# New Jersey Court of Errors and Appeals.

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| William H. Dumont, *Appellant,* and Theodore S. Dumont. and Henrietta S. Robbins, *Respondents.* | In the matter of the Probate of the Will of Mary B. Dumont, decd. on appeal. |

Brief for Respondents,
*Abel I. Smith, of Counsel.*

Mary B. Dumont, the testatrix, died on December 9th, A.D. 1886, at Summit in this State, at the age of 75 years. Previous thereto on April 11th A.D. 1884, she made the will in question in this case, executed with all the Statutory requirements in the presence of Mr. James S. Greves and Dr. William H. Risk, two reputable, intelligent and entirely disinterested persons. Her estate amounted to about $45000, and consisted principally, of the house where she lived, purchased out of a legacy of $7500 - $10000, received from her mother, and $15000, received from her son Robert who died in 1873, and the increase in the value of the stocks in which the same was from time to time invested, and the accumulations from dividends, interest &c, thereon, her expenditures being small, and the dividends paid her being large.

Robert Dumont her husband, died in January A.D. 1884, leaving hardly any estate whatever, and at the date of the will in question and of her death, her next of kin consisted of: her daughter Henrietta S. wife of Charles A. Robbins, her sons William H. and Theodore S. Dumont, and her grandson Robert Foote, the son of a deceased daughter.

By said will, her grandson Robert Foote, (whose father was a man of immense wealth) received nothing and expec-

ted to receive nothing. Her son William H. for reasons stated by her in said will, and frequently expressed by her, received $1000, and his daughter Bessie, $5000, and the balance was equally divided between her son Theodore S. Dumont and her daughter Henrietta S. Robbins.

If this will is set aside, there will be taken from testatrix' daughter and son, and given to Robert Foote what he dont desire viz: one quarter of the estate or about $11000, and there will be taken from William's daughter Bessie $5000, and from Theodore S. Dumont's estate and Henrietta S. Robbins' $5000, and given to William H. Dumont, contrary to the express wish and intention of the testatrix.

Mary B. Dumont was a very intelligent woman, of sound mind, good judgement and with her own ideas on all subjects, and the will in question is her own disposition of her own estate, made with full knowledge of all the facts, of all the family affairs and of the respective rights and claims of her children and grandchildren as to her property and bounty.

The Caveator or Appellant is the said William H. Dumont who alleges that the will in question is the result of undue influence and deceit on the part of his brother Theodore and fear of him on the part of the testatrix. No proof to sustain these insistments can be found in this case, but his natural characteristics, peculiarities. manners, conduct and his kind and respectful attention to his mother after his father's death, and his violent temper, habits, profanity and indignant and forcible expressions of opinion as to his brother's dishonorable acts, are made the grounds for the most violent presumptions which the court is asked to accept as proof of undue influence and deceit.

The nearest the appellant gets to anything approaching proof, is the testimony of Frederic J. Treat, a man unworthy of any credit whatever,and as to whose testimony the Chancellor says:

"The testimony that Theodore boasted of his influence

over his mother, that he could procure her to make a will, and that the presence of the physician as a witness would determine the question of capacity, comes from one who was once Theodore's firm friend, but has quarrelled with him and become his ennemy. In many particulars the statements of this witness are inherently improbable. He is contradicted by Theodore, and on some points by others; I dont think I am justified in relying upon his unsupported statements as to the declaration that Theodore made in face of Theodore's complete denial of them."

The testimony taken in this case shows conclusively that William H. Dumont was taken into his father's business (that of custom-house broker) on the understanding that he was to keep the business for his mother and sister after his father's death and that it was so understood by his mother and the rest of the family, and whether or not this arrangement had any legal or binding force William H. Dumont was morally and in honor bound to recognise it ane carry it into effect (so far at least as his mother was concerned, his sister having married) and his refusal so to do, and his selfish action in taking the whole benefit of said business for himself, and treating his mother as he did, and the fact that the said business was valuable, were the principal causes and reasons for his mother's disposition of her estate, and while it is true that Theodore was profane, quick-tempered excitable visited horse races now and then as many gentlemen do, and told William what he thought of him and his conduct, it was not these facts, but William's conduct and the justice of the case that caused Mary B. Dumont to give William $1000 and his daughter Bessie $5000 and to say that he had succeeded to a valuable business and to give the balance of the estate to her other son and daughter.

This will be apparent from an examination and consideration of the testimony and facts, to which I now call the attention of the Court :–

and First,

It cannot be rationally doubted from the evidence in this case;

That Mary B. Dumont intended to make a will.

That in pursuance of such intention, she did make and sign a paper writing which she intended for such will.

(See exhibit 1 for proponents.)

That such paper writing was legally executed by her as and for her said will, and was sufficiently published, (see attestation clause & pages 15-19, to 30, 55-59.) and that it was drawn substantially and in accordance with her instructions, that she had full knowledge of it's contents, read it over before execution and expressed herself satisfied with it's provisions.

See pages 61 to 64 where Mr. Greves says (on p. 63) on this point: "I then wrote on a little scrap of paper the language I believe I have written it here" (witness referred to will) "and read it over to her, and she said that would do, that was just right. I then proceeded to write out the will as she had directed."

We have then in this case. at the start, a paper writing by Mary B. Dumont, drawn in accordancewith her instructions, read over by her before execution, its contents fully known and entirely satisfactory to her, intended and understood by her as her last will and testament, executed with all the formalities required by law, and published and declared by her to be her last will and testament; and we therefore claim and insist that under these circumstances, said paper writing is entitled to be admitted to probate unless:-

1st. : There was want of testamentary capacity in the testatrix.

2d : Undue influence amounting to fraud, and such as to destroy the free agency of the testatrix, and amounting to moral or physical coercion.

3rd : And that the will was the result of such coercion (if any), which must be proved and will not be presumed.

We claim and insist, as to the first inquiry suggested, that the said testatrix, on the day she made and executed the paper in question, viz: April 11th. A. D. 1884, was of sound and disposing mind and memory, possessing, not only ordinarily, but in the highest degree, all the understanding and intellectual powers necessary to enable her to make a valid testament.

It is true that she was a person of not very robust health, and somewhat advanced in years, but it nowhere appears in any of the testimony taken in this cause that she was mentally affected thereby, or in any way incompetent to intelligently dispose of her property.

We will examine this question fully because it is the foundation of the whole case, the corner-stone of the temple.

The rules governing such cases have been fully established in our State by the decisions of all our courts, and from the many cases which will be found reported it will be gathered:

"That it is sufficient, if the testator or testatrix understands the nature of the business in which he or she is engaged: has a recollection of the property to be disposed of, the persons who are the objects of his or her bounty, and and the manner in which it is to be distributed among them."

Harrison vs. Rowan, 3 Wash c. c. 580, 585.

Stevens vs. Van Cleve. 4 Wash c. c. 262-268.

Pancoast vs. Graham, 2 Mc. Cart. 294, 309.

"That it is not understood, that a testator must possess these qualities of mind in the *highest degree* nor in as great a degree as he may formerly have done, for this would disable most men in the decline of life."

Den vs. Van Cleve, 3 South. 589-660.

"Testator may be ever so aged, very infirm in body, and have habits of intemperance, and yet in the eye of the law, possess that sound mind necessary to a disposition of his estate."

Turner vs. Cheeseman, 2 Mc Cart. 243:
Whitnack vs. Stryker, 1 Gr. Ch. 8.

"A testator 67 years of age at the time of execution of his will, and somewhat enfeebled by disease, was held to have possessed sufficient testamentary capacity."

In re Wintermutes Will, 12 C. E. Gr. 447:
Affirmed 1 Stew. 457.

See also as to a testator 94 years old:
In re Humphrey's Will, 11 C. E. Gr. 513:
Affirmed 12 „ „ 567,

To constitute a sound and disposing mind and memory, it is not essential that the mind should be unbroken, unimpaired, unshattered by disease or otherwise.

I refer also to

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| Harris vs. Betson, | 1 | Stew. | 211: |
| Erricson vs. Fields, | 3 | „ | 634: |
| Lee vs. Scudder, | 4 | „ | 633: |
| Merrill vs. Rush, | 6 | „ | 537: |
| Collins vs. Osborne, | 7 | „ | 511: |
| Edge vs. Edge, | 11 | „ | 211: |
| Brick vs. Brick, | 17 | „ | |

Let us examine in the light of these established rules, the testimony in this case, and see what style of woman Mary B. Dumont was, and what her mental conditions were before and at the time of executing the will in question.

First:– We have the testimony of Dr. Wm. H. Risk and James S. Greves, the witnesses to the alleged will. One a reputable lawyer, in good standing in the city of New York, and the other a highly respected physician of Summit, the family physician of testatrix and her physician for more than eleven years, and both disinterested and remarkably intelli-

gent witnesses.

First, as to Dr. Risk, he says, pages 15 and16, that he was her family physician about 11 years.

p. 19. "That Mrs. Dumont at the time she executed the will was of disposing mind and memory? *That her mind was perfectly sound and clear.*"

I refer also to pages 22 and 23, 30 and 31, and 39 to 43,–47 to 54:

p.41. Her mind in March was perfectly clear, and it was so on the day of the making of the will and ever afterwards.

During the conversations that he had with her in March and down to the date of the will, he did not notice any failing of her mental capacities in any way.

p. 42–43. In his conversations with her during March and April there was no defect in memory that he noticed.

No lack of intelligence on subjects that she talked about.

Her mental capacities, were the same as they had been before Mr. Dumont's death.

She was a person of strong will; she was a decided person; she was not a woman that could be easily influenced by others.

p. 45 & 46. "After she recovered from that depression, in January, her mental condition was good to the time of her death; her mind was perfectly clear."

p. 48. "I saw that she was a woman of a great determination of mind. If she had reached a conclusion that certain things were facts, it would require evidence to remove it I think. She could weigh evidence I think, I think she could weigh evidence well. I think after she had made up her mind that it would require evidence to change her mind, she would have to *see a reason for it, she was not a vacillating woman.*"

She exhibited the grief that I have spoken of after her husband's death, nothing but the grief; there was never any change in her mental condition between these periods.

I refer also to pages 51–52, also to 53. Page 51, "She was in good health for a woman of her years." Page 54. "She was

a very conscientious woman, I think she was a remarkably just woman."

We have next:– the testimony of James S. Greves as to the conversation that took place at the time of the making of the will, and which shows conclusively the mental and disposing capacity of Mrs. Dumont. I refer to p. 61–73.

So much therefore for the testimony of these two persons – the most important connected with the making and execution of the paper writing in question.

They were intelligent, disinterested witnesses, and their testimony stands uncontradicted in this case.

We have next the testimony on the part of the Caveator, and it will be found by examining all of it from beginning to end, that there is not a scintilla of evidence disputing, or contradicting the testimony of these two witnesses to the will, as to mental capacity of Mary B. Dumont, or in any way reflecting upon her mind, memory or understanding, or claiming that she was vacillating or easily influenced.

And first in order, we have that of Miss Henrietta Swords, commencing on page 73 and ending on page 115. She was a sister of the testatrix, very intimate with her, a frequent visitor at the house both before Mr. Dumont's death, and previous to Mrs. Dumont's death. *A warm friend of Mr. William Dumont the Caveator and a rather indifferent friend of Theodore and Mrs. Robbins*, and strongly prejudiced, as it appears from her testimony in favor of William and against the other two.

You may read all that she says in her 42 pages of evidence, and not a word will be discovered even suggesting any impairment or defect in Mrs. Dumont's mind, memory or understanding.

We come next in order, to the testimony of Wm. H. Dumont,

the Caveator, commencing on page 115, covering 117 pages, and ending at p. 232; and containing not a single word or intimation as to any mental incapacity or failure, or want on her part, of testamentary mind and memory and understanding.

We come next in order, to the testimony of Mr. Frederick J. Treat the principal witness for the Caveator, a man with the most remarkable facility or adaptability for testifying that I ever met.

His testimony commences on p. 232 and ends on p. 297; commences again on p. 659, and ends at p. 667

Commences on cross-examination on p. 673 and ends at p. 685; and covering altogether 85 pages, and made up of the worst mass of uncertain, immaterial and contradictory statements that I ever heard.

He was a visitor at the house, as he pretends, strongly prejudiced in favor of the Caveator, and deadly hostile to the proponent Theodore S. Dumont, but he nowhere says that Mrs. Dumont was mentally incapable or incompetent.

The nearest he gets to it is found in his testimony on p. 234; where he says, Mrs, Dumont seems to have some fear of Theodore: and he thought seemed to be under Theodores' influence. This was a mere opinion, and clearly incompetent; but if competent, amounted to nothing, and stands alone in this case.

We come next to the testimony of Robert D. Foote, the son of the deceased daughter, and directly interested in setting aside the will; commencing at p. 297 and ending at p. 304.

He is a grandson of testatrix a frequent visitor at her house and prior to his grandfather's death considered it his home.

p. 302. He says: "She was a woman that could not be driven she was a woman that had a mind of her own :– you could not force her; she was a very intelligent woman, of very good judgement in my opinion."

Q. Could she be influenced by other's acts? A. She could

be influenced by presentation of facts: my idea of my grandmother is that she would not be influenced on hearsay;- those facts could be presented in a manner by a person that she liked, that would have an influence on her. More so than if they were presented by a person she did not like: but she was a woman that I think *weighed things and came to a judgement indipendently.* On p. 304 :-

Q. "Well, you think then, that she after hearing a matter, was a woman of sufficient judgement to carefully weight it, and then make up her own mind? A. Most decidedly.

He found that out in his experience by being with her himself."

Not a word, as will be seen, in the whole testimony of the Caveators, or anywhere in the case, disputing the statements of Dr. Risk, and the clear conclusions to be drawn from the testimony of Mr. Greves, but conclusively sustaining them.

I ask therefore, with much confidence, whether we are not justified and warranted, in the face of all this, in claiming that Mary B. Dumont, according to all the legally settled rules, was possessed not only of the ordinary mental capacity required to make a valid will, but far beyond and to a higher degree than what is usually required in such cases, because;-

It is certain :-

1st: That she understood the nature of the business in which she was engaged.

2d: That she had a recollection of the property to be disposed of.

3d: That she had determined for herself, who were to be the objects of her bounty, and the manner in which it was to be distributed amongst them.

And 4th: That she possessed all the necessary qualities of the mind in the *highest* degree as stated, and that she was an unusually intelligent woman, self-possessed and not easily influenced by others. A woman not only capable, but in the habit of making up her own mind after fully considering

and weighing the matter.

I desire in this connection, to call attention to her physical and bodily condition: And 1st.

As to Dr, Risk's testimony, her family physician:–

"She was very anxious, during Mr. Dumont's last illness, but I think she was in ordinary health until after he died."

Up to the time Mr. Dumont died she was in her ordinary health, but after that she was prostrated and ill for some little time.

"Her ordinary health was good active. She had some heart trouble, had some difficulty in hearing, but not more than persons ordinarily, not more than persons of that age." &c.

(Note.) What old person has not these or some of them.

p. 22. Her eyesight was good for a person of her age. &c,

I refer also to pages 22, 23, 24, 39 to 42.

p. 40. "Her general health in March was good."

p. 41. "The depression which is usual after death of a near relative, had passed off."

p. 41 & 42. "She was capable of attending to the ordinary duties of her house and business."

"Her deafness was no more than you would find in persons of her age. There is likely to be more or less deafness in persons of that age. But it was not so great as to require an extreme loud tone of voice to made her understand. The eyesight was as good as persons of that age. She used glasses when she read; she did not ordinarily."

p. 44. "She was able to go about the house, out-doors if she wanted to."

p. 45 "She was sick during her last illness, with a short interval of apparent health – about eight months I think – possibly only seven. I attended her during all that period, and up to the last sickness and from April 1884, she was most of the time in moderately good health – good health for a woman of her age."

p. 46. "I did not know she had a cataract, and that she had an operation performed on her eyes for a cataract, or

that she was treated for her eyes by Dr. Agnew."

p. 51 She went about, to New York, and made several trips, one to Montreal. After her husband's death and up to the execution of this will, she was in good health for a woman of her years; I mean a woman of her time of life, she was not as active and vigorous as a wonan of twenty. &c.

I refer next to the testimony of Mr. Greves, p. 56, where he testifies that she came down into the library.

(Note.) She was well enough to go about the house.

We come next to the testimony of Miss Swords, to which I have already adverted. (This confirms Dr. Risk, p. 96.)-

"She was very weak, and not well immediately after his death, she had an attack of prostration. And for the last year of her life she was very much out of health."

Plainly admitting that between these periods she was all right, or in such condition of health as to attract no particular attention.

p. 87 & 110. She was at the house for only three weeks after Mr. Dumonts death. Then again in May, and again on June 11th.

p. 109. "Her hearing was very poor, she was very hard of hearing and had been for certainly twelve years. She could not hear conversation carried on in an ordinary toneof voice. It was necessary to talk loud to her; whenever I read to her I sat close to her and spoke very loud. She could not hear a whisper. If a conversation was carried on in her presence so that she could hear it, it was in so loud a tone of voice that anybody present in the room could hear it."

(Note.) This is contradicted by Dr. Risk, Theodore, and Mc. Connell, p. 43, and is very doubtful in the face of what the same witness, on p. 114, on cross-examination, says, viz:

"Q. And when you read to her you say you had to read in

a loud tone of voice – that is, loud for you? A. "Yes sir.
Q. Your voice is not very loud any way, you speak in a low tone? A. I have trouble with my throat.
Q. So that a loud tone for you is not very loud for anybody else? A. No, she always sat close to me."
p. 110. She used the strongest glasses. I went two years ago this winter to Dr. Hunter's with her to get a pair of strong glasses–" &c.
(Note). This was in 1885, about a year after the will was made.
"Some days she could read an ordinary book without glasses; some days there was a blurr over her eyes so that she could not read at all, even with the aid of glasses; she could not read and asked me to read to her. Other days she could read."
p. 110. "She never read without glasses. She did not read letters, she always got me to read her letters : when I was there I always read her letters. She could read with her glasses,but she always called upon me– "&c.
p, 114. "The reading of the letters by me to Mrs. Dumont was mostly during the last year of her life."

