He wanted to sell it; he offered it to me and I bought it of him.

Being re-examined by complainant's counsel—

1 *Quest.* Was the charge true that you had purchased this property for Aaron Peck?

Ans. It was not true.

2 *Quest.* As I understand you, you bought this property to secure the amount due upon the Akers' mortgage, and the mortgage which you held by assignment from Mr. Baldwin, was that the only reason?

Ans. Yes, and because there was money in it, and I think so yet.

O. L. BALDWIN.

Sworn and subscribed before me, this ninth day of April, 1867.

HENRY J. MILLS, *M. C.*

The complainant's counsel here offered in evidence a map of the premises in question in this cause, which is admitted to be such by the counsel of defendants, and I have marked 20 the same as *Exhibit* — on part of complainant.

H. J. MILLS, *M. C.*

Jabez Elverson, a witness produced on part of complainant, being duly sworn according to law, saith—I live in Newark, have lived in this city thirty-two or thirty-three years; am a hat manufacturer; I am acquainted with Mr. James N. Hogan and Henry H. Jaques, one of the defendants in this suit.

1 *Quest.* In the year 1863 do you recollect of a sale being made of Mr. Hogan's property under a foreclosure? 30

Ans. No, I do not, no more than what he told me; I don't recollect when it was; it was some three or four years ago.

2 *Quest.* Did Mr. Hogan at that time state to you that he was in difficulty; and if so, what difficulty?

Ans. He said to me that he had got into difficulty with Mr. Jaques, and wanted to raise some money, some \$2000 or \$3000 or \$3500.

3 *Quest.* Did he request you to raise the money for him?

Ans. He did.

4 *Quest.* Did you procure that money for him?

Ans. I asked him what security he could give; he replied his property on the corner of Whiskey Lane; he wanted to sweep off some debt or debts upon the property, and if he could raise \$3000 or \$3500 he could give me a clear mortgage upon the property.

5 *Quest.* Did you raise the money?

10 *Ans.* I told him of a party that would raise the money, and they agreed to raise the money; I saw Mr. Hogan and told him the money could be raised on bond and mortgage on that property; I can't say what amount, \$3500, \$3000, or \$2500; I can't tell what the amount was; whatever amount he named to me.

6 *Quest.* What did you consider that property worth at the time?

Ans. Well, I thought it was worth from \$8000 to \$10,000.

7 *Quest.* Were you acquainted with that property; and if
20 so, how long?

Ans. For twenty years.

8 *Quest.* Were you willing at that time to invest for yourself, or your friends, \$3500 on that property on bond and mortgage?

Ans. My friends was willing, and if I had had the money I should have been willing.

9 *Quest.* Did you express your willingness to Mr. Hogan, to put this money in and to take a bond and mortgage back again for the amount of the encumbrances?

30 *Ans.* Yes, I was willing to advance \$3500 and to take a first bond and mortgage on the property, free and clear of all encumbrances; I expressed my willingness to do this.

10 *Quest.* This sale was on the 16th day of June, and it was set aside on the 18th day of July; was this between the two dates?

Ans. I don't recollect.

11 *Quest.* Was it before Mr. Jaques took an assignment of the mortgages?

Ans. I don't recollect; it was in 1863.

40 The foregoing testimony all objected to by counsel of de-

defendants, the same having been taken, subject to objection, in absence of defendant's counsel.

Being cross-examined, witness said—

1 *Quest.* How much is there of the Hogan property?

Ans. Well, I don't know exactly how much there is; I have not seen it in some time; I think it is one hundred and fifty feet on the street, running three hundred or four hundred feet deep.

2 *Quest.* In your estimate of its value do you estimate by the acre or the foot? 10

Ans. By the lump; by the whole property; by the situation, and by the amount of it.

3 *Quest.* What is that land worth an acre, or what is it worth a foot?

Ans. I don't know, and did not know then; I only judge by what property was worth in other places.

4 *Quest.* What other property do you refer to?

Ans. Oh! I can't recollect any particular property.

5 *Quest.* Can't you tell me what property you mean by your expression "other property?" 20

Ans. I can't mention any in particular.

6 *Quest.* What time do you fix for this application of Mr. Hogan to you—what year was it?