I refer next to the testimony of Edward Mc Connell –p.324. In speaking of what was usually done after dinner at Mrs. Dumont's house, he says: "She generally came in and took a chair and took up the Evening Post and looked it over."
p. 413 – Testimony of Theodore:
"She could always read a paper with her glasses. She had ordinary eyesight for an old lady. She could read her letters just as well as I could, as far as that was concerned. When Miss Swords was there she would say: 'Shall I read this Mary' and she would say 'Yes', and she read it; but when Miss Swords was not there, she read her own letters. I dont think any one read Miss Swords' letters."
I ask again with much confidence, whether we are not warranted in saying that Mrs. Dumont at the time of the execu-

tion of the paper in question, was a woman in the condition of health stated by Dr. Risk, viz, in good health for a woman of her age; with a slight deafness, no more than you would find in a woman of her age, and with her eyesight as good as persons of her age.

At all events, she was not a helpless invalid confined to her bed, and so blind or deaf that she was incapable of transacting the ordinary affairs of life, or suffering from any disease that in any way affected her mental condition or mind.

I have called attention thus fully to these two matters, not only to show that she had a healthy mind and body and mental capacity, but with other attendant characteristics so well marked and decided, that there can be no doubt about her ability to take care of herself and her interests, and be not willingly or easily influenced by or the tool of another.

These two important points, as to her competency and characteristics and bodily and physical condition, having been conclusively settled, we come next to the question as to whether the execution of the instrument was procured through undue influence, imposition or fraud upon her.

And at the outset of the contemplation of this branch of the case, I cannot better state our position than in the words used by Chancellor Runyon in the case of Kitchell v. Beach, 8 stew. 454, where he says:

"The allegation of the existence of fraud, constituting undue influence, *must be proved*, and the burden of proof is upon the contestants. The will and codicils having been shown to have been executed, with due formalities, by the testatrix, who was clearly competent to make them, and who was apparently free to do so; and the contestants alleging that they were procured by fraud, it is incumbent on them to establish the truth of their allegations.

Undue influence is not a presumption in such a case as this, nor is it a conclusion following from the fact that the

devesee to whom the fraud is imputed was interested in the change of testamentary disposition complained of, and had opportunity to exercise influence to that end. To avoid the instruments, the influence must be *proved* to have existed. The declarations of the testatrix, whether made before or after the making of the instruments in question, are not competent evidence to prove fraud in the obtaining of them."

Citing Boylan ads. Meeker, 4 Dutch 274.

And that case has ever since been regarded in this State as one of the leading cases on the subject .

The following propositions of law have been settled in this State ,and should also be borne in mind in considering this branch.

Every testator is presumed to be of sound mind, until the contrary is proved. The burthen of proof is upon the party alleging insanity.

A will cannot be set aside, on account of any moral obliquity or prejudice of the testator exhibited in the devises in it, or because the disposition of property in it is unnatural or unjust.

Strong, violent, and unjust prejudices, if not founded on delusion, do not show mental incapacity.

Influence acquired over a testator by kind offices or persuasion, unconnected with fraud, is not such undue influence as would invalidate a will induced by it.

Den vs. Trumbull et al. vs. Gibbons, 2 Zab. 117-160.

The law is well stated by Chief Justice Green in this case.

No matter what the dispositions of a will may be, no matter how imprudent, unreasonable, or unaccountable they are, no *presumption of law* can arise from them against the validity of the will, but mere natural presumptions from which a court or jury may draw the inference of the incapacity of the testator.

Garrison vs. Executors of Garrison,

2 Mc Cart. 283.

In that case, there was left to the nearest relative of testator (his brother) the wearing apparel, which is directed to be divided between him and testator's black man John. To one of the sons of Garret $500. to another of the sons of Garret $200. Bulk of property to others.

See also Lynde vs. Clements, 9 C. E. Gr. 431.

"That a testator's wife urged upon him the propriety to leave his property to her, does not constitute undue influence vitiate the will."

Eliza J. Hughes et al. vs. Rose Menthal, 5 Stew. 288. The Ordinary says on p. 289, – The substance of their testimony on the subject of undue influence is, that the testator's wife urged upon him the propriety of leaving his property to her. Such persuasion would not vitiate the will.

The influence of kind and faithful service by an attendant for many years, is not undue, and will not invalidate a bequest to such attendant.

Eddy's case, 5 Stew. 701.

Collin vs. Osborn, 7 Stew. 511.

Turnure vs. Turnure, 8 Stew. 437, Affirmed

Ct. of Errors, 10 Stew. 629.

The Ordinary says in this case:

"Nor is there any proof of undue influence. His wife appears to have been very kind and affectionate towards him and to have been extremely attentive to his wants and comfort to the last. And in his will, he remembers all his children, &c. The widow was his third wife. That he had reasons for the difference which he made in the bequests to his children is evident from the testimony, but if he was possessed of the testamentary capacity, and was free to do as he would in the testamentary disposition of his estate, it is not necessary to inquire for his reasons. The law guaranteed to him the right to make disposition of his property according to his own pleasure. I have not deemed it necessary to discuss the evidence, either on the subject of capacity

or undue influence. There is no evidence on either head, except what is produced by the Caveators. The burthen of proof is on them; capacity in a man theretofore sane, will be presumed until the contrary is made to appear, and undue influence is to be established by proof.

*As has been said, it is by no means enough to establish undue influence, to show interest and opportunity.*

Kitchell vs. Beach, 8 Stew. 458.

The Ordinary says in this case:

"It is hardly necessary to say, that her competency being established, no inquiry would be made for her reasons for making the change in her testamentary disposition of her property, except in connection with the allegation of fraud. It is as much the duty of the Courts to uphold the right of the owner of property to dispose of it by will according to his pleasure at his death, as it is to see to it that he is not imposed upon in the exercise of that privilege. Therefore considerations of inequality in the distribution of his estate are not to be entertained where there is competency and no fraud.

These considerations are for the testator himself, and his action on that head, if he be capable of making the testamentary disposition, and it be freely made, is conclusive on the subject. The power to make discrimination in the destination of the property, constitutes no small part of the value of the right."

Proof that a testator is advanced in years, and that his health is broken, and his mind enfeebled, and that his will is unjust, are not sufficient for setting aside his will.

Wintermutes, Appellant. and Wilson, respondent, Ct. of appeals, 1 Stew. 437. The Chief Justice says:

"The proof is clear that she was a hard worker and a close economizer, so that there is every reason to conclude that a large part of the money which by this will is diverted from her was earned by her exertions. But the misfortune is that such diversion was not without cause. Just before

the making of this will she quarrelled with her husband, *and the anger thus kindled was not suffered to die out, but was inflamed by some of those who were likely to profit by it. But the occasion of the anger being real, there is no pretext for saying that the will is the* offspring of delusion; in truth, it is the product of bad advice, and a disproportioned resentment, and this clearly can lay no ground for setting it aside in a Court of Law."

See also Brick vs. Brick, Mc Gill, Ordinary.

Affirmed 17 Stew. 282.

Elkington vs, Brick, 17 Stew.

Waddington vs. Buzby, – Reversed.

By examining the will in question, it will be seen that there are five objects of testatrix' bounty, viz: Henrietta S. Robbins, her daughter; Theodore Dumont, her son; William H. Dumont, her son, and Elizabeth Dumont and Mary E. Dumont, her grand-daughters, and daughters of William. And of these person s the undue influence or fraud is claimed to have been on the partof Mr. Theodore Dumont. And to sustain this, there have been hundreds of pages of testimony taken in the cause, in violation of all established rules of evidence, relating to nothing and nobody in particular: but from which, ( such as they are ) a claim of undue influence or fraud on the part of Theodere Dumont, is attempted. But such ( if any existed ) must rest entirely on presumptions, based on strained, exaggerated and distorted views of the evidence taken in the case.

In considering this branch of the case, I will do so taking the death of Mr. Dumont, the date of the will, and the death of Mrs. Mary B. Dumont as the central or pivotal points.

By this arrangement we will have three well defined periods :–

1st. Previous and up to the death of Robert Dumont.

2d. Between that and the making of the will in question

3d. And between the making of the will and the death of Mary B. Dumont.

And all the evidence, facts, fancies, surmises and transactions can be gathered and considered with reference to

one or other of these periods.

In considering the testimony applicable to the first period, we have first in order that of William H. Dumont, the Caveator. It covers several hundred pages, and for what object the most of it was introduced and what legal bearing (if any) it has upon the question at issue, is certainly very questionable; it does not affect the case in any way. We submit that it should never have been introduced in the case, and would not have been permitted if it had been taken before the Court, and should not now be considered in the case. Standing, however, as it does, I shall advert to it. It commences on page 115, and ends including the cross-examination, on page 232; was resumed on p. 703 and ends on page 716; and whatever else may be gathered from it, I think the following can, without any doubt:

1st: That William H. Dumont served during the war of the Rebellion, and after Lee's surrender, came to New-Jersey, Farmingdale he thinks; went from there to Cincinatti, where his brother Theodore was, to take a situation which Theodore had procured for him, at $ 60. per month –$ 720. per year – as clerk in a grocery store. That he knocked around then from place to place with a varying salary-never exceeding $ 1200.00 per year; and from there came on to New-York, in 1873, and entered his father's employ as a clerk, which position he held two years, when he was taken in as a partner - ( see page 116 ) - with an interest of 25 per cent of the profits until 1880, and after that a half interest, up to his father's death iu 1883, and that the designation of the firm was Robert Dumont & Son".

2nd. That during the 1st. five years (according to his story) he did the bulk of the business; that his father could not sign bonds, because there was a judgement against him; that the bank account was kept in his, Wm. H. Dumont's, individual name, and that he drew an l signed all ths checks of the firm in his own individual name. That these judgements were old judgements, and that this arrangement

about the bank account was made to protect his father's interest from these judgements. See 117 and 118.

3rd. That his mother had an estate of her own, inherited by her from her mother, and her son Robert Dumont; and that the first amounted to about $7500, (Theodore says $10000) received about 20 years ago (see pages ) that would be about 1867, and the last about $15,000 (Theodore says $17,100.) received about 1872 or 1873, and that $7,500, of the $15,000, was expended on the Summit place - as William says. P. 135 - 136.

4th: That the house occupied by his father and mother in 45th Street, New-York, and from which they moved to Summit, belonged to John T.Foote, his brother in law, and that it was given to his mother for life; and that when they moved to Summit the property was rented for a few years, until 1880 when it was sold, and the proceeds deposited in a Trust Company in New York; and the rent and subsequently the income from the fund, were paid to his mother during her life. (See p. 157-159.)

5th: That the rent from the house in New York amounted to $1300, per year net from 1875 - (p. 139); that the moneys received by his mother, viz: the $7500, and the $15000 were invested in railroad securities - (p. 220, 246 and 247) - and were in the charge of his father, although the income therefrom was collected by William and deposited in the bank account of the firm; and that said income amounted to about $2500. per year; that it was invested in Delaware Lacawanna & Western, Rock Island, and other stocks and in bonds of various companies.

6th. That all the rents whatever they were and all the income received on account of his mother's estate, and everything else that came into the concern, or his father's hands, went into the bank account of Robert Dumont & Son.

See p. 163-165,- and that the checks on this account for the last few years of Robert Dumont's life were drawn by William H. Dumont- (See page 164)

That in 1876, there was an account opened *on the books* in the name of Mary B. Dumont. That to this account was carried, all dividends, all rents, everything collected outside. See p. 164.

That his father had an individual account in the books, to which was carried his proportion of the annual profits – (See p. 164 and 165) – to which account previous to 1876, the amounts received on account of his mother were carried.

That the account in the name of Mary B. Dumont was opened in 1876, because (as he says) they were beginning to stir up those old bonds - (See p. 166); and that afterwards instead of carrying everything to his account, all *outside matters* were carried to this account.

That previous to 1876, the interest and dividends in the mother's property were collected by both William and his father, and *all* went into the *firm account.* – (P. 168).

That they were all credited to her account and deposited in the firm account.– (P. 163)

That bonds and stocks were bought on account of his mother. (P. 169,186 & 187)

p. 170 & 171. "Q. And those things were all bought out of your father's account? A. Father's and mother's.

Q. Out of your father's previous to 1870? A. Yes sir.

Q. And after 1876, bought out of your mother's account?

A. Out of either account.

Q. Which account were they bought out of?

A. Both and either, sometimes charged to one and sometimes to the other."

p. 172. You never sent any statement of the amount on hand that belonged to her, and of the investments that were made did you?

A. No sir, my father knew the amount.

Q, Your father knew the amount?

A. Yes sir, he was the one that had the entire charge of it.

Q. And he looked after her business – her matters himself?

A. Yes sir. I never assumed anything without his order. He

looked after her business and took care of her interests."

7th: That $37,000. (about) was transferred in stocks, bonds and cash, to his mother after the death of his father. (p. ) p. 172. That after his father's death he transferred to his mother in securities and cash, somewheres about $37,000. (See in this connection pages 172, 173, 174 and 175).

8th: That he systematically overdrew his accounts – (See p. 175 to 180, 224 – 5).

That these overdrafts amounted, as he says to $2800. These are the overdrafts of his share of the profits of the concern. (p. 224 – 5).

That these were never balanced with his father (p. 179), but that at the end of each year, when he showed his father the indebtedness, he (his father) said to charge it to him and balance his (William's) account. "What I overdrew was charged up each year by my father presenting it to me."

(See exhibits 1, 2 & 3, May 25 1887, in this connection).

9th: That Mrs. Dumont was a woman of plain and simple habits, not extravagant either in dress or expenditures.

(P. 161, 212).

That the profits of the business were small previous to 1878-1879. (p. 127, 128, 302-304)

10th: That he first went to his father's business as a clerk at $1500. per year, was then taken in as a partner, and received 25 per cent. of profits until 1880, when he received half interest. See p. 116.

11th: That the business of Robert Dumont & Son when William went into it, was an old established business, and that he without any capital or experience was taken into the business; that it increased so as to pay– about $12000. a year profit, see p. 128, and that after the death of Robert

Dumont, he took this business without having to pay for it. (Note.) He might have been legally entitled to it, as he claims, but it was a valuable and profitable business for all that, and when it was afterwards said it was worth $10,000, I do not think it was very far out of the way.
[Note]: William says that after his father's death it went down to $6000 per year, but even that was equal to the income of $100,000 @ 6 per cent, or $150,000 @ 4 per cent.

A studied attempt has been made throughout this testimony, by questions, answers, and general statements to make it appear that of the stocks, securities &c., transfered to Mrs. Dumont by William H. Dumont, a portion of it really belonged to Robert instead of Mary B. Dumont, and that this in a great measure arose from the system of accounts kept;

I refer to p. 126:
"Q. State if you can, how much was transferred from your father's account to your mother's account in the lifetime of your father? A. I could not do it.
Q. Can you approximate it? A. No sir, I could not.
Q. Was it $100? A. Oh yes, it was up in the thousands, but I have no idea how much.
[Note.] He dont say anything as to how much was paid out of that account for his father." Next, p. 133-135:
"Q. Do you know during the existence of the firm of Robert Dumont & Son, what the aggregate amount was transferred from your father's account to your mother's, did it amount to $2500? A. Yes sir, more than that.
Q. How much did it amount to, to your best recollection?
A. I could not answer it.
Q. Did it amount to $25,000? A. No, sir.
Q. $20000? A. No, sir.
Q. Would it amount to $18000?
A. I really could not say.
Q. Can you find it out? A. Yes, I could find it out – &c,

Q. When you purchased securities with moneys standing to the credit of your mother, on the books of the firm of Robert Dumont & Son, what did you do with these securities?
A. I took charge of them and put them in the safe deposit box.
Q. Did you personnally deliver them to any one outside of yourself? A. No, sir.
Q. You retained possession of them, did you? A. Yes, sir.
Q. State whether or not, at any time during your father's life investments were made of his funds in bonds or stocks which were not transferred on the books to the credit of Mary B. Dumont? A. I could not say.
Q. Did your father at any time during his life deliver to you any securities, stocks or bonds that had been purchased by him? A. I do not remember that he ever delivered me any.
Q. By whom were the investments made that were made with the profits of the firm? A. I generally made them, but I always consulted with father before doing so.
Q. You say you generally made them? A. Yes sir.
Q. In whose name were they made?
A. In mother's name, Mary B. Dumont."
p. 139: Q. "State if you can the amount of money that has been transferred from or by your father or father's firm in his lifetime to the credit of Mary B. Dumont?
Objected to the books being the best evidence.
A. In 1872, there were stocks bought for over $2000, and the last 3 or 4 years there has been $9000 in cash transferred." I refer also to p. 140 and 141.
p. 141. Q. Did you ever make any statement to Mrs Dumont during the life of your father, of the investments claimed to have been made for her? A. No, sir.
Q. Do you know whether or not she knew what investments were made for her account from the funds of the firm or the profits of Mr. Dumont during his lifeti me? A I don't think she did, because father told me never to speak of it.

Q. When purchases of stocks were made, in whose name were the certificates made out? A. Mary B. Dumont.

Q. Were some of those securities purchased with money standing to the credit of Mary B.Dumont, and others purchased with the money standing to the credit of Robert Dumont, - were they not?

Objected to as leading &c.

A. Yes sir.

I refer to p. 166, 167, 170, 171, 186 and 187.

I refer also to p, 221, 222 and 223; where they make $28500 as belonging to Robert Dumont $18500 before 1873 – death of his brother – and $10000 transferred since to Mrs. Mary B. Dumont's account.

The result of this would be that nearly all the property transferred to Mrs. Dumont in fact belonged to her husband.

The Court can see throughout, the attempt to make Robert Dumont, the father, (what he never claimed to be himself) a man of property; and that at the expense of Mary B. Dumont, and this by the statements of only one person, William H. Dumont, without even the confirmation of the books- (which would not lie) - and for which reason he did not dare to offer the books in evidence. He is very ready and glib to give his conclusions from the books, but the Caveator and his counsel are very careful not to put in evidence what would confirm or contradict his every statement. The inference is plain, we insist that the books were the only proper evidence of the facts above stated.

This effort on the part of William H. Dumont cannot be characterized as anything but a well planned and deliberate attempt to mislead the Court, but it will not succeed. His testimony and conclusions stand alone, unsupported, and contradicted by all the facts and evidence in the case.

1st: By the fact that Robert Dumont was a man of no means or property whatever. This is shown conclusively by the action of Mr. Foote, in giving them a house to live in, and after it's sale, giving Mrs. Dumont the rent and income

of it. Mr. William Dumont well knew this, but he tries to avoid answering the questions put to him in relation to it; he says sufficient however to support our insistment. I refer to p. 209:

Q. Previous to the time that your father lived in New-York, where did he live. A. He lived in Jersey City.
Q. And how did he come to have this house in New York, do you know? A. No, I believe my sister gave it to my mother for life, made her a present of it.
Q. Wasn't that to help your father and mother that that was done? A. I suppose so, yes sir.
Q Your father's income was not sufficient? A. That nobody knew.
Q. Well don't you know that to be a fact? A. No, I don't know anything of the kind.
Q. You never heard it eh? A. Yes. *I have heard it*, but nobody knew anything about my father's affairs
Q. It was supposed to be so? A. Yes sir.
Q. That was the reputation at the time? A. Yes sir.
Q. And that was the reason this house was given in New-York? A. Yes sir."

I refer next to the testimony of Mr. Theodore Dumont:

p. 393. "Q. Do you remember the occasion of Mr. Foote's giving your mother the use of the house in New York?
A. Yes I do. Q. Do you know what the alleged reason was for so doing? A. I do.
Q. What was it? A. To assist my father and mother."

p. 339. Q. Did your father have any securities or property of his own, that you know of, before your brother's death?
A. No sir, I dont think father ever had a dollar in his own name since he went into the Custom House brokerage business, I think he lost the last dollar he had on earth when he went into the Henry Clay Insurance Co.
Q. When was that? A. When he first started the Custom-house brokerage business, he owed his butcher, baker and candle-stick maker."

p. 462. Where in speaking of the will made by his mother in 1880 - 1881, he is asked whether his father made a will at the same time, and he answers; No, father said he had nothing to leave, it was all my mother's.

They are also contradicted 2nd: By the fact that previous to 1873, the income of Robert Dumont from his business was no more than sufficient to support his family, if it were that. And from 1873 to '79, it was no more than enough for him to live on.

I have tabulated the amounts of income received, from 1873 - 1883, and they show conclusively the fallacy of Robert Dumont having any money to invest.

See tabulated statement.

They are contradicted 3rd. By the fact that the original amounts received by Mary B. Dumont from her mother and son, with the income received thereon and the money received from the house in New York, would have amounted to more than received from William. She should have had more than she got; viz. $37000. It is admitted on all sides that her expenses during the life of Robert Dumont were very small.

What then became of the accumulations? They went into the firm account and were spent by Robert or William. William does not say how much of his mother's money he drew out, while he was in control of the accounts during the last five years of his father's life. See p. 120 and 164.

If you take a pencil and paper, and make a computation starting with the $7500. in 1867, you will have enough in accrued interest to not only pay the $7500. for the Summit property, bnt a liberal amount for Mrs. Dumont's expenditures (such as they were during her husband's life) and give her more than $37000. in 1883.

I have made an approximate estimate.

They are contradicted 4th: From the fact that the securities found in Mary B. Dumont's possession and now in the

hands of the administrator, rebut any such idea as set forth by William.

See exhibit 3– for proponents.

It is quite clear to my mind that William is entirely mistaken about the $7500 of the Summit property being taken out of the $15000 received from her son. I think the most of it was accumulated income derived from the $7500 from 1866 or 1867 to 1875:

$7500 at 7 per cent. only, from 1866 to 1875: (9 years) is $4725, but most of it bore interest at 10 per cent. during this period– 7500 at 10 per cent. would be $6050.

If the $18500 was Robert Dumont's, that would reduce Mary B. Dumont's to $18500 – what has become of the difference in income and interest.

If $11000 was Robert Dumont's, that is the $9000 and the $2000 paid into her account, that would reduce her amount to $27000; now $15000 at 7 per cent. is only $1050 per year.

| | |
|---|---|
| Ten years from 1873 to 1883 . . . . . | 10500 |
| Rent from N.Y. house from 1875 to '84 at $1300 8 yrs. | 10400 |
| Without considering the interest on the accumulations, and on $7500 from 1866 to '75 at 7 per c. $525.00 .09 . . . . . | 4725 |
| | 25125 |
| Add principal . . . . . | 15000 |
| This without considering the interest on the $7500 assuming it went into the Summit property= . . | 40125 |

5th: All expenditures at said time were credited to the account of Mary B. Dumont– (see p. 165, '66 and '68) and paid out of the bank account of the firm where her income was deposited.

And while William Dumont talks of transferring $2000 and $9000, after 1876 to his mother's account, he gives us no statement showing the thousands he paid out of the ac-

count of his mother for his father, or for himself, or for the firm.

Certainly she should not be charged with the household expenses, and Robert Dumont at the same time accumulate his income from his business. When William transferred the $2000 to his mother's account, as he says – (see p. 163) he did not make any computation to see how much money was in his father's hands belonging to his mother.

The fact is that the firm, William Dumont and his father had the use of the moneys of Mrs, Dumont, and all that he transferred to her account were far short of paying the amounts properly due to that account for payments made out of it on account of Robert Dumont himself and the firm.

See in this connection exhibit for proponents

So much for the testimony of Mr. William Dumont, which I have only been able to refer to cursorily, and which, if it has no other effect, certainly leaves him in a very doubtful and questionable position.

We come next to the testimony of Mr. Theodore Dumont commencing on p. 382 (direct) and ending on p. 643, and mostly taken up in contradiction of testimony of Caveator and Frederic J. Treat; his cross-examination going over all the events of his life from boy-hood up, concerning innumerable immaterial subjects, and most of it having no bearing at all upon the case– as the court will see by reading it, and which I shall not take time to go over, and a large part of which properly belongs to the period before Robert Dumont's death.

p. 384. I refer, however, at this time to the following:
as to William's salary, and bringing him on from the West.

Note: Theodore urged this.

As to why he was taken into business, as understood by his family – also p.384-386 and305 306 711–713.

p. 393–4, as to the wealth of John T. Foote.

We have then at the death of Robert Dumont this position of affairs: His widow – entitled to a considerable estate then in his hands, or the firm's:

His son William, a partner, taken into the concern, as was understood by his father and mother and family, to keep the business for the family; and a person who had largely overdrawn his accounts while in the concern; and whose conduct had been such that his father had often complained of it to Mrs. Dumont with tears in his eyes as she told Grieves.

His son Theodore, a successful business man, supposing that he had an interest in the business, with his mother and sister:

His sister Mrs. Robbins:

Bertie Foote, the only son of a deceased daughter, a prospective millionaire; and

The children of William Dumont,and among them Bessie, a great favorite of the family and of Mrs. Mary Dumont, the testatrix.

It is quite clear from this testimony that Theodore before, at, and for some time after his father's death, supposed and firmly believed that his mother, sister and himself had some right or interest in the father's business after his death. This was based on the understanding upon which William was taken into the concern.

It is also quite clear that Theodore cared nothing about it for himself. His sole and only thought was for his mother. I think that he expressed truly his feeling, when he said in his testimony:

"My mother was the dearest thing on earth to me, and if I thought she was injured, I would give my life if necessary to protect her."

It is also quite clear that this supposition and belief was a perfectly honest one on the part of Theodore, and was shared by his mother and sister and brother, and was not concocted or originated by Theodore (without any reason

for it), at the death bed of the father. There may have existed no legal warrant for this belief; but neither he or William or his mother knew this at the time.

We come now to the next period:

Between the death of Robert Dumont and the making of the will of Mary B. Dumont, and to which a part of the testimony of William and large portion of Theodore's relates; some of Miss Sword's and Frederick J.Treat's, and all of Sarah R. and John L. Dumont's.

This is the most important period of the three, on the question of undue influence, because if there was anything of that kind, it commenced with the death of Robert Dumont in January, and culminated on April 11th. 1883, the date of the making of the will.

We must remember in considering this, two important facts; that Mrs. Dumont, although depressed and sick for two or three weeks after her husbands death, had entirely recovered and was in her usually good state of health for some weeks previous to the making of the will, and that she was mentally competent and fully able in every respect to consider, pass upon, and determine every matter that came to her attention or notice.

It is not at all surprising, therefore, in the face of the past events, that Theodore should immediately broach the subject of William's intention as to the business. It came about accidentally as they were going down to New York, and there was nothing remarkable about it, except that it shows that the first thought that came into Theodore's mind was his mother.

He supposed, as his mother and sister and all thought that they all had an interest in the business, and although it turned out afterwards that they had no legal right, they nevertheless had a moral and just right, under all the circumstances, that William should have respected; as Theodore well says in his testimony; (p. 552) "Law is one thing

and justice is another; I know that he was taken into the business on that basis, to take care of it for the family, and that is my sense of justice."

I refer also to p. 520, - 1, 543 - 4.

At all events there was an honest belief in his mind, shared in by his mother and sister, that they all had an interest in the business.

Let us take now the two stories as to this conversation when they were both evidently under the impression that they all had some interest. You will find William's on p.122 He says;- "He(meaning Theodore) demanded that I should give mother $1800. a year, and I told him all right &c. Also on p. 192-194.

It will be noticed in this connection that witness is not certain as to the circumstances leading up to, or the exact words of the conversation, but Theodore is.

William admits, however, that he promised the $1800, not intending to pay it, that he did it knowing at the same time that he was legally entitled to the business, and because he knew there would be a quarrel, and he wanted his father under ground before the quarrel came.

(Note): How did he know there would be a quarrel? There was nothing to quarrel about, unless he intended to act differently from what he knew was expected of him. Everything was pleasant and satisfactory to Theodore.

His conscience accused him even then at what he was intending to do; break the solemn compact with his father, which he was in honor bound to keep. Why should Theodore demand $150 per month? He knew nothing about the business. If he demanded anything it would naturally have been a much larger sum, because the firm had made about $12000 in the year just closed.

Turn now to Theodore's statement, and compare it with the other, and you cannot but be convinced with the truth of Theodore's account; you will find it on p. 387 - 8.

Theodore spoke of the matter in the same way that you

or I would have done, and you will notice throughout the whole of it, that it is *his mother* that he is thinking about. His brother made the promise to Theodore, and it was satisfactory to him, and he supposed that everything was pleasant and agreable: and all the subsequent trouble arose, not from Theodore, but from William and his failure to do as he had promised.

But wait. A few days after, we have a change in Mr. William's feelings. He has talked in the meantime with Goldenberg and others, (see p. 194 - 5) and no matter what he ought in honor do as between his dead father and his mother he concludes he will stand on his legal rights.

We then have the second conversation, It will be found on p. 388-390.

Was there any undue influence or fraud in this? And is it to be wondered at, that Theodore Dumont was indignant at this act of duplicity and breach of honor on the part of his brother, at this deliberate lie, and act of ingratitude and falsehood, and at the words used by him, which Theodore says he will never forgive nor forget.

Miss Swords says that she heard Theodore allude to it two or three times subsequently. That he was very indignant and excited, and this was the cause of the estrangement between them afterwards. And to show how strong his feeling was on the subject, you have only to turn to and read Theodore's testimony, both on his direct and cross-examination.

Now it was true that these things actually happened and there certainly was no fraud or deception on Theodore's part in connection therewith. They were facts, not delusions, and no undue influence can be based thereon. Mrs. Dumont may have been strongly prejudiced against William by his conduct at this time, and in the past, but William was himself responsible therefor; this was not the result of undue influence, but was the result of actual occurrences, in which Caveator took principal part.

Now what would naturally be the next thing that Theodore would do? Why talk over the matter with somebody, which he says he did with Mr. Foote, his brother in law,

p. 499, " I thought at the time I had some equity in the business, and I proposed to have it for mother, I said to him that day: Will you know I have enough, I am not talking for myself but for mother.
Q. What did you do in pursuance of that purpose (that is to spend $10 to his $100)? A. The next day I had a talk with Mr. Foote, and he told me that as surviving partner he had the business, and I had nothing now to say.
Q. Did you consult a lawyer about it? A. I did not, I was satisfied with John T. Foote's statement."
P. 501 - 7:
p, 505: (Speaking of the interview with Mr. Foote)
"Q. What advice did he give you? A. He told me - as a surviving partner he got the business and I could not prevent it. Q. Did he tell you what to do, make any suggestions? A. He merely spoke about having Will render an account, and he afterwards called at the house and told my mother that with her consent, if she desired it, he would be glad to go down and go over the books, and mother said she did not want to have any trouble about it one way or the other.
Q. So that led to the suggestion to your mother to have the books examined? A. I think it was.

(Note): The suggestion therefore to have the books examined, and thereby reflecting against William, came from Mr. Foote, and not from Theodore.

Was there any fraud or deception in this conversation with Mr. Foote? It was an actual fact, and no claim of undue influence can be based on it.

What would naturally be the next thing that he would do? Why, talk with the only other two persons in the world most interested in the matter viz: his mother and sister.
P. 548-9 also 499.

"Q. Prior to this time (viz; the conversation with John T. Foote) had you any conversation with your mother on the subjcct? A. Not one word.

Q. Didn't you tell your mother that you had spoken to him about it? A. I did not uutil she got down stairs, mother at that time was very much depressed, she had a very hard cold, and I did not want to do anything to worry her.

Q. When did you first speak to her on the subject?

A. When she came down stairs.

Q. How long was that after the second interview with William? A. I think it was about perhaps two weeks, between 2 and 3 weeks I think, the latter part of January.

Q. What did you tell her? A. As near as I can recollect I told her just *exactly what occurred.*

Q. Repeat the conversation? A. I told her &c. (See p. 500 - 1, where it appears that he narrated the whole matter to his mother.

I refer also to p. 587, to the same effect. He also related to her fully the conversation that he had had with Mr. Foote,

p. 589. Q. And I understand you to say that you had before that time in full the conversation between you and Mr. Foote? A. Yes I think I did. I told her everything that occrrued with Mr. Fcote, if I remember right, everything, I tried to give her everything."

The testimony of Theodore Dumont as to this stands uncontradicted, and by it as appears, he related to his mother truthfully the occurrences between his brother and himself, and the conversations with Mr. Foote. Everything. Was there ever any fraudulent or any improper conduct in this? Were they not facts; and was there any undue influence attempted or anything improper, in truthfully narrating them to his mother, an intelligent and just woman, and the one primarily interested in the matter? She may have been affected thereby and indignant, but what William, Mr. Foote and Theodore had said and done were facts, and telling the

truth as to these to a woman such as Mrs. Dumont, was not undue influence.

No other conversation on the subject appears to have taken place between Theodore and his mother until after William had had the talk with his mothe.r

See p. 391-2, and also 502:

p. 502 "Q. When was the next conversation you had with your mother on the subject? A. After he had been out there. Q. When was that? A. Well I guess, I think it was within a week of my first conversation.

Q. William had been out there in the meantime? A. Yes, sir. I knew that fact, because she told me of it the evening of the day he had been there, after dinner in the library."

(Note). She was then well enough to be down in the library.

"Q. What did she say? " (See P. 502.)

Does that not indicate that she was capable of caring for herself, and her interests, and that she was proud and very sensitive and independent.

Turn now in this connection to the testimony of William found on p.199, 200-3

p. 199. (Referring to the conversation on the boat with his brother Theodore, he was asked): Q. Now after that did you not have any further talk with your brother about the subject? A. No sir.

Q. But you did have a talk with your mother? A. Yes, sir. Q. How long afterwards? A. I think about a month."

He went nearly every day to see his mother commencing the next day after he had had the talk with Theodore. He said nothing to her about the conversation with Theodore on the boat, or at the depot "because she was in no condition to be spoken to, she was very sick."

See now p. 200 to 203.

Now there may have been, and no doubt was, some conversation between Theodore and his mother in relation to William's visit, and what he had said, but Theodore says

that he does not think any more was said (and there is no other evidence besides his on the subject); but suppose there were, it would have been perfectly natural, and it could not be said that there was anything fraudulent or improper in the conversation between William and his mother, and her narration of the same to Theodore. The fact that his mother talked with him about it, and he with her, or even that he commented upon it, is not undue influence,

p. 392. Q. Did you subsequent to that time have any further conversation with your mother on that subject?

A. Not one word. The conversations ceased then and were never resumed."

( Note ): This stands uncontradicted.

This is no doubt true, because he says subsequently, that his mother knew that the subject was distasteful to him and he knew that it was disagreable to her, and so nothing more was said about it, and nothing more by an examination of the testimony appears to have been said between them, until she received a memorandum account from William. (See Ex 1 for Caveators )

See p. 394 - 5, and 588 - 9, and 590, Cross.

Now it is clear that the mother introduced the subject at this time. It is certainly true that William sent a memorandum account to his mother and that she had a conversation (as stated by Theodore) with him in relation to the same.

Was there anything remarkable about this conversation? Was there anything unusual about it? On the contrary, it would have been very strange if she had not spoken about it, and to Theodore. Was there anything fraudulent or improper, or indicating any undue influence on Theodore's part, in hearing from his mother what was said and done by William his brother in regard to this matter?

p. 555. "Q. Did you, after that, have any further conversation with her upon this subject? A. No, sir."

p. 589. "Q. I wish to ask you whether between the conversation in regard to which you have been testifying, that is

the conversation after William had been there, and the time you conversed in regard to the will (that is between the time of his coming there ) and that time, did you have a conversation with her? A. I did not, I told you that the night of the day he had been there we had our conversation, and it wasn't spoken of afterwards, I dont think even referred to, until the night this conversation occurred about the will."

So that the next, and the last conversation on the subject matter previous to the making of the will, was the one in relation to the will, an account of which will be found on pages 434 to 436.

And I respectfully submit that there is no evidence in this of any attempt even, to influence the will in question.

This was the first, last and only conversation that he had with his mother in relation to the will.

The testimony of Theodore Dumont stands uncontradicted as to this and all the conversations with his mother, in relation to his brother William and the will.

*And these conversations constitute all the material points in the evidence relating to the period between the death of Mr. Dumont and the making of the will.*

And the charge of undue influence must stand or fall upon what was said to her by Theodore, as containod in these conversations and interviews, and not in surmises as to what he might or could have said,or what he might or could have done, or what effect his actions might or could have had on his mother.