Ans. It was in 1863; if I had known that I was to be examined, I would have charged my memory with it; I was called unexpectedly, and cannot say as definite as I might if I had thought it over.

7 *Quest.* By what do you fix the time in 1863, rather than in 1864, or 1862?

Ans. I have nothing particular by which I fix it; it is my 30 firm belief it was in 1863.

8 *Quest.* Did you not say, in answer to the last question, after you had heard the question and before it was read to you, that you did not fix the time?

Ans. I said that I had nothing to fix it particularly, but that it was my firm belief it was in 1863; in thinking the matter over, I can fix the matter better; I lived in 29 Elm street, I think it was 29, or 129, Elm st., but I lived right opposite South Prospect st., in Elm; I was living there when

he called upon me about this money ; I have left there three years, or pretty near that, three years last April.

J. ELVERSON.

Sworn and subscribed before me, this 9th day of April,
A. D. 1867.

HENRY J. MILLS, *M. C.*

10 Examination of Thomas Brown, a witness alleged to be very sick, taken before me, a master in chancery, by the consent and in the presence of the respective counsel of the complainant and defendants in the above stated cause, January 21st, 1867.

CORRA DRAKE, *M. C.*

Thomas Brown, a witness produced on behalf of the defendant in the above stated cause, being duly sworn, on his oath deposes and saith—I am sick and unable to leave my bed ; in the years 1864 and 1865 I was employed by Mr. Jaques, the defendant, with the team to do anything Mr. Jaques required me to do ; I was the teamster ; I know where Mr. James N. Hogan, the complainant, resided in
20 Orange ; it was where his hat shop now is ; I was there in 1864 and 1865 ; I went there to draw sand and brick for Mr. Jaques ; to the best of my opinion I carted twenty-one or twenty loads, that is twenty-one of sand and twenty of brick ; during the time I was carting brick and sand, I had a conversation about the property there ; the conversation was about the property where the team stood ; it was the property Hogan occupied ; he said it belonged to Mr. Jaques, that Mr. Jaques had bought the property ; the property that was fenced in there ; that he, Hogan, owned it all at one
30 time ; but that he had been obliged to sell it on account of his embarrassments ; he asked me where Mr. Jaques calculated to build ; I told him that Mr. Jaques was going to build a new house where the old one stood, and another one between two apple trees on Mechanic street ; there was nothing said as to how long Mr. Hogan was to stay there ; he said he was looking for another place, but that it was hard for him to suit himself for his business ; I was at the cutting of a part

of the grass on those premises; I loaded it on the wagon; it was in 1864, I think; I carted that year's grass away; a German man cut it that year; he was employed by Mr. Jaques; I carted the grass to the farm at Roseville avenue, belonging to Mr. Jaques; I don't know who cut the grass in 1865; I wasn't on the ground; I don't know who carted it away; in 1864, when I was carting away the grass, I saw Mr. Hogan there; he didn't say anything about my carting the grass away; he made no objection to my taking away the hay. I know there was a stone wall built in front of the 10 place; I carted the materials there for the purpose; the wall stopped up the entrance in front of the house, but one end of the wall was open; there was a gate way there; I saw Mr. Hogan there while this wall was being put up, but had no very great conversation with him; I did not hear him make any objection against the building of that wall; Mr. Hogan rode with me sometimes from Orange to Newark; Mr. Hogan often told me that Mr. Jaques had bought that property of him; Hogan never said to me that he had any claim upon the property, or that he expected to get it back; when Mr. 20 Hogan and I had the conversation about Mr. Jaques building there, he said nothing about who the houses were to be built for.

Quest. What was said by Mr. Hogan, if anything, in that conversation about the location being a good one for Mr. Jaques to build a house for himself? [Question objected to.]

Ans. He said it would be a beautiful place for Mr. Jaques or any man who had money to build on, he was not able to build himself; he said this at different times; we talked it over several times. 30

And being cross-examined, the witness said—

Quest. When was this conversation you refer to?

Ans. It was in 1864 or 1865—I don't remember which.

Quest. What time in the year?

Ans. In the spring and summer of both years I was carting.

Quest. Did you tell Mr. Jaques of these conversations?

Ans. We talked it over once in a while.