Now just here, we have in evidence why Sandford Greves went up and drew Mrs. Dumont's will, that Theodore had nothing whatever to do with it except to ask Greves to stop in and see his mother sometime when he was in Summit to see his aunt, and to pay for the drawing of it out of his mother's money– which was repaid afterwards. (See exhibit for proponents, June 17th. '87– Receipt of Greves.)

First we have Mr. Greves' testimony on p. 58-60,70 & 71,

and second, the testimony of Mr. Theodore Dumont, p 457 & 458 & 640.

Now was there anything in his conduct in the making in and drawing of the will by Mr. Greves, that would indicate any influence or desire or attempt to influence improperly or fraudulently his mother's disposition of her estate.

We have thus discussed all the main and material events connected with Mr. Theodore Dumont, and the making of the will. There may be gathered however in addition thereto, in the several hundred pages of his cross-examination, the following among other things:

That he was a railroad agent, and has been for 20 years; the railroads he was connected with. That he has resided in Summit since 1881, up to December 1886; that he boarded in a number of boarding houses in New York from 1886 or thereabouts (p. 443 and 444.) That he was in business in Cincinnatti, (p.445) first for Brown & Co. , the largest grocery house in the country at that time, and that he left there after a year and a half to go into business himself, they indorsing his notes for $5000 capital (Note: this shows the man). That he was married in 1863 to a Miss Hall; that he was divorced from her and married again. That his divorce was granted September 29th, 1885. That for private reasons he declined to answer any questions about it, or to bring his present wife and child in any way into the matter. (p. 446) [Note:] The questions were impertinent, insulting, and had nothing whatever to do with the case, and I think the Court will uphold his action in refusing to answer the questions asked him, on p. 446 & 447.

That Miss Swords and his mother were intimate: that she, Miss Swords, had a room at the house called her room (p. 448); That she presumed somewhat on her relationship; that there was not a very pleasant feeling between Miss Swords and Theodore, or Miss Swords and Nettie, and further in relation to Miss Swords: that Miss Swords had a brother&c. (p.448). That there was some convesation at

some period long since gone by, about Miss Swords' brother George and Jay Gould, that was not very pleasing to Miss Swords, and Miss Swords interfered in a manner not called for (p. 450).

That Miss Swords and Mrs. Robbins had their private quarrels; that his mother was the mediator between Miss Swords and Mrs. Robbins. p.453.

That in moments of passion he is excited. That Bessie Dumont used to call their home her home,&c. (p.454). That his father was quite an active man up to within two years of his death.

That his sister was married to Mr. Robbins in February 1883. That his mother had more reliance upon Robert Dumont (his brother) than anybody else. That his *mother was not versed in investments*, and that his father never consulted her about them so far as he knew. That prior to his death she knew what investments she had, because his father brought her a list of securities. (p. 456)

That Mrs. Robbins and he both had disagreements with Miss Swords. (p. 453 and 458) Had a conflict with her when he was first married, wrote her a letter which shows the character of the man, p. 451.

That he had sometimes a few words with his father for a moment and it was all over, and they were never angry five minutes at a time; that he doesn't remember ever leaving the table and going to his room after a discussion with his father. (p. 459)

That his mother did not make any investments after his father's death. (p. 459–460) That she sold some West Shore & Erie Bonds, and deposited the money. That the amount realised was $1700 to $1800; that he advised her to make the change. [Can it be said that this was improper or wrong?]

That William Dumont visited his mother about once a week, usually Sundays: that he don't know whether his mother consulted with his brother about business after his father's

death, or with Mr. Robbins; because he had no means of knowing, as he was not present at his brother's interviews. [p.460-1.]

That his mother made her first will in 1871 (p.461); that she made another will in 1880 or 1881, which was executed in his office: and that his father had no will prepared. He said he had nothing to leave, it was all his mother's – (p. 462).

That the draft of the will was prepared by his mother in connection with his father, and handed to him and by him to Judge Birdsall (p.462). That William knew nothing about this will until after it was made, and then only from his *father* who showed it to him – (See p. 272 to 273).

That he took it out and handed it to his mother, and she read it and showed it to his father and said she would sign it the next time she came to New York. That the first will was made in 1871 before his brother Robert died - (465). That he did not know where it was executed, and it was destroyed when the second will was made.

That the first he heard of the first will was from his brother Bob. (p. 464–466.)

That his father attended church; that his mother did also but not as often as the father; they were both church members. (See page 467)

That he has commanded a high salary in his business: has had probably a larger salary in his business than any man on broadway, in his present business. Refused $6000. three times in 1883. That he then was in the employ of the Great Western Despatch & South Shore Co. which was a freight company &c., and he received passes over other roads. That Mr. Robbins was in his employ from 1880 to 84.

P. 469 - 70.

That after dinner his mother and himself usually sat in the library until Mr. Robbins and his wife came down stairs about 9 o'clock (p. 472).

That whatever was of interest to his mother was of inter-

est to him. There was a reciprocal feeling between them.

(Note: Was there anything remarkable or wrong in this?)

p. 472: "Q. Your mother's relations to you during the time that you lived in Summit endeared her to you very much? A. I think perhaps – I have always been very dear to her. I was kind of a roving boy, and I think I caused mother a good deal of worry. From the time I was fifteen years old, I had been home very little until I went out there the last few years of her life. I left home when I was fifteen to go to China."

p.472–3:

"She was very fond of me, used to kiss me, evey night when I went to bed, and I kissed her every morning when I went out and when I came home." (Seep.473.)

(Note: Was not this perfectly natural, and can this be called fraud?)

That upon complaint of his he spoke to the firm in Cincinatti of the manner in which they were using William.(p. 474-5.)

That he sent William passes to come from Cincinatti in 1868 to visit his mother: that he, William, was then anxious to get into the concern, but his brother Robert resisted it; that he had a conversation with his brother William at the Astor House when he asked him, Theodore, to use his influence to get him in, and he, Theodore, prevailed upon his father and brother Robert to take him in, which they did in 1871or 1872 (p.475 and476).

That when he first went to Chicago, he had no business, and John T. Foote used to send him money. That his board was $4 per week; that he received a remittance from Mr. Foote by agreement &c. (p, 478 & 479). That he had no trouble with Mr. Foote, caused no trouble at a dinner party, and was no party to any disturbance. Never carried a revolver except in the army and travelling.

Recollects having met John Swords at his sister's. (p.481).

Next he checked the paper exhibit , that his mother said was the paper his father gave her, showing list of her securities,&c. , in relation thereto. (p. 481-2).

That his mother sold Erie and West Shore bonds, and the proceeds were deposited in American Loan and Trust -(p,484).

That he acted as his mother's agent in selling N.Y.L.E.& W.bonds- (p.484).

(Note; Was there anything unusual about this, and can this be said to be fraud)?

That he never kept a dollar of his mother's money over night in his life, with one exception,which he states was when he went to Florida once. (p.484).

*That there was sore feeling between his brother William* and his sister, a private matter which he refused to talk about; which we submit was proper, although it affected Mr. William Dumont more than anybody else. (p. 485.)

(Note): Shows his delicacy of feeling in this matter.

As to the engagement between Mr. Robbins and his sister; it was after February 1881 - his father's golden wedding &c. As to Mr. Robbins and his sister - (p. 487 to 490.)

As to a list of securities (p. 490.) That he suggested to his father that he should give his mother a list; that his father afterwards told him that he had done so.

p."Q. I asked you before if she did not show it to you?
A. I say she showed it to me the day she came in to get her securities, I never saw it before that day. To the best of my recollection I never did.
Q. You do not know positively that this is the paper?
A. I only know that this is the paper she brought in to me; the only way I can identify it is by the checks, because if you notice there I have put down the months the securities are payable–&c. )p. 491). . . . .
Q. Were you informed how serious the *quarrel* was between your brother and sister?
A. I cannot say it was a quarrel. It was a coolness, they

were not as good friends as they had been, that is all.
Q. How long did it continue? A. I think to a certain extent, it has always continued.
Q. It was then somewhat serious in character, whatever it was? A. No it was as I told you. You will be the first man to regret what it was about, for it could affect you more than it would me. I will tell you, if you want it.
Q. I will not ask you what it is, I am satisfied on that point. I only ask you of the seriousness of it? A. No I said it was not a quarrel; they always spoke and conversed together: she used to call at his house. (p. 491)

Note: Shows the man. It did not affect the relations between William and his sister, because William testifies, on p. 180:
Q. "What have been the relations between Mrs. Robbins and yourself?
*A. We are on very pleasant terms.*
Q. What have been the relations existing as far as you know between Mr. Theodore Dumont and Mrs. Robbins?
A, I believe they are very pleasant."

Resumed with Theodore's testimony.

That Mr. Birdsall was not his attorney: that he has made several wills, and changed them (See p. 492 to 494 in relation to same).

That Lawrence & Wehner drew his last two wills. And that Sanford Greves drew one before those. That the matter that Mr. Greves represented him in, in 1884, was not the drawing of a will. (p. 495)

As to his conversation with his brother after the death of his father. (p. 495).

As to the conversations with his mother in the library. and with John T. Foote. (See p. 499 to 507).

As to his strong feeling on his brother's conduct - (p. 501 to 508).

As to the income from house, and trust fund - (p. ).
"Q. How was she (your mother) aware when the income

was due? A. Mr. Robbins, I think kept track of when the income came due, and got a blank from the Trust Company, and got mother to sign it.

Q. He received the check and handed it to your mother? A. Yes sir. Q. And she handed it to you? A. Sometimes I would endorse it and deposit it to the account of Mary B. Dumont. I think I always endorsed the checks in that way." (P. 509,)

(Note: Was evidence in this of undue influence or fraud?)

That his mother's bank account was kept with Gould, Barber & Swords, and her bank book in her desk: and when he made a deposit he would take the bank book and have the deposit marked in it. That his check book was kept in her desk in the library. That he wrote up her checks and drew them for her– "Generally when she wanted a check drawn I would draw it for her, and she would sign it."

(See pages 509 and 510.)

(Note: There was nothing very unusual and remarkable in this. It was expected of him, and it would have been strange if he had not attended to these small matters for his mother. *It is no evidence of undue influence or fraud.*)

As to his father's sickness, and conversation between his father and William before his death. (p. 511 to 514.)

That remark about putting his mother in William's care, referred as she believed entirely to the business. That his father knew that she was not suffering for anything: that she had property enough to take care of her as long as she lived.

p. 514. That he did not think that he (William) intended to give her a cent, notwithstanding his statement.

That he judges a man by his acts, not by his statements.

p. 515. That he doubted his brother's motives but did not say so to his mother.

p. 518. "Q. You were always desirous of indulging your mother's wishes were you not? A. In every way in my power. Q. Have you ever been conscious of not gratifying

her wishes? A. I don't know that I ever have been. Not in later years. That I did not gratify her as to becoming reconciled with William."

p. 518 & 19. That she requested him to, but he objected.

p. 520. That William was very rarely referred to in conversation at the table.

p. 520. That Mrs. Robbins knew his views about William.

p. 522. That he received money from Mr. Foote on an agreement.

That William was assisted when he got to Cincinatti by Mr. Foote and the whole family.

p. 523 That he gave up his career in the army; went out with the first regiment that went to the war, and was wounded; resigned at Harris' Landing on account of bad health; staid in New York until he got good health, and went back.

(Note: 1862, 25 years ago what has that to do with the will?)

p. 524. That his brother was never able to get along very well until he got to be his father's partner.

p. 525. That William bought the real estate in Madison.

p. 527 &c. That he used to urge his mother to spend her money, so as to enjoy it. Has no idea of what she did with her money. That she was *apprehensive of exceeding her income.*

p. 529. Q. When you had your conversation with your mother after she came down stairs, did she tell you that William had told her that the business belonged to him?
A. She told me after I had an interview with him, yes.
Q. Did she tell you that he told her she had no right to the business? A. She did.
Q. Did you tell her that was the fact? A. I did."

(Note: was not this an actual fact that took place between Theodore and his mother, and was there any fraud or undue influence in this?)

That she spoke about it 20 times; was apprehensive of spending her income.

p. 528. "That I invariably spoke to her. No they are not in excess of your income, spend what you want to."

He knew she was exceeding her income from the decline of the bank account; but I did not know what her income was.

p. 529. That he did not know where the Houston & Texas bonds were bought.

p. 529. That he saw the account William sent. "I guess the day he sent it was about one month I suppose after my father's death."

Here follows suppostitous questions, such as you will find all through the cross-examination. As to whether he did not say so and so, or think so and so, and why he did not tell his mother, or Foote and the world in general so and so, and what his mother considered as to this and that, &c.

(Note: What fraud or undue influence can be based thereon?)

530 to 534. That he reported the conversation he had with Mr. Foote. That he, Mr. Foote, suggested that the books be examined.

p. 535 As to the accounts rendered by William to his mother.

Remembers that his mother showed him the accounts; one of them merely a memorandum account. Supposes the one showed him is the account, but doesn't know. Has never seen it but once.

p. 536. "She said nothing about it except as stated &c. I said you wouldn't let me have the books examined, and you have got to accept his statement."

p. 536. "I don't think she said anything except that she thought he was mean in charging her for the mourning and funeral expenses."

p. 537. Paper produced and shewn him. He is asked certain questions in relation to it. He sent down to the office and received check every month for payments made by him–

That he, William, did send her another account besides the one marked No. 1 June 30, a memorandum account. I remember her telling me that he would pay her the balance of the money as soon as he got it. I think this memorandum account was sent to her some time in January."

(Note.) What was this to do with the making of the will, or the questions involved in this?

Here follows testimony on pages 539, 540, &c., as to the account, &c. (Note above.)

That he asked his mother what she understood by his father putting her in William's care, and she said, it could have only one meaning, the business.

He cannot remember the date exactly, but thinks it was in January, 1884; about the time William and he were discussing the matter between them. (Pages 544, &c.)

(p. 544.) "Q. Why did you ask her that question? A. Because I wanted to know what her interpretation of it was.

Q. Did she know what yours was? A. I don't think that I said so. She said it had but one reason, it meant the business. It was, when I told her what he had said to me in regard to the busines. I think the whole thing came in that one discussion. I have no recollection of discussing it again with her."

(Note.) Supposing he did ask her this question, or even talk to her about it, what fraud or undue influence was there in his doing so?

His mother and he agreed upon this. This conversation was held about three weeks after his father's death and at the time he repeated the interview with William on the boat. She said, "Wait till I see him."

(p. 546.) He told her that William would come and see her about it, and she said: "I will wait and see him."

(p. 546.) That his conversation with William was

about the 11th or 12th of January, and with his mother about ten days after, &c.

It was possibly at this interview that he referred to William as being a worthy son of hers, or that she ought to be proud of him.

"You, doubtless, referred to him in such terms again? I don't think I ever referred to him in any way where it was possible to avoid him. I think when it came up it was always spoken of in the kindest manner.

Q. His name was tabooed in the family? A. No, sir; it was as far as I was concerned.

Q. Then the family didn't refer to him in your presence? A. Yes, sir; often; *the only thing that was avoided was conversation on the subject between me and my mother. It was very distasteful to me, and I knew it would be painful to her for me to say anything.*"

(Note.) What undue influence or fraud was there in the above?

(p. 547.) His mother knew perfectly well that he and his brother were not on good terms.

(pp. 547 and 548.) That he had a conversation with Mr. Cambrelling.

(p. 549.) That he meant what he said on a former occasion, that he would never forgive him in relation to trains.

Then follows a lot of immaterial testimony as to trains and supposititious questions and what he told Mr. Foote, &c.

(p. 557.) That he did not like the people of Summit.

(p. 557.) About having the books examined at the suggestion of his counsel.

(p. 558.) That his mother spend a great deal of money on Bessie.

(p. 560.) As to furnishing liquors to the house.

(p. 561.) As to removing furniture from the house.

(p. 562.) As to his mother's expenditures and remarks

of Miss Swords that his mother was foolish to buy so many things she could never have any use for.

(p. 562.) As to a suite of bedroom furniture that belonged to Robert.

(p. 564.) As to card parties in the house. As to the horses and carriages.

(pp. 565 and 566.) As to delivering the securities and will.

(pp. 567 and 568.) That he thought that the business was worth $10,000, and based it on what other brokers had sold out for.

(pp. 568 and 569.) As to the divorce from his first wife, all of the questions relating to which he refused to answer, and, I submit, very properly. What in the world has that to do with the case. They were very *impertinent, scandalous* questions.

(pp. 569 and 570.) As to his mother giving him the key of the box of the safe deposit company. That he introduced her there. Had no power of attorney. Took it and cut off the coupons for her. Did not have the duplicate key. She kept both keys herself.

(p. 570.) That he would cut off the coupons and sell them or deposit them. Kept no account with his mother; everything was cash. Would pay out money for her, and at the end of the month would settle with her by a little memorandum that he kept.

(p. 571.) Never borrowed but $1,500 from her, and then he wasn't here. (*Note.* That was the time he went to Florida in the fall of 1885, and he paid it back as soon as he returned.)

(pp. 586 to 591.) As to the conversation with William and his mother and Mr. Foote.

(p. 596.) That he did not then know what her income was.

(pp. 599, &c.) As to his impression about the business.

(pp. 601 to 603.) As to the time and position of the

parties when conversation took place between his father and William, before his father's death.

(p. 604.) As to saying that Champagne was his father's idol.

(p. 609.) As to memoranda, letters, &c.

(*Note.*) Theodore may be mistaken as too this list, but he believed that his mother showed it to him, and showed it as received from his father. She may have been mistaken. It does look very much that way. He, notwithstanding, says that his mother showed it to him as the one she received from his father, and he sticks by her at all hazards. It would seem from an examination of the paper itself that there was an entry therein of a security bought after January 1, 1884, the Houston & Texas bonds. But, notwithstanding, he was true to his mother. She showed it to him as the list she got from his father, and he stood by her statement at all hazards. As to her showing it to him, he was positive. As to whether it was the list he did not say and could not tell, but, query, may it not be that the Houston & Texas bond was purchased before Mr. Dumont's death? It is not, in any event, important in the case. It is of no great moment whether the father gave her this list or not or whether she was mistaken. It is certain that he did give her some list; that he told Theodore he had, and that she, at the time she came to the safe deposit company, brought this with her as the list his father gave her.

(*Note.*) But what difference does it make in this case? It only affects the amount of property that she held in her own right and which his father recognized as hers, but that was done by him in various other ways. What amount of property Mrs. Dumont left is not the question. The only question is, is that her will, and shall it be probated? If so it only acts on the property actually left by her, whether much or little. The other question as to how much or little she left can be settled

between Robert Dumont's administrator and the executors of Mary B. Dumont.

We have thus gone over and referred to all the testimony of Theodore Dumont that relates not only to the period before the making of the will but to his whole life.

Is there anything in all this testimony from beginning to end showing any attempt or effort of Theodore Dumont by word or action on his part, or in any other way, to induce his mother to make the will in question?

On the contrary, in the face of this testimony and to put him clear upon the record and rebut any inferences that might possibly arise, he was asked directly as to this, and under oath denied positively any attempt on his part to influence his mother in any way (see pages 638 to 640). Reference is also had in this connection to the case of Brick *vs.* Brick, already referred to, and Dale *vs.* Dale, where it appears that such denial was required under the ruling in that case.

So much for the testimony of Mr. Theodore Dumont relating to the second period, a large portion of which, however, belongs properly to the third period after the will of Mrs Dumont was made and executed.

We come next to the testimony of Miss Swords, and it will be found upon examination that but very little, if any of it, has any reference to the period we are now considering, viz.: that between the death of Mr. Dumont and the date of the will.

I refer first to the following pages direct:

"Q. Were you present at Mrs. Dumont's house at the time of Mr. Dumont's death? A. I was.

Q. And how long did you remain there after his death? A. About three weeks.

Q. Were you there after that any time? A. Yes, *off and on*; not until the next May.

I went on Christmas, staid over night and went back

to New York the next day, and then I went out there perhaps five or six days before his death.

Q. And remained how long after his death? A. Three weeks.

Q. That would be about the latter part of January? A. Yes, sir.

Q. Then you went where? A. 117 East 17th street, where I had my rooms.

Q. When again did you go back to Summit? A. I went out in May and staid until the 11th of June.

Q. And then? A. I did not go there again until the next November."

So that between the *latter part of January* and *April 11th, the day of the making of the will*, she was not there at all. Did not see either Mrs. Dumont or Theodore during that period, and none of the conversation or acts that she refers to could, therefore, have occurred during that period.

Now, before the latter part of January, it is admitted on all sides, that Mrs. Dumont was sick, kept her room and no conversations were had with her about any of the matters by either Theodore or William or in her presence by other members of the family. And the fact, therefore, is that all the occurrences as to Theodore's conduct, words, acts, &c., as narrated by her, were after November 1884, more than seven months after the making of the will, and her testimony as to these cannot, under all established rules, be considered or have any effect in the determination of the case.

(p. 97.) "Q. Most all these conversations that you have related here as taking place with Theodore were after you returned in November, were they? A. Yes, sir."

(p. 97.) "Q. But the most of the conversations were during the last sickness of Mrs. Dumont, were they not? A. Yes, sir."

(p. 96.) "Q. When was it that you heard Theodore

say that William was making $10,000 a year? A. I heard him say it several times, I cannot recall the times.

Q. Do you remember the times? A. No, but several times.

Q. Was it after you went back in June * * * ? A. That I cannot say.

Q. Or in November? A. Oh, after I went back in November.

Q. It was after you went back in November? A. Yes, sir."

We have properly belonging to this period only the testimony on the 74th to the 78th pages, 79th to 82d, and 90th to 96th. All the rest relates to matters and events after the date of the will.

Now, in all Miss Sword's testimony relating to the period before the will you will find nothing showing anything on Theodore's part that looks like an attempt or any power to control his mother in any way, let alone the making of the will in question. The most of it refers to the conversations between William and Theodore, and the promise and refusal to pay the $1,800 promised to Theodore.

The relations existing between Theodore and his brother after the death of the father.

That she could not recall whether Theodore, in referring to William in connection with the occurrence, used profanity or epithets; could give none of the words or expressions that he used, although they were violent or abusive. (Page 79.)

(*Note.* They could not have been so very terrible or she would have remembered something about it.)

(p. 80.) That they did not speak to each other afterwards, &c.

(p. 80.) That they met in their mother's room, &c. That she was in miserable health after Mr. Dumont's death.

(p. 80.) That she was the most self-sacrificing and unselfish woman that ever lived, *strong in her prejudices and very fond of her friends and family.*

(p. 81.) She loved William very much. If he did not come to see her, she missed him. She always looked for him on Sundays.

(*Note.* There was never any change therefrom in the mother's feelings as a result of anything that Theodore may have done, the first effect of undue influence would have shown itself in her feeling and conduct towards William.)

(p. 81.) That William had charge of her affairs before her husband's death.

(*Note.* This is not so, her husband really had the charge as she supposed, as by reference to the testimony in the case will be readily seen.)

That afterwards Theodore had charge, as she says.

That she knew that her husband put her in William's charge.

That Theodore was devoted to his mother after the death of his father, and, *I think, she looked to* him for advice. (*Note.* This is a mere opinion.)

(*Note.* But suppose she did, is that undue influence?)

That so far as she could see she relied on Theodore in business and advice altogether.

(*Note.* This is also a mere opinion, but if true it was to be expected.)

That Theodore is extremely excitable and nervous. That she has seen exhibitions of it in the presence of the family; *never with his mother but before her.* She can't specify any times, but several times after the death of Mr. Dumont. She could recall none specially.

(*Note.* These must necessarily have been after November or June. It could not have been during January, because Mrs. Dumont was not about the house then, and it could not have been between January and April

(the making of the will), because Miss Swords was not in the house at that time (page 90.)

(p. 82.) That he was there more frequently after the father's death than before, and did not contribute towards the support of the household, as she was informed by Mrs. Dumont.

(*Note.* Was there anything strange at his staying with his mother at this time, when she was alone after her husband's death? Was it not expected of him? But this must have been after the making of the will, because she was not there before; and if he did not do anything towards the support of the house (which we do not admit) what of it? What has all this to do with the making of the will?)

Now, this comprises substantially all the testimony of Miss Swords as to the events that she knew or imagined she knew about between Mr. Dumont's death and the making of the will. And what, if anything, does it show reflecting against Theodore Dumont or showing that he was anything but perfectly natural. There certainly is not a word of fact indicating any control by him over his mother or attempt even to influence her in any way. The nearest they get to it is in these random statements of this prejudiced old maid.

We come now to the testimony of Mr. Treat, found on pages 232 to 297-659-673 and 716, and it will be found upon examination that a portion of it belongs (if anywhere) to the period before the making of the will.

He is now a resident of Orange, and the place ought to feel greatly honored by such an addition. I have been over twenty years a practitioner in our courts, and I have never in my experience seen or heard such a manufacturer of evidence as this man. Give a comma to start on, and he would from that remember and make a sentence. The Court need but to read what he says to find out the character of the man we are now dealing with, but full justice cannot be done now. He should

have been seen on the stand under cross-examination, his expressions and change of countenance, his guilty look.

He had been the friend of Theodore Dumont, been aided and assisted by him in many ways, and deliberately put himself in the way of testifying in this case, *with the sole intent of revenge.* He said he testified because he had sympathy for William Dumont, but none for the man who befriended him. He was just the man that the caveator required. They could not have succeeded better, if they had had him made for the occasion. A bank officer, as he claimed, in a large New York bank. *A clerk as he says.* With one of the most remarkable memories that I have ever seen; with no sentiment, but with a strong desire to do the right thing, as he says, and help William along. Why, he was beyond compare. He is fully entitled to be regarded as caveator's main witness. Without him they have nothing to sustain their case, and with him they have less than nothing.

By reading his direct testimony (pages 232, &c.), it will be seen that he is a bank clerk (as he says, which was shown afterwards to be untrue), in the Merchants' Exchange Bank of New York. In the spring of 1884 was acquainted with Theodore Dumont, was well acquainted with him; went up and down on the train with him every day; played in the whist set every morning with him in the cars. Saw him in the afternoons. In the summer time almost every evening; he would frequently, almost every night, if we did not have a whist set, &c., come around to my house with his buggy, and I would go out riding with him generally. Saw him almost every Sunday; I was with him in the afternoon.

(p. 233.) "Q. Were you ever present in his house with him? A. Yes, sir.

Q. Did you ever observe his attitude towards his

mother and sister? A. Well to his mother I have; yes, sir."

(p. 234.) He was a profane man. In the spring of 1884 there were certain times that he drank, and then sometimes he did not.

(*Note.*—This was remarkable, and of the character of all the testimony given by him.)

(p. 234.) "Q. Did you know him to drink to excess so as to be influenced by liquor? A. Very excitable, yes, sir, I never knew him to stagger.

(p. 234.) He was generally under the influence of liquor when he came home at night from the city.

See in this connection testimony of Wilmot M. Chapman, page 348, where he says, that treat seldom if ever came up in the same train with Mr. Theodore Dumont in the afternoon, and that he never saw Mr. Dumont intoxicated in the slightest degree.

Also testimony of Theodore Dumont, page 406. Edward McConnell, pages 325 and 326.

Treat attributed his excitability to the influence of liquor.

(p. 234.) "Q. Did you ever hear him use profanity in the presence of his mother? A. Yes, sir.

Q. More than once? A. Not that I can remember, no, sir, I remember one instance."

(*Note.*—He is the only witness they could find to testify to such a thing as this.)

"Q. Do you know what his mother's attitude was toward him? A. By her actions?

Q. Yes, sir? A. *Very affectionate. Seemed to think, always acted to me*, as if she was afraid he would do or say something he ought not to do. *Always seemed* to think a very good deal of him, *but yet seemed to have some fear of him.*

Q. So far as you were able to judge from your observation of Mrs. Dumont in the presence of her son, Theodore, state whether or not, in your opinion, she

seemed to be under his influence and control? A. Yes, sir, I think she was."

(*Note.*—This was clearly incompetent, as settled by all Courts.)

See in this connection pages 254 to 959, and page 255, line 10, where he says: That the only time he saw his mother was in the sitting room that they had off the porch, when he went there to play cards. *That was the only time he saw Theodore with his mother.*

Very frequently when he was there (as he says) none of the family were present. This was after his father's death. She would not always be there, once in a while. He does not say usually. It was either once in a while or frequently. Could not tell when he first played cards at the house after Mr. Dumont's death. Did not see Mrs. Dumont the first time he played there.

"Q. Do you say that she was present the second time you were there? A. *No, sir, I do not think I met her after her sickness until the following summer I think, or along* some time after that. Along cherry time I think it was.

(p. 256.) "Q. So that between Mr. Robert Dumont's sickness and death and this time you went for cherries at cherry time, you do not remember at any time having seen Mrs. Dumont? A. I do not, no, sir."

(p. 235.) He told me that he had made a demand on William to give his mother an allowance of $5,000 a year during her lifetime of the business—the firm business, and he refused to do it.

(*Note.*—This is different from what William, Theodore and Miss Swords say—see page 352.)

(p. 235.) In speaking of William at this time he said he was a God damned cur, and refused to do it, and had gone and taken another man in partnership with him, who was no relation to him, in preference to his mother.

(p. 235.) He heard him speak of his brother a great many times, and always as if he detested him.

(*Note.*—This was a mere conclusion of witness.)

(p. 236.) "Q. Did he ever, on any of your interviews prior to his mother's death, speak of his influence over his mother? A. Yes, sir.

Q. What did he say? A. He said since his father died his mother looked up to him in all things, and that she did nothing without she consulted him.

Q. And as to whether or not she would follow his advice, or anything about that? A. Yes, sir.

Q. What did he say? A. He said everything he said his mother did."

(p. 236.) Theodore told him at one time that he was in financial difficulty, &c.

Theodore said that William's business was worth $12,000 or $15,000 a year.

(*Note.*—An exaggeration the same as the $5,000.)

(p. 237.) Theodore said that his father said that his mother would put her head under the block for him, to save him, or some such remark as that, &c. This shows strong love and affection if anything.

(p. 237.) He said that William would feel disappointed after his mother's death.

"He told me that he was talking to his mother about William about the time he had taken this partner in, and at the time he refused to make an allowance, and his mother had told him 'never to mind,' it *seemed to me as though he must have been angry at the time, must have been raving*, and she told him *I suppose to appease* him; she said never mind, that if William had done this, as he had done it and taken the business, that she considered he had his share of the property."

Most of this is the witness' supposition, and if she did say it, it does not indicate any influence by Theodore. She was a competent, intelligent woman.

"And that she would make her will to that extent." He says that he could not talk to her; she was in a very precarious condition; she was sick after the death of Mr. Dumont, and he could not talk to her as it excited her very much.

(*Note.*—This must have been sometime afterward, if at all, because he does not say *is sick*, but *was sick*, and the testimony is that Theodore did not talk with her until the latter part of January.)

(p. 237.) "Did he say anything about anything he was going to do?"

(*Note.*—They virtually put the words in the witness' mouth.)

"A. He said that he would see that it was done, that is, by that *as I took it he would see that the will was made out.*

Q. Did he speak to you after that about accomplishing his intention? A. Yes, sir.

Q. What? A. He said about that time that it was made out, *that his mother had made a will*, and that there would be no luny business about it. That they had Dr. Risk as one of the witnesses, the doctor that attended her most of the time while in Summit and during her last sickness.

(p. 238.) (*Note.*—Both Dr. Risk and Sanford Greves testify that they knew nothing about Dr. Risk's coming there. Nobody knew the day Greves expected to go there, and Dr. Risk says that he knew nothing about it before he went to the house that day. That he was called in on his way out from a visit to Mrs. Robbins, and knew nothing about the will or the making of it before he went to the house.) (See pp. 25 to 27, p. 56, line 34, p. 64, line 23.)

(p. 238.) He had a conversation with him on the way from Morristown one day, and Theodore said that he was a fast friend but a bitter foe. His feelings were

very bitter towards his brother and everybody that he had anything against.

(p. 239.) He told his mother she ought to be proud of such a son. He used epithets, called him a God damned cur. He told me that it was legal for William to take the busines in New York as the surviving partner. That he did not want any interest in it himself. All he wanted it for was *his mother.*

(*Note.*—It was all for his mother.)

Next as to the relations with his wife and divorce (pages 240, &c.).

Now what was there in all this, admitting it to be true, and if it stood just as it is, that shows any undue influence on the part of Theodore? Nothing but the opinion of witness as to the influence of Theodore upon his mother (clearly incompetent) and already referred to, and that Theodore said, in speaking of his mother's will, that he would see that it was done. See what done? Witness answers: "*This is——by that, as I took it, he would see that the will was made out.*"

And there would be no luny business. Dr. Risk was a witness, &c. This is clearly made up out of the whole cloth.

As to the *other conversations.* There is no doubt that Theodore had a conversation with his mother. He testifies to that himself, and that he told her at that time what had taken place between William and himself. But this conversation with his mother certainly did not take place until the latter part of January, after Miss Swords left, because if she had been there she would necessarily have heard or known something about it. She may have said *never mind*, &c., and if so, what of it? She certainly had a legal right to do and think as she pleased.

There is no doubt but that he had a talk with William. And he may have said something to Treat about it. He may also have said that William was a God

damned cur, and that he told his mother that William was a worthy son, and that he detested William, etc. (as Treat testifies, but which William denies), but even if he did, what of it? He had a right to have any opinion he pleased about his brother, and express it to anybody he pleased, to his mother or to anybody else. That don't make undue influence or fraud.

But much allowance must be made for Mr. Treat's testimony. He was testifying three years after the conversations took place, and it is certain that he could not remember exactly what was said. It was no doubt very different as he remembered it, or thought he remembered it, under the strong feeling against Theodore, from what was actually said or done.

Now, test all this fine-spun story and these statements, by the cross-examination, and the subsequent evidence, and it will be seen how unreliable and uncertain it is, and unworthy of any attention in the case.

(p. 241.) He belonged to Mr. Dumont's whist set, and knew him as a card acquaintance. He played at the house some—in 1882 and after 1883, when he moved there, up to 1885.

(p. 246.) He cannot remember any facts with certainty, even recent ones. He could not tell when Mr. Dumont died; he knows nothing definitely (p. 246).

He speaks about drinking, and without any occasion drags in Mr. Chapman, a reputable citizen of Summit, as a person getting pretty full (p. 250).

This is the way they prove that Theodore was a drunkard:

(pp. 250 and 251.) "Q. Well, now you say he was under the influence of liquor, but not intoxicated? A. No, sir; but he was very excitable."

He says that they were always partners in the train.

(p. 252.) He didn't take any meals at Mrs. Dumont's house only once, etc.

(p. 253.) His principal intimacy with Mr. Dumont was when he commenced riding with him, and was after there was a controversy between Mr. Dumont and Mr. Chapman.

(p. 254.) They stopped playing cards for a while after his father's death. He could not tell how long. He used to see him in the train.

(pp. 255 and 256.) He could not tell the first time he played cards there after Mr. Dumont's death. Mrs. Dumont was not present then. She was not present the second time. He did not meet her until the following summer.

He cannot with any certainty tell the times he went to the house. The days of his vacation, or when the conversations were held that he narrates (see pp. 258, 259 and 260). He finally says it was in the cars or the ferryboat, shortly after the father's death, about three or four weeks after the father's death, as he *supposes* (p. 353).

(*Note.* This was impossible,—see testimony of McConnell and Chapman.)

He contradicts himself continually,— he could not remember while on the stand, what he testified to a few minutes previous. All the remaining conversations as located by him, took place after the making of the will. The next conversation was on some of the buggy rides; page 263. That was in relation to financial difficulties.

(p. 263.) "That was when he was getting the divorce, in 1885. He was going to Newark that day."

(p. 264.) He thinks that Theodore had the operation performed in the winter of 1885. He thinks also that it was in the spring. He finally says that he can't say when the operation was performed. (p. 265.)

(p. 265.) "He came around the first Sunday in his sleigh? It was cold weather."

(p. 268.) His position in the Bank is that of settling clerk. His salary is $1,000

Q. "Aren't you known in the bank as one of the messengers in the bank? A. Not that I know of.

Q. Is not that the position that you occupy there?

A. No, sir; messengers do nothing but run around."

(*Note.* That is contradicted point blank by Mr. Apgar, one of the officers of the bank. See depositions taken in New York, November 22, 1887, pages 731 to 736).