Quest. How did you come to talk it over with him?

Ans. I told it to him.

Quest. Did he ask you?

Ans. I believe he did; I don't rightly remember.

Quest. How came he to ask you?

Ans. Mr. Jaques asked me if Hogan had moved; I told him that Hogan said, as soon as he found a place to suit him he would move.

Quest. When did you first mention to Mr. Jaques that Hogan said to you that the place belonged to Mr. Jaques?

Ans. I couldn't tell you, but after it did happen I told him.

10

THOMAS ^{his} ~~X~~ BROWN.
mark.

Sworn and subscribed before me, at Newark, January 21st, 1867.

CORRA DRAKE, *M. C.*

Opinion.

The object of this suit is, that the defendant, Jaques, and his daughter, the defendant, Mrs. Mitchell, may be adjudged each to hold a tract of land, of which each respectively has the legal title, as trustee for the complainant; and may be compelled to re-convey the same to the complainant upon his re-
20 paying to the defendant, Jaques, certain moneys advanced by Jaques for the complainant's benefit, which he tenders himself ready to re-pay.

Amzi Dodd, on the twenty-second of July, held in fee, in trust for the complainant, a lot in the town of Orange, at the north-west corner of the intersection of Main and Mechanic streets. On this lot were several mortgages. The executors of C. R. Akers, who held one of them, obtained a decree of foreclosure to pay all these mortgages, and the premises had been sold under that decree; they had been
30 sold for a sum much below their value, and considerably below the amount due on the foreclosure decree. This sale was set aside, after which the defendant, Jaques, at the request of the complainant, advanced the money and purchased the mortgages and decree, which were assigned to him.

These assignments were dated on the twentieth day of July, 1863, and were acknowledged on the twenty-second day of that month. On the twenty-second day of that month, Dodd, together with the complainant and their respective wives, conveyed this lot to the defendant, Caroline E. Mitchell, by deed without any covenants, except against the acts of Dodd; the consideration was one hundred dollars, in hand paid, and by the habendum clause, was for the use of the grantee and her heirs. On the fifth of September, 1863, Samuel W. Baldwin conveyed to the defendant, Jaques, in fee, a lot on 10
Mechanic street, in the rear of the corner lot, by deed dated on that day, in consideration of twelve hundred dollars; the uses were declared to the grantee and his heirs, and the deed contained full covenants as to title, and against encumbrances. This Baldwin lot had formerly been annexed to the corner lot, and was conveyed by Dodd and the complainant to Baldwin, in December, 1859.

Harriet Pierson had recovered a judgment against Hogan in the Essex County Circuit Court, in 1857, for four hundred and thirty-four dollars, which remained unpaid; Jaques, with 20
Hogan's consent, purchased this judgment, and Hogan's right and title to both lots was levied on and sold, by virtue of an execution on that judgment, to the defendant, Caroline E. Mitchell, who received the sheriff's deed; it was dated the tenth of September, 1863, the day of the sale. These deeds were to Mrs. Mitchell, in her maiden name, Caroline E. Jaques; she being then unmarried, and a minor under seventeen years of age.

The complainant alleges that Jaques advanced the money for these mortgages and the judgment, to aid him so that 30
the property might be retained, and need not be sold; and that the conveyance to Jaques' daughter, by Dodd and himself, was made at Jaques' suggestion and request, with the agreement that the title was to be held in trust for the complainant; and upon some objections made by Jaques against Dodd, as trustee.

The complainant alleges that the Baldwin lot was conveyed by him and Dodd to Baldwin, for about sixteen hundred dollars, with the agreement that Baldwin would at any time re-convey it to him upon payment of that sum, being a debt 40
of Hogan to Baldwin, to secure which the lot was conveyed.

A great amount of evidence has been taken of parol declarations and agreements of the parties as to the trust. It is objected on part of the defendants, that a trust cannot be proved by parol declarations or agreements, it being within the statute of frauds, which enacts: "That all declarations or creations of trust of any lands, shall be manifested by writing, signed by the party who may declare such trusts, or else shall be utterly void." The statute provides, that it shall not affect any trust that may arise or result by implication or
10 construction of law.