(p. 269.) The conversation about the partnership with William was two or three weeks he thinks after the father's death, same time he had this conversation about the $5,000.

It was either in the boat or train. This was the same time that he told him that he did not want the business for himself, but for his mother (pp. 269 and 270).

(*Note.* This has already been referred to in connection with other portions of his testimony.)

(p. 271.) The conversation that William would be disappointed, was while riding from Morristown towards Madison. That was the fall of 1884.

(p. 273.) The conversation about the divorce was in the buggy going to Newark.

(p. 274.) Sympathy for William caused him to testify. None for Theodore.

(p. 276, &c.) Cannot remember definitely his conversations with Mr. Devoe or when they were.

*Note.*—These conversations were only a few weeks before the time he was testifying—and yet he could remember nothing definite, and yet he swears to words and details of conversations with Theodore three years previous, where each word is important.

We have then the following alleged statements made by Theodore to this witness:

1st. That Theodore told him that he had made a de-

mand on William to give his mother an allowance of $5,000 a year during her lifetime, of the business—of the firm's business, and his refusal to do it.

That he said that he was a "God damned cur"—and he refused to do it, and had gone and taken another man in partnership with him, who was no relation to him, in preference to his mother, and that he always spoke of him as if he detested him.

*Note.*—This was a mere conclusion of witness.

And he further says that this conversation was before Mr. Dumont's death and in the spring of 1884 (see p. 235).

2d. That Theodore said that since his father died his mother looked up to him in all things, and that she did nothing without she consulted him, and that everything he said his mother did, and that this was before his mother's death (see p. 236).

3d. That at one time when he was under nervous prostration and very excited, and she thought, as witness supposed, that he was in financial difficulty, she said that if it was financial trouble he knew that he had her affairs, and knew how much balance there was, and if he wanted it he could use it. That all she was living for was for him, and she wanted to see him happy, and if he was unhappy, she wanted to make him happy (see p. 236).

4th. That William's business was worth $12,000 to $15,000 a year (see p. 236).

5th. That Theodore said to witness that his father always said that his mother would put her head under the block for him to save him, *or some such remark as that*; he always believed that his mother would put her head under the block for him, and that he believed she would (p. 237).

6th. That William would be very much disappointed.

That he was talking to his mother about William—about the time he had taken this partner in—and at the time he refused to make an allowance, and his mother had told him "Never to mind," *it seemed to me as though he must have been angry at the time, must have* been raving, and she told him I suppose to appease him; she said "Never mind," that if William had done this, as he had done it and taken the business, that she considered he had his share of the property, and that she would make her will to that extent; he said he could not talk to her, she was in a very precarious condition, she was sick after death of Mr. Dumont, and he could not talk to her as it excited her very much. He said that he would see that it was done, that is, by that, as I took it, he would see that the will was made out (see p. 237).

*Note.*—This conversation is alleged to have taken place before the will was made, and while Mrs. Dumont was very sick. This, by the evidence, was during the three or four weeks after her husband's death. (See *page 22.*) So that if this conversation took place at all it was within this period.

7th. He said about the time the will was made out, that his mother had made a will. That his mother had made a will and that there would be no "luny" business about it. That they had Dr. Risk as one of the witnesses, the doctor that attended her most of the time while in Summit and during her last sickness (page 238).

*Note.*—This must have been after making of will.

8th. That he told him as to how the contents of the will affected William—when coming from Morristown (see page 238).

9th. That he told his mother that she ought to be proud of such a son, and he called William a God damned cur (page 239).

10th. A conversation about the legal right of the business.

So that we have ten alleged conversations related between witness and Theodore Dumont, of no account if they were true, so far as the questions in this case are concerned. Two of them, the 1st and 3d, are claimed to have taken place before the making of the will and after the death of Mr. Robert Dumont—that is between January 4th and April 11th, 1884, and within four weeks after his death, viz., in January, 1884.

Now upon cross-examination he is asked to fix the time and place of these various conversations. He remembered the words so accurately, he certainly could remember some of the other circumstances, and we have this result.

(p. 39.) He says that the first conversation was on the ferry boat or cars.

"Q. You say, You think; do you know when it was? A. Yes, sir, I know it was.

Q. Where was it? A. On the cars or the ferry boat, &c. See pages 259 and 260.

Q. When was it? A. It was shortly after his father's death, I suppose three or four weeks; he told me that he had just taken in the partner about that time; I don't know exactly when it was, it may not have been that long, &c.

Q. He told you what?

That his brother William took a partner in, &c., in preference to his own flesh and blood, and that he had demanded $5,000 a year, &c.

See page 260.

And that that was all that was talked about on the day the above conversation took place.

"Q. What else did he talk to you about this day that

you spoke about, when this conversation took place in relation to $5,000? A. Nothing else.

Q. Nothing else? A. No, sir," &c.

Conversation was either on train or ferryboat, but can't say which.

"Q. You don't remember anything else that was said at that time (pp. 261 and 262)? A. Don't think anything else was talked about.

Q. That was all that was talked about? A. Yes, sir, I think that was all.

Q. That was all that was said? A. At that time.

Q. You have given all the conversation at that time between you and Mr. Theodore Dumont? A. Yes, sir; further on we had some conversation."

Compare this with the testimony of same witness on pages 269 and 270, 666 and 673 to 676, and the Court will see at once how unreliable and unworthy of credit the testimony is.

*Note.*—Witness first says that this conversation took place on the boat or car, he can't remember which, and then that it took place on the boat—on the other side opposite the heater (p. 667), on the right hand side (p. 676).

Refer now, in this connection, to testimony of Theodore Dumont (pp. 404 to 408).

Testimony of Edward McConnell, pp. 319 to 323;
Wilmot M. Chapman, pp. 346 to 349, 353 and 354,

where it appears conclusively that no private conversations took place between Theodore Dumont and Treat during the period mentioned, and could not without being in the presence of Mr. McConnell and Mr. Chapman.

Now the other conversation, the third, as I have num-

bered it, took place in one of the buggy rides with Mr. Dumont. It is the only other conversation, as witness states, that took place within this period; all the rest took place after April 11th, 1884, the date of the making of the will.

Now as to this next conversation, the third, as given by witness, but really the second in order. He says:

"Q. When did you have the next conversation with him? A. I could not locate the time, but I know it was in some of our buggy rides. He told me a great many things outside of the case.

Q. During your buggy rides? A. Yes, sir, and about his family and his own family, &c."

*Note.*—Now, it is a self-evident fact that if it took place on a buggy ride, it must have been a buggy ride in January, 1884, because witness says it was while Mrs. Dumont was very sick.

Now, I refer in this connection to testimony of witness, pages 281 and 292 to 296; to testimony of Theodore Dumont, pages 403 and 404, where he says that he did not ride with Mr. Treat once between his father's death and June, 1884.

"Q. Previous to June, 1884, and after your father's death, did he ride with you, and if so, how many times? A. Not once.

Q. When did he ride with you? A. Always every Sunday after he commenced riding in June, 1884.

Q. How do you fix the commencement of his rides as in June, 1884? A. Because I never missed a Sunday to take Mr. Chapman until we had our quarrel, and that took place the day after the freeholders' meeting here, the second meeting, which was in June, and the following Sunday Mr. Treat went riding with me."

Testimony of Mr. Chapman, pages 343 and 344.

"From the 1st of January, 1884, to the 1st of June, 1884, were there any times during that time that you

did not ride with Mr. Dumont? A. There was one Sunday, immediately after his father's death and burial, &c., I missed one Sunday; his mother was sick.

Q. With that exception, between the 1st of January and the 1st of June, did you ride with him every Sunday? A. I did, unless it might be one Sunday preceding the 1st of June."

Mrs. Treat (pages 699 and 700): Where the only Sunday that she remembers in 1884 was in January, when Mr. Treat, Mr. Chapman and Mr. Dumont went riding together; and if there had been any such conversation as Mr. Treat relates, Mr. Chapman would certainly have heard it.

Mr. Treat, on page 293, says: "I remember the time I went out with him the most was the time that Chapman's daughter was sick."

Mr. Chapman says on page 343 that his child was sick from the 1st of December to the 25th of December, *1883*, &c.

So that it is clear that Mr. Treat's testimony as to these conversations was false and unreliable.

All the other conversations were admittedly after the making of the will, and not worthy of consideration.

I desire to call attention to some few other instances, to show Mr. Treat's falsehoods (p. 250). Saw Mr. Chapman intoxicated.

(p. 345.) Denied by Mr. Chapman.

(p. 279.) That he first went down to a race course with Mr. Chapman and Mr. Dumont.

(p. 349.) Denied by Mr. Chapman.

(pp. 414 and 415.) Testimony of Theodore Dumont, confirmed by Philip Martin, pp. 312 to 314.

That Theodore told him that he had demanded $5,000 for his mother, when both Theodore and William say that $1,800 was what was talked about.

(p. 665.) That he first drove Theodore Dumont to

Newark before May, 1885, because there was snow on the ground, and he came around after him in a sleigh.

Denied by Theodore Dumont.

(pp. 698 and 699.) Denied by his own wife, Ida F. Treat.

(p. 323.) Mr. McConnell says that the first time that he played cards at Mrs. Dumont's house was May or June, 1884, and that the first time that Treat played there was about three months after May or June 1st, 1884, about September 1st, 1884.

(p. 663.) Mr. Treat says it was spring of 1885 that McConnell commenced to play there, and yet Treat could not remember when he himself began to play there in 1884. See pp. 256 to 258.

(pp. 633, 677 and 678.) That Dumont used to telephone for his boy from the barber's, more than four times a week—a great many times a week.

(pp. 716 and 727.) Denied by Edward Muhlenfelds.

(pp. 663, 664 and 678.) That Mr. Dumont ordered Mr. DeForest out of the house, and he told him he would go when he got ready.

(p. 679.) Swears that they then broke up and went away. That he did not stay two or three hours afterwards, and did not go to sleep on the lounge, and remain sleeping for two or three hours.

(pp. 722 to 724.) Denied by Mr. DeForest.

There is hardly a single statement of Mr. Treat that he would swear to positively, and when he did so swear we have shown in ever instance that it was false.

The manner in which he gave his testimony, and the reliance to be put on it, can be conclusively settled and gathered from his own testimony on pp. 678 and 679, where he says that he is swearing to the best of his knowledge and belief.

"Q. You swear now that Mr. Dumont ordered Mr.

DeForest out of the house? A. To the best of my knowledge and belief.

Q. I did not ask you that? A. I have not got to swear to anything else, have I?

Q. Yes, you have to swear to facts, if you remember them; if you do not remember, say so? A. To the best of my knowledge and belief.

Q. That is the way you are testifying, is it? A. Yes, sir," &c.

Three witnesses, Wilmot Chapman, Edward B. Kelly and Edward J. Muldony, swear that they would not believe him. That his reputation for truth and veracity is not good.

All of which the Court can see for itself, by comparing the testimony given by this much-sworn and remarkable witness. In fact, the larger part of the caveator's testimony is taken up in trying to show that this man Treat is not a liar. They certainly have not succeeded very well, for he shows that plainly by his own testimony.

Will the will of Mary B. Dumont be set aside, and her intentions and purposes in the disposition of her property, be prevented and frustrated, upon the testimony of such a witness as this, and such unreliable, loose and false statements of a man shown to be unworthy of credit and belief, and with strong enmity against one of the parties in whose favor the will is made?

Considering the testimony in general, it appears therefrom;

That Theodore was naturally of a quick temper, and excitable temperament; as he says himself, he was like his father. "It was like a flash of powder, and then it was all over."

(*Note.*--Is this to be imputed against him as a crime?)

That he detested trickery and meanness; and when he saw it he was outspoken in his condemnation of it.

That he was a fair friend and a fair enemy. He was not the kind to make believe one thing and say another. He said just what he thought and meant—and this whether favorable or unfavorable to himself. (You can see this by his testimony; in such instances as that he will never forget or forgive his brother for his conduct towards his mother.) He did not say one thing to a man's face, and another behind his back. That he was a gentleman by birth and life. That he was honest in his convictions, and did not dissemble. (You can see this from his testimony.)

That he had some failings. He swore he tells us how he acquired that habit, and his sorrow at it.

He drank; but Mr. Treat is the only one that says that he ever saw him under the influence of liquor; several others testify that they never saw him drunk.

That he played cards—whist—in a regular set, for shilling points; which is not an unusual thing.

That he attended horse races once in a while, generally on Saturday afternoons in the summer, and sometimes bet on the horses.

That with all his failings, and they could not be so very bad, he had been a very successful business man, acquired money, saved it, and occupied very important positions in some of the largest railroad companies in the country, and held such a position at the time he testified.

That he was always ready to lend a helping hand to a friend or relative. Brought his brother William on to Cincinnati and got him a position, and helped him. Paid the life insurance policy for Miss Sword's brother, when none of his near relatives seemed to be willing to help him.

Wrote to his brother William to come on and go into partnership with his father, and aided him by sending passes for him and his family. Helped Mr. Treat in many ways, pecuniarily and socially.

(p. 102.) Helped make up the $500 to be invested for Mamie Dumont.

Was of a kind and generous disposition, with scores of friends, and loved his mother truly and decidedly, and she loved him.

(p. 97.) Miss Swords says that Theodore and his mother were affectionate towards each other.

(pp. 324 and 325.) Mr. McConnell says that they were very affectionate towards each other,

"Q. You were present usually when Mr. Treat was at the house, present in the library with Mrs. Dumont, Mr. Theodore Dumont and Mr. Treat, were you? A. Yes, sir.

Q. Did you at those times, or any time, see anything in the conduct of Mr. Theodore Dumont, or Mrs. Dumont, that indicated that Mrs. Dumont had fear of, or was afraid of, Theodore Dumont? A. No, sir, she was affectionate to him.

Q. Her actions were affectionate towards him? A. Yes, sir.

Q. And what was his towards his mother? A. He was the most devoted son I ever saw."

*Note:* This witness was a frequent visitor at the house, and spent days and nights there; and Mr. Treat was only there once—to tea—in his life.

Mr. Chapman says (p. 346):

"Q. Did you ever see him in the presence of his mother? A. Yes, sir.

Q. How did he appear in the presence of his mother? A. His disposition towards his mother was one of consideration and affection, more like a small boy to his mother; his mother certainly was very affectionate to him.

Q. Did you ever see him in any condition in the presence of his mother which, in your opinion, led you to believe that his mother was afraid of him? A. No, sir, I did not."

That he was very sensitive of any action or conduct against his mother, or anything unfair towards her. This can be readily seen by his action in relation to the business and his conversation with William and Mr. Foote. He did not ask for anything out of the business for himself.

Look the testimony all over from commencement to end, and you will see that it was first, last and always, his *mother*.

The $1,800 was for her. He told his brother William, "I am not speaking for myself, I have enough without it, I am speaking for my mother."

He told Treat that he did not want any interest in the business for himself, all he wanted it for was for his mother (p. 239).

He did not talk with his mother about the matter afterwards because it was unpleasant to her. Told her that she was not overdrawing her income (when she was in fact), because he desired her to have everything she wanted (p. 102). He was uniformly kind to his mother. Helped her in every way that he could, and particularly after his father's death. Drew her checks for her. Made deposits for her. Brought things for her, and paid for them. Made her presents, and showed in many ways his true and honest affection for her. Admits that he is excitable, but never injured man or woman in his life (p. 416).

Now, is it presumable that a man like this, of his nature and with these qualities, would do anything to in any way influence his mother against his brother?

Is there a particle of evidence in the case that he talked against his brother to his mother, or tried to poison her mind against his brother? On the contrary, does not the evidence show just the opposite?

William came and visited his mother just the same after the father's death as before, and whenever he desired, usually Sundays. He was not interfered with

by Theodore or any other member of the family. He saw her nearly every Sunday alone. She loved William as much after the death of her husband as before, so far as the evidence shows.

Miss Swords says on pages 79 and 80:

"Q. Do you know whether or not Mr. William Dumont visited the house after his father's death? A. Yes, sir. Q. To see his mother? A. Yes, frequently," etc. "Q. Do you know whether or not they ever met in their mother's room? A. Not until she was very ill, when she was ill last winter and this winter. Q. Did they meet in their mother's room at that time? A. Several times," &c.

She had William in her mind when she made the will. Remembers him and one of his daughters, and makes him one of the executors of her will. She knew that Theodore and William were unpleasant friends, and that they did not speak, and she desired that they should be reconciled. Does this indicate any influence by Theodore against William? On the contrary, does it not indicate that she was entirely unaffected by anybody, so far as her affection for William was concerned; and that it was just as Theodore testifies, no further reference was made to the matter? Because if she were a woman susceptible to influence, and could have been affected by Theodore or his actions, and was in fact so affected as to influence her will, would she not have shown or indicated it in some way, in her intercourse with William? Would she not have treated him differently than before? (Does William say that she did?) There would certainly have been a coolness between them. She would not have seen him when he called; or she would not have been permitted to see him alone. William says that he went to see his mother nearly every day during the first months after his father's death (p. 200).

This is a very different condition of affairs from what

appears in the Dale Will Case, which will be readily seen by reference thereto.

The fact that the father said to William on his deathbed, that if anything happened &c., he left Mrs. Dumont in William's care, was commented on by the appellant, and a conclusion drawn therefrom—of the father's regard for and confidence in William instead of Theodore. And the fact that Mrs. Dumont, after her husband's death took her securities away from William is urged as a strong indication, that something was wrong with her, and that Theodore was the cause.

I submit that no such conclusions can be drawn from these circumstances, because Mrs. Dumont was capable of forming her own judgment about these matters, and since it appears from William H. Dumont's own testimony, that he had been overdrawing his accounts to the extent of $2,800, and that these overdrafts were from the bank account where his mother's money and income was deposited. (p. 179). And that his custody of mother's securities, was merely in behalf of his father, and as part of the firm's business (p. 187). And not from any special trust or confidence in him. And that Mrs. Dumont told Mr. Greves that Willie had not done right by his father in his lifetime, and that Mr. Dumont had often come home and told her—sometimes with tears in his eyes—that Willie was treating him badly in business; &c. (p. 62). Is it anything remarkable or strange that Mrs. Dumont thought it advisable to take charge of her own property, notwithstanding, what Mr. Dumont may have said when he was dying, and hardly responsible for what he did or said.

The testimony shows that Mrs. Dumont went herself, accompanied by Mr. Robbins, and met William at the Equitable Building in New York, and took her securities &c., and placed them in a Safe Deposit Company in a safe of her own, the key of which she took, and kept in her custody. (See page 148 and page——.)

What she did was on her own responsibility. It was her own property, and what she did with it was at her own risk, and for her convenience; because it would have been extremely inconvenient and almost impossible for Mrs. Dumont to be compelled to go or send to William, living at Madison, every time she wanted to pay a bill or have a check drawn, and which Theodore or Mr. Robbins—who were living in the same house, could easily do for her, whenever she desired it—provided she had her securities &c., under her own control, and kept her own bank account, and the fact is, that Theodore afterwards (as he testifies) kept her bank account, and drew her checks for her.

Say what you may—a man who regularly overdrew his bank account, as William did, under the circumstances shown in this case, was hardly a person to entrust with one's securities and affairs.

An attempt has been made to prejudice the minds of the Court, by injecting into the case by the testimony of Mr. William Dumont a most cowardly, scandalous and outrageous statement in relation to Mr. Theodore Dumont, and it will be found on pages 223 and 224. It was entirely uncalled for, and was clearly incompetent, and will no doubt be so regarded by the Court. If it were true (which is not the case), it must have happened, according to William H. Dumont's testimony, about twenty-five years ago, when Theodore was a boy about twenty years of age; and, if it were true, what he might have been then, can not affect his character now. Men are not judged by what they were when they were boys, but by what they are as men.

But it was wholly untrue, and Mr. William H. Dumont knew it at the time he stated it, and if he had the least respect for his mother and family, or for himself, he would never have put such a statement as that upon the record, whether true or not.

The answer to it is, that his, William's former wife,

and the mother of his daughters, during her life visited this very woman, whom he characterizes as the mistress of Theodore Dumont. Reference is here made to page 216, where he states that he visited Mr. Theodore's wife in New Haven, out of curiosity—that he heard that Theodore was married to another woman, and he wanted to find out whether it was true or not; that the difference it made to him was because he denied it.

"Q. Denied what? A. That he would bring in such a woman in the family as he married.

Q. You didn't know her? A. No; but I knew her mother.

Q. Did your wife call on her mother? A. Not this wife, my other wife called on her mother."

And that his present wife is received and visited by all the family excepting William H. Dumont. Mrs. Sarah R. Dumont says on page 311:

"Q. Have you called upon Mr. Theodore Dumont or his family since you moved to Brooklyn? A. I have."

The matter was so scandalous and improbable in itself that Mr. Theodore Dumont refused to be questioned in relation to the same by the counsel for the proponents.

It appears conclusively from the testimony, and must not be overlooked, that Mrs. Dumont was not a feeble minded, sick or helpless woman. After she recovered from her cold and the natural depression incident to her husband's death, she was in general good health, with a clear mind, and intelligent. She was a woman of strong prejudices and strong attachments for her friends and family—as appears conclusively from the testimony.

She was a woman who weighed things herself and made up her own mind; and she was a very fair and just woman, tender hearted and kind. These facts are admitted in all the testimony.

It follows from these that she was not a woman who would or could be readily influenced by anybody.

She was advised by Theodore and Mr. Foote almost immediately after her husband's death, when she would be the most affected, if at all, by Theodore's feeling towards William, to have William's books examined. Did she do it? *No, she and she alone decided that matter. She said, No, I don't want ang trouble about it.* Mr. Foote came to see her and offered to go and examine the books himself, and he suggested their examination. Was she influenced thereby? Mr. John L. Dumont in 1885, advised her to have the books examined, and she said, no; she would not have anything of the kind, &c., page 306. Did she not decide the matter and refuse to have them examined, and the books never were examined?

In the conversation with William after her husband's death did she not say what she wanted? (See William's testimony on this point, pages 201 to 203). Is there any evidence that Theodore *ever told her anything about demanding that William should put it down and sign it*? She knew what she wanted, yes, and she knew Mr. William Dumont better than anybody else will ever know him. She insisted upon her rights. William says that their ideas were different in the matter, and she, no doubt, felt very much dissatisfied and indignant over his conduct. (See testimony of John L. Dumont, p. 305, and Sarah A. Dumont, pp. 309 and 310). *She weighed him in the balance at that time and found him wanting*, and that was probably one of the causes for her action. She was a just woman; and notice her conduct afterwards towards him. She treated him as her son, affectionately and considerately, but with her own ideas as to his conduct in relation to herself and the father's business. She was kind, but just. Theodore Dumont told the truth when he said to Treat that he (William) was a fool.

Her will was a reasonable will. If anything, William was treated better than he deserved under all the cir-

cumstances. She may have been prejudiced against him, by his actions to his father, and subsequently to her; and so may Theodore, and, we may believe, expressed his prejudice and swore at him, and called him names, and said what he thought about him; but that is no fraud or undue influence. We refer in this connection to the cases already cited.

This loving, kind and just mother, with all these transactions before her, with all the past actions of the children in her mind, possessed of all the facts, and with $40,000 worth of property to dispose of, comes now to make a final disposition of it. She has considered the whole matter; desires to do justice between her children, and to so dispose of the fund in her hands as to carry that desire into effect. And did she not do justice to all? Aye, and more than justice to William H. Dumont, under all the circumstances?

William had the business, and whether worth $10,000 or $10,000 per year, or $6,000 per year, he was very fortunate. It was a business even with $6,000 per year that was not picked up every day. No capital required; a good reputation grown up by years of attention to business by his father, and with a clear value in it that he had the benefit of without its costing him one cent. He was assured of an income of from $6,000 to $12,000 a year, the one-half of which belonged to his father in his lifetime, and represented a capital of from $50,000 to $100,000. Was it not proper under these circumstances that Mrs. Dumont should consider this in making her will, and having considered it so, and made it as she thought just and fair, who can call her to account and undo it and say you should have made a different will?

All the rest of the testimony not already adverted to bears upon the period after the making of the will. The most of it is immaterial, and has no bearing whatever upon the case, as the Court will see upon an examination of the same, and which we have neither the

time nor inclination to consider in extenso. We desire, however, to present one or two very important facts subsequent to the making of the will, the first found in Miss Swords' testimony, on pages 101, 105, 111 and 112.

The second found in that of Mr. Theodore Dumont, on pages 432 to 435, and pages 644 and 645; and exhibits X, Y and Z.

This we claim is a positive confirmation of the will, and shows the condition of mind of Mrs. Dumont, and conclusively that she was under the influence of no person or persons whatever. She ratified by this paper writing, made in her own handwriting over two years after the will, her said will and all its provisions.

We refer also to the testimony of John L. Dumont, on pages 304, &c. And next to the fact that the mother was anxious and tried to have a reconciliation between Theodore and William, which Theodore refused notwithstanding the fact that his mother desired it.

It is claimed that the will should be set aside on account of undue influence on the part of Theodore,—but what about the bequest to Mamie Dumont (William's daughter), and the device and bequest to Mrs. Robbins? There is no attempt to show any undue influence on their part. What have they done that they should not receive all that testatrix gave them? And why should the intention of testatrix as to them be frustrated by setting aside this will?

But what ground has the caveator got for setting aside the will on the merits of the case. It will benefit him, at the expense of his own daughter.

Assuming that the property amounted to $47,000 at the death of Mrs. Dumont,—

| | |
|---|---|
| William says he transferred in securities and cash to her | $37,000 |
| The real estate is estimated at about | 10,000 |
| Total | $47,000 |

And assuming that all this belonged to Mrs. Dumont:

| | |
|---|---|
| If the will is set aside he will receive one-quarter of this amount, or | $11,750 |
| He gets now | $1,000 |
| His daughter | 6,000 |
| | $7,000 |
| Making a difference to him if the will is sustained of | $4,750 |

But he overdrew his account, and as we claim out of his mother's money, to the extent of $2,800, which he should be charged with, and then you will have a difference of only $1,950, unless he is to have $2,800, in addition to his full share in the estate.

But you will then give Bertie Foote, independently wealthy, and fully satisfied with the will $11,750, which the testatrix intended for her daughter, and son Theodore.

It may be claimed that the effect of setting aside this will will be to revive the former will of Mrs. Dumont, made in 1881. That certainly could not have been the intention of testatrix, because whether you take William's or Theodore's statement as to the contents of that will, the reasons for, and circumstances connected with it had entirely changed between 1881, and 1884. Mr. Robert Dumont, the father, had died, and Mrs. Robbins had married, and the last will was made with all of these facts before her.

In the face of all these things, it should require very strong grounds for the Court to make for this testatrix a disposition of her property entirely different from what she has herself made.

We claim therefore, upon a review of all the testimony in this case (much of which, however, is foreign to the case, and entirely irrelevant touching the probate of

the will), that under all the circumstances of the case, and the law of the land, this will is entitled to probate as having been executed by, and being the last will and testament of, a person competent, of sound and disposing mind, in due form of law, in the full exercise of her faculties, with free will, and without fraud or undue influence, and that the decrees of the Orphans' Court and of the Probative Court should be affirmed.

Abel J. Smith.
Counsel &c

Ward & Tichenor, Law Case Printers, 832 and 834 Broad street, Newark, N. J.

# New Jersey Prerogative Court.

WILLIAM H. DUMONT,
*Appellant,*
*and*
THEODORE S. DUMONT, *et al.*,
*Respondents.*

*On Appeal.*

*Opinion.*

1. The party alleging undue influence must prove it, either directly or by establishing such circumstances as will warrant a presumption against the instrument, which in the absence of the affirmative evidence, showing that the paper was the spontaneous act of the testator, must control as a conclusion of fact.

2. The mere fact that a favored legatee and devisee openly denounces one who is discriminated against, to a testatrix who is well in body and strong in mind, and surrounded by friends, and within reach of the protection of the very man who is denounced, is not sufficient proof to create a presumption against the instrument.

3. It is as much the duty of courts to uphold the right of the owner of the property to dispose of it by will, according to his pleasure, as it is to see that he is not imposed upon in the exercise of that right.

4. It is only upon allegations of fraud that the courts will inquire into the reasons for changes and inequalities in testamentary dispositions, and then they will consider them merely in connection with, and as corroborative of, proofs which tend to show that they were not the voluntary act of the person who made them.

5. *Held*, under the circumstances of this case, that the will in question was not the product of undue influence.

New Jersey State Library

On appeal from a decree of the Union county Orphans' Court, admitting to probate the will of Mary D. Dumont.

Mr. C. W. Riker, for the appellant.

Mr. Cranstoun and Mr. Abel I. Smith, for the respondents.

The Ordinary:

Mary D. Dumont, the widow of Robert Dumont, executed the paper in dispute as her last will and testament, at her residence in Summit, in Union county, in this State, on the 11th day of April, 1884. She was then about seventy-three years of age. Her husband had died on the 4th day of the preceding January, at the age of seventy-eight years. After the execution of this paper, she lived in the full enjoyment of her faculties for two years and eight months, dying of heart failure on December 9, 1886.

At the time the will was made, and at her death, her next of kin were her two sons, William H. and Theodore S. Dumont, her daughter, Henrietta S., the wife of Charles A. Robbins, and her grandson, Robert Foote, who was the son of a deceased daughter.

Robert Dumont, the husband of the testatrix, was a custom house broker in New York city. He started in business there in 1850, in partnership with one Schuyler, under the firm name Schuyler & Dumont. When Mr. Schuyler died, he took his son Robert in partnership with him, under the firm name of Robert Dumont & Son. In 1872, the son Robert's health had become impaired to such an extent that it became necessary to send for William H. Dumont, who was then a clerk in Cincinnati, and make him an assistant of the firm. In 1873, the junior Robert died, and William became his father's partner in his brother's stead, under an agreement by which he was to have twenty-five per

cent. of the profits of the firm. This arrangement continued until 1880, when William shared the profits equally with his father. After that time, although the father attended daily at the office of the firm, because of his advancing age, the brunt of the work devolved upon William. William proved to be an efficient manager, and under him the business became more profitable than it had ever been before. During the last year of the father's life, 1883, the profits amounted to more than $11,000. The business was of a character that required no capital. The long continuance of the firm had given it a reputation and standing that brought to it a valuable and substantial patronage. The junior Robert's estate, made in it, amounting to about $15,000, was bequeathed to his mother, and the father's savings also went to the same person. The moneys from these sources, together with a small inheritance and some profits from investments, made up the estate which the instrument now assailed seeks to dispose of. From 1872 to 1879, William lived with his mother and father. His wife died before 1872, leaving him with two daughters. One of these daughters, Elizabeth, resided with him at his father's home, and the other, Mary, was sent away to school. In 1879 he married again, and then provided a home for himself and his family at Madison, New Jersey.

Theodore Dumont left his father's house when he was a boy, and, after living at various places for many years, in 1880 returned home to live, and from that time resided with his father and mother until they both died. During the time he resided with them he was engaged in profitable business in New York as a railroad agent. He was then married, but was childless and separated from his wife.

Henrietta Dumont married Charles A. Robbins in 1883. Robbins was then a clerk in Theodore Dumont's office, and he yet remains in that employment. After Henrietta's marriage she and her hus-

band boarded with her father and mother until both the father and mother died.

The grandson, Robert Foote, resided with his father in Morristown. His mother, who was a daughter of the testatrix, died in 1865. Mr. Foote is a man of wealth, and has already made his son independent. The means and future expectations of Robert Foote during his grandmother's life were such that he did not expect, and was not expected, to share in her estate.

The fair value of Mrs. Dumont's property is about $45,000.

The disputed will makes this disposition of it:

*First.* It directs that the debts and funeral expenses be paid.

*Second.* It bequeaths all household furniture, pictures, silver and plated ware, wearing apparel, jewelry and books to the daughter, Henrietta.

*Third.* It bequeaths $5,000 to the executors in trust to pay the income to Elizabeth, William's daughter, until her father shall die or she shall marry, and upon the happening of either of those events, to pay to her the principal. If she shall die before she takes the principal, her sister, Mary, is to be substituted for her as *cestui que trust*, and take the income until she marries or her father dies, and then the principal.

*Fourth.* It bequeaths $1,000 to the son William, adding to that bequest this language:

> "I thus give to my said son William, a sum estimated to be less than that given to my other children, for the reason that he succeeded to the business built up in part by my late husband, in the city of New York, which was a valuable business, and in the good will of which my other children have had no share."

*Fifth.* The residue of the estate is divided equally between the son Theodore and the daughter Henrietta.

*Sixth.* The sons, Theodore and William, and the

son-in-law, Charles A. Robbins, are made executors, with power to sell real estate.

The admission of this paper to probate is resisted by William H. Dumont, on the grounds that the will was not properly executed and his mother was unduly influenced to make it. The Orphans' Court, by its decree, determined that the will should be admitted to probate, and from that part of the decree this appeal is taken.

It appears, beyond dispute, that the paper was properly executed as a will. Both of the subscribing witnesses were examined, and testified to a full compliance with all the statute's requirements.

The real contention has been over the question, whether the will was the product of undue influence.

The evidence discloses that immediately after the death of Robert Dumont, and before his burial, Theodore Dumont, conceiving that his brother William should make some compensation for the father's business to which he was about to succeed, asked him what income he proposed to allow their mother from the business, and that, after some conversation, William, appearing to acquiesce in the reasonableness of the demand, suggested that the allowance would be $150 a month as long as the mother lived. This was satisfactory to Theodore, and he assured his brother that he and their sister would release all interest they had in the business.

After the father's funeral William wrote to Theodore that he did not recognize Theodore's right to speak for their mother; that the arrangement that had been made would not be carried out, and that he would treat directly with the mother with reference to her affairs. Shortly after this letter was written the brothers met on a ferry-boat, and there had an angry discussion about William's duty to pay his mother an annuity from the business, and parted in enmity. Theodore subsequently narrated to his

mother all that had transpired at these interviews with William.

In the latter part of January, William also spoke to his mother about them, and then denied her legal right to any interest in his business, but at the same time assured her that if her income should not be sufficient to support her, he would make up any deficiency. His mother at once declared that his offer was not satisfactory, and insisted that in justice a certain income from the business should be paid to her.

After this interview with William, Mrs. Dumont appears to have consulted with her son-in-law, the father of Robert Foote, who advised that William was not legally bound to pay anything for the business to which he succeeded, but that he must account for past profits. Mr. Foote offered to examine the firm books, to ascertain the state of the accounts. Mrs. Dumont, however, refused to allow such examination to be made, because it would seem to question William's integrity. Though she considered the question of her legal right to compensation for her husband's business as settled by Mr. Foote's advice, she appears, nevertheless, to have persisted in the belief that William was at least under moral obligation to make such compensation.

She, then, was undoubtedly possessed of a clear mind and strong will.

After the quarrel on the ferry-boat the brothers did not speak to each other. Theodore continued to reside with his mother, and William frequently visited her. To each son she exhibited the same motherly affection, though she took her securities from William and put them in a safe deposit vault, and to a considerable extent entrusted the collection of her income to Theodore. The sons, upon their part, both exhibited affection for the mother.

Mrs. Dumont made three wills. One in 1871, another in 1881, and the paper in dispute, and it is

a significant circumstance that in each of them there was inequality of distribution, induced by that which appeared to her to be just. When the will of 1871 was made, her son Robert, though living, anticipated speedy death from an incurable disease; her daughter was unmarried and dependent upon her; young Foote was rich, and her two sons were able to earn their own livelihood. She then gave one-half her estate to her daughter, and one-fourth of it to each of her sons, William and Theodore.

When the will of 1881 was made, the son Robert had died, her husband had grown old, her estate was larger, her daughter was unmarried, and it had become doubtful whether she would marry, and her sons were each successful in business. She then provided that her husband should have her property for his life, and that at his death her daughter should have her household furniture and the income of the residue of the estate for life, or until she should marry, and upon the daughter's marriage the residue of the estate was disposed of for the equal benefit of the daughter and sons.

Each will exhibits internal evidence of full consideration of the elements that characterize testamentary capacity, and tends to prove a sound and disposing mind.