There is no question as to the mortgages or decree purchased by Jaques; he paid for them, and is entitled to the amount due on them; and the complainant would be entitled to redeem the corner lot on payment of them, were it not for the conveyance to Mrs. Mitchell. The whole question as to the corner lot is, whether that conveyance was to her in trust for complainant. It is a deed of bargain and sale for a money consideration, and the uses are declared in the deed. The deed was from Hogan, as well as his trustee, and con-
20 veyed the lot free from any trust to which it had been subject in Dodd's hands. This was the legal effect of the conveyance; if any new trust was created, it must arise from something at or after the conveyance. If it was an express trust it must have some declaration in writing, signed by the grantee. There was none; none is pretended.

The complainant places his claim upon the ground that the conveyance was without any actual consideration, and with the understanding that it was in trust for him.

This is not one of the cases in which a trust results or
30 arises by implication of law. Formerly it was held that a feoffment made without any consideration, would raise a resulting trust for the grantor, and this consequence governs in a conveyance by deed where there is no consideration, and where the uses are not declared.

But when the deed expresses a consideration, though it is a mere nominal one, and though it was never paid, no use results to the grantor, and parol proof that the conveyance was intended to be in trust for the grantee, will not raise a trust.

40 This was so held in England, in *Leman v. Whitley*, 4

Russ. 423, and *Fordyce v. Willis*, 3 *Bro. C. C.* 576. And in New York, in *Rathbone v. Rathbone*, 6 *Barb.* 105; also, in the Court of Errors, in this state, in *Baldwin v. Campfield*, 4 *Halst.* 891, *Justice Elmer*, p. 903, says, "no trust arises upon a man's own deed, whether there was in fact any consideration paid or not; as between the parties a voluntary deed is just as binding as any other. There can be no doubt that any parole declarations of the defendant, or any understanding between him and the plaintiff, not reduced to writing, would be inadmissible to show a trust." The same doctrine 10 is sanctioned in 2 *St. Eq. Jur.*, § 1199; *Hill on Trustees* 107; *Browne on Statute of Frauds*, § 111.

No title whatever was acquired by Mrs. Mitchell, by the sheriff's deed to her; at or after the judgment, Hogan had no legal estate in the premises, and it is settled in this state that a trust estate cannot be sold by execution. Under the act regarding fraudulent trusts it could have been reached and sold by supplementary proceedings, and therefore it was advisable, if not necessary, for Jaques to purchase or satisfy this judgment, but the sale under it was a nullity. It 20 was held in this court, in *Combs v. Tuttle*, 3 *Gr. C. R.* 310, as also in the case of *Marlatt v. Smith*, decided in October term, 1866, and affirmed by the Court of Errors in November term, 1867, that a purchase at a sheriff's sale, upon a parole agreement with the defendant in execution, that the land shall be held for his benefit, and that he shall be allowed to redeem, will be held to be a trust for the defendant. And if any title in this case had been derived from the sheriff's deed, it could be shown by parole that it was subject to such trust. As it stands, the deed from Dodd and Hogan, con- 30 veyed to Mrs. Mitchell the legal title, and no trust results, from the fact that no consideration was paid, and no express trust can be shewn by parole proof.

As regards the Baldwin lot, the complainant claims, that the deed to Baldwin, though absolute on its face, was given as security for a debt of sixteen hundred dollars, and with an agreement to re-convey on payment of that sum. It is well settled, that if a deed, absolute on its face, was really given as security for a debt, and intended only as a mortgage, it is a mortgage. And that the fact may be shown by 40

a written defeasance, or by parole proof. The proof in this case, relied upon, is the evidence of Baldwin and of the complainant.

Baldwin says the deed from Dodd and Hogan "was given to me for a balance which Mr. Hogan owed me, for about fifteen hundred or sixteen hundred dollars. It was not less than fifteen hundred dollars, and I think over that. Mr. Hogan suggested that I should take this land at a price we could agree upon, and save him paying interest; this debt
10 of mine was on interest. I objected at the time to take the property. I did not want it. I took it with the understanding that I would deed it to him again upon the liquidation of that debt." Hogan says, "I conveyed it to Baldwin; the consideration was between fifteen hundred and sixteen hundred dollars, under an understanding when I conveyed it, that when I got able, I was to take the lot back for my son, just the same as when I sold it—the same price." From this it is insisted that this conveyance was merely a mortgage.

20 There is a distinction between an agreement that a deed shall be only security for a debt, a redeemable mortgage, and an agreement made at its execution to re-convey the property upon being paid back the consideration or some other sum; but the line is very shadowy and indistinct that divides one from the other.

We find it laid down, that an agreement to be sufficient to convert an absolute deed into a mortgage, should be mutual, that is, that the grantor should be bound to pay the debt, and the grantee to re-convey on payment. *Cooté on*
30 *Mortgages*, 19; *Holmes v. Grant*, 8 *Paige* 243; *Grover v. Paige*, 19 *Wend.* 518; *Robinson v. Cropsey*, 2 *Edw. Ch.* 138. It is not, perhaps, necessary in all cases, to convert an absolute deed into a mortgage, that the liability of the grantor to pay the debt should remain; and yet, a continuing debt seems so much a part of our idea of a mortgage, that the proof that an absolute deed was intended as a mortgage, must be very plain where the debt does not remain, or is considered as paid by giving the deed. In this case the ob-
40 ject in giving the deed for this lot, was to stop the interest on a debt that was liable to interest. The deed was, with-

out doubt, accepted as a payment of the debt, and Hogan was by it discharged from all other liability for it. Neither party states that it was conveyed by way of mortgage. Baldwin did not want to take the lot, he objected to it. He could not have had any objection if it had been merely mortgaged to him, and the inference is very strong that in this state of affairs a mortgage would have been given if one had been intended. Both parties state it was a conveyance, with an agreement to re-convey. Jaques was not told that Baldwin held as mortgagee, either by Hogan or Baldwin; the title he was to get, and expected to get, according to their own statement, was the fee; they say he was told that Baldwin held it for Hogan, not as mortgagee for himself for an amount greater than its value. Hogan swears that it was conveyed to Jaques in trust for him, when he paid Jaques the twelve hundred dollars and interest. The whole circumstances show that it was not considered a mortgage to Baldwin for sixteen hundred dollars or any other sum; and the fact that Baldwin conveyed to Jaques with full covenants of title and right to convey, shows that he did not consider he was assigning a mortgage. I think the conveyance to Baldwin was not made or intended as security for a debt, or in any way as a mortgage, but that the property was accepted in payment of the debt, and Baldwin made, and intended to make, a verbal promise to Hogan, made by parole, so as not to embarrass the title, that he would re-convey to him upon receiving back the sixteen hundred dollars without interest. This contract, of course, could not be binding either at law or in this court. If it should be considered as a mortgage to secure sixteen hundred dollars, a debt then due, Hogan could not redeem either from Baldwin or Jaques, except by paying the sixteen hundred dollars, with interest, from the date of the deed. This was not the intention of the parties, it was to re-convey for sixteen hundred dollars without interest. Again, this claim to hold the equity of redemption is inequitable as against Jaques, who had no notice of it. He bought from Baldwin, who had on record the absolute title. A concealed agreement to permit Hogan to redeem, is against the spirit and object of our registry laws, and if permitted to prevail would overthrow

them and defeat their object. No care in searches or inquiries would protect a purchaser from the effect of such an agreement. Jaques was a purchaser for a valuable consideration, and although he might have been told that Baldwin held for the benefit of Jaques, yet in taking the title he had no notice or no reason to suspect that the title when conveyed to him, with Jaques' assent, would be only the lien of a mortgagee for his debt.

I am of opinion that the complainant has not made out a
10 title to relief as to either lot, and that the bill must be dismissed with costs.

Final Decree.

[Filed February 17th, 1868.]

This cause coming on to be heard at the last regular term of this court, to wit, the term of October, eighteen hundred and sixty-seven, before his Honor the Chancellor, and the same having been argued before the court by Timothy P. Ranney, solicitor for and of counsel with the complainant, and by Theodore Runyon, solicitor for and of counsel with
20 the defendants, and the pleadings, depositions, exhibits, and proofs in this cause having been read, and said arguments of said respective counsel having been duly heard and considered, and the Chancellor having taken time to advise thereon, and it appearing to the Chancellor that the complainant is not entitled to the relief sought and prayed for in and by his bill of complaint in this cause, it is, on this seventeenth day of February, in the year of our Lord one thousand eight hundred and sixty-eight, ordered, adjudged, and decreed, by
30 Chancellor doth hereby order, adjudge, and decree, that the complainant's said bill be and the same is hereby dismissed with costs.

A. O. ZABRISKIE, C.

Notice of Appeal.

[Filed August 14, 1868.]

The complainant hereby appeals from all and every part of the final decree made in this court in the above stated cause, to the Court of Errors and Appeals in the last resort in all causes.

Dated August 14, 1868.

EDWARD L. DOBBINS,
Solicitor of complainant.

THOMAS N. McCARTER, 10
Of counsel.

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

THOMAS N. McCARTER,
Of counsel.

Petition of Appeal.

[Filed July 7, 1868.]

Between

James N. Hogan, *appellant,*

and

Henry H. Jaques, John D. Mitchell,
and Caroline E. Mitchell, *appellees.*

} *On bill, &c.* 20

To the Honorable the Court of Errors and Appeals of the State
of New Jersey.

The humble petition of James N. Hogan, the appellant in the above stated cause, respectfully shows—that your petitioner finds himself aggrieved by a final decree made in the Court of Chancery, by the Honorable Abraham O.

Zabriskie, Chancellor of the State of New Jersey, bearing date the seventeenth day of February, eighteen hundred and sixty-eight, in a certain cause therein depending, wherein your petitioner was complainant, and Henry H. Jaques, John D. Mitchell, and Caroline E. Mitchell were defendants, in this respect, that the said decree adjudged that the complainant is not entitled to the relief sought, and that his bill be dismissed with costs.

And your petitioner humbly appeals from all and every
10 part of the said decree, upon the ground that the said decree is erroneous.

Your petitioner therefore prays that the said decree of the Chancellor may be reversed, set aside, and for nothing holden, and that the said bill of complaint may be dismissed, and that your petitioner may have such relief in the premises as to this honorable court shall seem meet.

Dated _____

EDWARD L. DOBBINS,
Solicitor of appellant.

20

Answer.

[Filed October 9, 1868.]

This respondent, not admitting all or any of the matters or things to be true, as in and by the said petition of appeal are mentioned and set forth, for answer thereunto says, that he believes it to be true, that such decree as is complained of was made by the Court of Chancery, as in the said petition of appeal is mentioned and set forth; but as to the date, substance, and extent thereof, this respondent humbly craves
leave to refer thereunto, when the same shall be produced.

30 And this respondent humbly conceives, and is advised that the decree in the matters complained of in said petition of appeal is correct and just, and according to law and the proofs in said matter, and therefore humbly prays that said decree may be affirmed, and the said appeal dismissed with costs.

THEODORE RUNYON,
Solicitor for and of counsel with the respondent.

INDEX.

	Page.
Answer to Bill of Complaint.....	13
Answer to Petition of Appeal.....	194
Bill of Complaint.....	1
Final Decree.....	192
Notice of Appeal.....	193
Opinion of Chancellor.....	186
Petition of Appeal.....	193
Replication.....	27

DEPOSITIONS FOR COMPLAINANT.

	Direct Exam'n.	Cross Exam'n.
Baldwin, Samuel W.....	27	30
Booth, Joseph.....	42	44
Harrison, George.....	45	46
Hedden, Charles I.....	52	55
Hogan, James N.....	58	65
Meyers, John H.....	48	50
Trusdell, John G.....	37	30

DEPOSITIONS FOR DEFENDANT.

Aber, Ebenezer C.....	132	133
Anderson, Andrew B.....	136	137
Ballard, Aaron E.....	117	119
Baldwin, Oscar L.....	177	179
Bageley, John.....	128	129
Bradner, William B.....	97
Brown, Thomas.....	184	185
Drake, Corra.....	175
Elverson, Jabez.....	181	183
Gannon, Owen.....	122	123
Jansen, John E.....	103	109
Jackson, John A.....	125	126
Jaques, Henry H.....	142	156
Mitchell, George.....	121
Morrow, Peter.....	85	87
Reynolds, Abraham M.....	173
Sheppard, Jacob.....	130	130
Till, John J.....	93	95