The paper in dispute is in character similar to the wills which preceded it. When it was made the husband was dead, the daughter had married, young Foote was independently rich, and William had succeeded to a lucrative business that his father had been building up for many years, without paying for it. That business had supported the testatrix and her family for all those years, and the bulk of the estate that she had to dispose of came from it.

From her standpoint the will was not inequitable.

But it was urged that the will was the product of Theodore's undue influence. No direct evidence of his exercise of such influence is produced. It is

claimed, however, that the proofs establish that he was constantly with his mother; that he controlled her business; that he was so violent in his temper that she feared him; that he boasted of his influence over her, and that he would have her make a will which would discriminate against his brother; that he hated his brother; that he sent his own lawyer from New York to Summit to draw her will, with instructions as to the provisions it was to contain; that he paid the lawyer for his services; that he procured a physician as a witness to the will, and afterwards boasted that the physician's presence would preclude a contest touching his mother's capacity.

In *Den, Trumbull, et al.* v. *Gibbons, 2 Zab. 117, 136*, Chief Justice GREEN charged the jury in the following language: "The influence of affection, of kind offices, even of persuasion, does not invalidate a will, otherwise the very motive of the testator's benevolence would make void the gift. The influence which the law denounces as undue influence over a testator must be such as to destroy his free agency, and amount to moral and physical coercion; it must be proved, moreover, that the act done was the result of such coercion; there must be a control exercised over the mind of the testator, or an importunity practiced which he could not resist, or to which he yielded for the sake of peace."

In *Haydock* v. *Haydock, 6 Stew. Eq. 494, 496; affirmed on appeal, 7 Stew. Eq. 570*, Vice-Chancellor VAN FLEET said that no definition of that which the law denominates undue influence can be given which will furnish a safe and reliable test for every case. He adds: "All that can be said in the way of formulating a general rule on this subject is, that whatever destroys free agency and constrains the person, whose act is brought in judgment, to do what is against his will, and what he would not have done if left to himself, is undue influence, whether the control be exercised by physical force,

threats, importunity, or any other species of mental or physical coercion. The extent or degree of the influence is quite immaterial, for the test always is, was the influence, whether slight or powerful, sufficient to destroy free agency, so that the act put in judgment was the result of the domination of the mind of another rather than the expression of the will and mind of the actor."

The party alleging undue influence must prove it, either directly or by establishing such circumstances as will warrant a presumption against the instrument, which in the absence of affirmative evidence, showing that the paper was the spontaneous act of the testator, must control as a conclusion of fact. *Earle* v. *Norfolk*, *9 Stew. Eq. 188*, *192*; *Rusling* v. *Rusling*, *9 Stew. Eq. 603*; *Dale* v. *Dale*, *11 Stew. Eq. 274*; *Waddington* v. *Buzby*, *16 Stew. Eq. 154*; *Brick* v. *Brick*, *16 Stew. Eq. 167*; *Wheeler* v. *Whipple*, *17 Stew. Eq. 141*.

It is claimed that the circumstances above referred to are established by the proofs, and that they justify the rejection of the paper in dispute.

I do not think that the proofs warrant me in finding the facts to be as they are insisted upon.

It has been clearly shown that Theodore lived with his mother, and that he was much in her society; also, that he continually assisted her in managing her business affairs. When he collected her income he deposited it with bankers in New York, from whom she drew it by check at her pleasure. The mother did not know the amount of her income. If she questioned as to her ability to make an expenditure, Theodore uniformly told her not to stint herself, to buy whatever she wished, and he so managed that her bank account was inexhaustible by her wants. He was profane, but rarely ever uttered an oath in her presence. When he entered or left the house he would kiss her. In the evening he would sit with her and read to her.

The case abounds in proof of his solicitous and tender devotion to her.

The only suggestion of her possible fear of him is, that she desired him to be consulted before guests were invited to the house, and sought to keep from him annoyances that would excite him.

That he had a violent temper cannot be doubted, but that his mother stood in fear of him is not satisfactorily shown. Her deference to him, and her anxiety that he should not be annoyed, may be attributed to love as well as to fear.

It is abundantly proved that he was angry with his brother. He does not hesitate to admit it. Whether he was right or wrong in his conclusion, he seems to have been firmly convinced that William should have made some compensation for the business to which he succeeded. Hot words had passed between him and William, and they evidently rankled in his mind, yet the facts that he was content that his brother's daughter, Elizabeth, should have a considerable legacy, and that he assisted his mother to make up a deposit of $500 in a savings bank for another of the brother's children, indicate that he was not disposed to be unjustly vindictive. His desire seemed to be to compel William to do that which he considered fair. He made no attempt to exclude him from his mother's society. William constantly visited his mother, and had private interviews with her. The mother frankly told him what she considered his duty to be, and thus gave him full opportunity to disabuse her mind of any misapprehensions or prejudice that she might have. If she was under Theodore's coercion he could see it, and had ample opportunity to afford her a refuge from it. He himself tells of the interview with his mother where she demanded an annuity, and he denied her legal right to it, and offered to make up any deficiency in her income, and where she rejected his offer, stigmatizing it as a tender of charity. The denial of her legal right,

and the making such an offer, evidently did not weaken her belief in the justness of her position, and her indignant rejection of the offer, in a private interview with him, was not the act of one who was under coercion.

The will was drawn by James S. Greves, a member of the New York bar of some twenty years' standing. He had lived at Summit, and had some acquaintance with the Dumont family. Theodore employed him in two matters of his own, and upon an occasion when he was in Theodore's office told him that Mrs. Dumont desired him to draw her will. Mr. Greves asked what disposition Mrs. Dumont would make of her property, and he replied that she would make some bequests, among them one giving William's daughter $5,000, and then divide the residue of the estate between himself and his sister. The witness says that this information was general, and that nothing derogatory to William was said. He states that he then told Theodore that he expected to go to Summit soon and would stop and see Mrs. Dumont, and that he did not then know of the differences that existed between the brothers. A few days later he went to Summit and called upon Mrs. Dumont. Mrs. Dumont asked if Theodore had told him what provision she desired to make of her property, and he answered that he had been told only in a general way, and then Mrs. Dumont proceeded to instruct him. In course of this instruction she said: "As to Willie, I hardly know what I ought to give him; I do not know whether $1,000 would be enough. What do you think?" The witness said that he could not advise her, that he did not know the amount of her estate. She then said that her property was worth about $40,000, and added (using the language of the witness):

> "Willie did not do right by his father in his lifetime, and Mr. Dumont has often come home and told me, sometimes with tears in his eyes,

that Willie was treating him badly in his business; that he was constantly drawing from the business more than his agreed share of the profits, both when he had a third interest and when he had half interest, and that he had never accounted in any way for the value of the business which her husband had built up during his long years of attendance to it, and the other children had received no share of it, and she had received no share of it, and she deemed that Willie had received a full share already, and $1,000 is enough; give him $1,000."

She then expressed a desire to explain her reasons for discriminating against William, and the witness prepared the explanation that appears in the will and had been already quoted, first writing it upon a piece of paper and submitting it to her for approval, and then copying it in the will. This witness also testifies that Mrs. Dumont said that her husband's business was well worth $10,000 a year to William. His recollection is, that when the document was finished he asked who would be the other witness to it, and Mrs. Dumont answered that Dr. Risk would soon be in and that he would act.

Dr. Risk is a physician who had then been thirteen years in practice in Summit. At that time he was in daily attendance upon Mrs. Robbins, whose child was less than two weeks old. The doctor testifies that as he came from Mrs. Robbins' room, after his usual visit, he was called into the library to witness the will. He says that he did not come to the house by special appointment, or at any designated time, and did not know that Mr. Greves was in the house till he was called into the library. He had no conversation with Mrs. Dumont. She appeared to him to be perfectly calm and collected, showing no trace of excitement. He says that he knew her to be well and of clear mind, because,

about that time, in his calls upon her daughter, he saw her constantly.

Both these gentlemen appear to be witnesses of the highest character. Neither is impeached or contradicted. Both speak frankly and apparently truthfully. I see no reason why their testimony should be doubted.

Theodore swears that he had only one conversation with his mother upon the subject of making her will, and he states that conversation, and the circumstances surrounding it, as follows:

> "One evening, in the library, mother and I were sitting there alone, as was our usual custom; the conversation turned on Bessie, William's daughter; she was away at school, in a convent at Montreal; she made the remark, 'After I am gone I am afraid Bessie will have a hard time of it; she will have no friend but you (meaning me); she is as dear to me as one of my own children, and I think I shall do something for her;' I said, 'In what way, Mammy?' she replied, 'I think I ought to make a new will, and provide something for Bessie;' I said, 'That would not be a bad idea;' she said, 'How much do you think I ought to give her?' I said, 'In my will I have given her $5,000; you can do as you please;' she then said, 'In getting the business, I think Willie has had his full share, and I think the most of what I have should go to Nettie and you; will you have a new will drawn?' I said, 'No, Mammy, I will have nothing to do with your will whatever; this property is all yours, to do with as you please; you can spend it, give it away or burn it up, and I think if you go to make a will it would not be right or proper for you to counsel or advise with me or any one else; you should be governed entirely by what your heart and judgment dictates;' I then said, 'I met Sanford Greves on the train the other night,

and I think he is staying here at his aunt's—you know him—and the next time I meet him I will tell him that you want to see him in regard to drawing your will;' she said, 'Very well.'"

He says that this was the entire and only conversation he had with his mother upon the subject of her will until after the paper in dispute was made and executed. The first night he was at home after the will was drawn, he states an interview between himself and his mother as follows:

"After we had gone into the library, as usual, she took her seat; I was sitting there; finally she took a paper out of her pocket and, I think, she said, 'Sanford Greves'—she may have said 'Mr. Greves,' but I think she said 'Sanford Greves'—'has been here to-day, and I have made a new will; I wish you would take it to New York with you in the morning and lock it in your safe until I come to town, when I will put it into my own;' the will, if I remember correctly, was not in an envelope; I said, 'Well, I suppose I had better put it into an envelope and seal it up?' she said, 'Yes.' I said, 'Shall I read it?' she said, 'If you care to;' I read it and said I would attend to it, and put it in my pocket."

He adds that he subsequently took it to New York and locked it up in his safe in the vaults of the Safe Deposit Company, where it remained until his mother visited New York and transferred it to her own safe, and there it was found by him and Mr. Robbins after his mother's death.

The testimony that Theodore boasted of his influence over his mother, that he would procure her to make a will, and that the presence of the physician as a witness would determine the question as to capacity, comes from one who was once Theodore's firm friend, but has quarreled with him and become his enemy. In many particulars the statements of

this witness are inherently improbable. He is contradicted by Theodore, and, on some points, by others. I do not think that I am justified in relying upon his unsupported statements as to the declarations that Theodore made, in face of Theodore's complete denial of them.

I think that the case proved is fairly resolved to this state of facts: Mrs. Dumont was in the full enjoyment of her mental power and possessed of considerable strength of will. Theodore was greatly incensed at what he thought to be his brother's injustice, and he did not hesitate to denounce it to his mother. Mrs. Dumont shared his sentiments, possibly being influenced to some extent by his denunciations of William's conduct. His constant companionship with her, his uniform affection, and his many kind offices, undoubtedly added weight to his opinions. After the will was made Mrs. Dumont lived nearly two years, and during that time constantly had private interviews with William, yet never intimated to him that she desired to change her will.

The mere fact that a favored legatee and devisee denounces one who is discriminated against, to a testatrix who is well in body and strong in mind, and surrounded by friends, and within reach of the protection of the very man who is denounced, is not sufficient proof to create a presumption against the instrument. The other circumstances insisted upon are not sustained by the proofs. That Theodore Dumont may have desired his mother to make her will as she made it, and had opportunity to urge that desire, will not establish undue influence. *Turnure* v. *Turnure*, *8 Stew. Eq. 437; S. C. on appeal, 10 Stew. Eq. 629.*

Mrs. Dumont forcibly made known to the appellant, in a private interview, the conviction that led to the discrimination against him, and subsequently reiterated it in her will. It is not for this Court to inquire into the justness of her position. It is as

much the duty of courts to uphold the right of the owner of property to dispose of it by will, according to his pleasure, as it is to see that he is not imposed upon in the exercise of that right. *Intermute* v. *Wilson*, *1 Stew. Eq. 437*; *Kitchel* v. *Beach*, *8 Stew. Eq. 458*. It is only upon allegations of fraud that the courts will inquire into the reasons for changes and inequalities in testamentary disposition, and then they will consider them merely in connection with, and as corroborative of, proofs which tend to show that they were not the voluntary act of the person who made them. *Dale* v. *Dale*, *supra*.

The decree of the Orphans' Court will be affirmed.

# New Jersey Prerogative Court.

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| WILLIAM H. DUMONT *et al.*, *Appellants*, and THEODORE S. DUMONT *et al.*, *Respondents.* | *On Appeal from Union County Orphans' Court. In the matter, &c., admitting the will of Mary B. Dumont to probate.* |

This cause coming on to be heard before the Honorable ALEXANDER T. MCGILL, Ordinary of the State of New Jersey, in the presence of RIKER & RIKER, proctors, and CHANDLER W. RIKER, of counsel with caveators, and WILLIAM CRANSTOUN, proctor, and ABEL I. SMITH, of counsel with respondents; and it being suggested to the Court that since the making of the decree in the said Orphans' Court, the said Theodore S. Dumont has become mentally deranged and incapable of taking care of himself or his property, and is confined in the Bloomingdale Asylum of the city of New York, the Court did thereupon appoint the said Abel I. Smith as guardian, *ad litem*, for the said Theodore S. Dumont, for the purposes of this suit; and the said paper writing purporting to be the last will and testament of Mary B. Dumont, and the testimony taken thereon, and the decree of the Orphans' Court admitting the same to probate having been read, and the arguments of counsel having

been heard, and the Court having considered the same; and it appearing to the satisfaction of the Court that the said paper writing was properly executed, and was genuine and valid, and that the said Mary B. Dumont, at the time of executing the same, was in all respects competent to execute the same, and was not under restraint or undue influence, and no cause appearing to the contrary—

It is thereupon, on this nineteenth day of May, in the year of our Lord one thousand eight hundred and ninety, as of the twenty-sixth day of April, one thousand eight hundred and eighty-nine, by his Honor, ALEXANDER T. McGILL, Ordinary of the State of New Jersey, on motion of counsel for respondents, ordered, adjudged and decreed that the said decree of the Orphans' Court of the county of Union, dated the thirty-first day of May, eighteen hundred and eighty-eight, admitting the said will to probate, so far as the same has been appealed from, be, and the same hereby is in all things affirmed.

And it is further ordered that an allowance and counsel fee of seven hundred dollars be made to the proctor and counsel for respondents; and that an allowance and counsel fee of six hundred and fifty dollars be made to the proctors and counsel for appellants, the same to include their costs and disbursements, which said allowances shall be paid out of the estate of Mary B. Dumont.

ALEX. T. McGILL.

# New Jersey Prerogative Court.

IN THE MATTER OF THE PROBATE OF A PAPER PURPORTING TO BE THE LAST WILL AND TESTAMENT OF MARY B. DUMONT, DECEASED.

William H. Dumont, one of the children and next of kin of Mary B. Dumont, deceased, hereby appeals from the decree of the Prerogative Court made in the above matter, decreeing that a certain paper writing offered for probate to this Court, and purporting to be the last will and testament of Mary B. Dumont, deceased, was properly executed and was genuine and valid; that the said Mary B. Dumont, at the time of executing said instrument, was in all respects competent to execute the same, and was not under restraint or undue influence, and that said instrument be admitted to probate and that letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in the will.

To the Court of Errors and Appeals in the last resort.

Dated August 19, 1890.

RIKER & RIKER,
*Solicitors for and of Counsel with the Appellant, William H. Dumont.*

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

CHANDLER W. RIKER,
*Of Counsel.*

# New Jersey Prerogative Court.

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| In the matter of the paper purporting to be the last will and testament of Mary B. Dumont, deceased. | ) |

Service of a certified copy of the notice of appeal in the above entitled cause is acknowledged for proponents of the will, subject to claim on part of said proponents that no right of appeal exists.

Dated September 2, 1890.

WILLIAM CRANSTOUN,
*Proctor for Proponents.*

# N. J. Court of Errors & Appeals.

IN THE MATTER OF THE PROBATE OF A PAPER PURPORTING TO BE THE LAST WILL AND TESTAMENT OF MARY B. DUMONT, DECEASED.

*To the Court of Errors and Appeals in the last resort in all causes:*

The humble petition of William H. Dumont, the appellant in the above stated cause, respectfully shows that your petitioner finds himself aggrieved by a final decree made in the Prerogative Court, by his Honor, ALEXANDER T. MCGILL, Ordinary, bearing date the nineteenth day of May, eighteen hundred and ninety, decreeing that a certain paper writing offered for probate to the Prerogative Court, purporting to be the last will and testament of Mary B. Dumont, deceased, was properly executed and was genuine and valid; that the said Mary B. Dumont, at the time of executing said instrument, was in all respects competent to execute the same, and was not under restraint or undue influence, and that said instrument be admitted to probate, and that letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in said will; that said Prerogative Court further fixed certain allowances and counsel fees to the counsel of proponents and the caveator.

And your petitioner humbly appeals from the parts of the decree of the Ordinary which decrees as aforesaid, upon the ground that the same is erroneous, for that the instrument in writing, pur-

porting to be the last will and testament of Mary B. Dumont, deceased, and offered for probate by the proponents, was not properly executed and is not genuine and valid; that the said Mary B. Dumont at the time of executing said instrument was not in all respects competent to execute the same, and was under restraint or undue influence, and that said instrument should not be admitted to probate, nor should letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in said will.

Your petitioner, therefore, prays that the said decree of the Ordinary may be in the particulars aforesaid reversed, set aside and for nothing holden; that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

RIKER & RIKER,
*Solicitors for and of Counsel with the Appellant.*

STATE OF NEW JERSEY, COUNTY OF ESSEX. } *ss:*

William H. Dumont, the above named appellant, being duly sworn, on his oath says that he knows the contents of said petition, and that the matters therein set out are true, so far as they relate to his own acts, and so far as they relate to the acts of others he believes them to be true.

Sworn to and subscribed before me, this 6th day of Oct., A.D. 1890, } WM. H. DUMONT.

[L. S] ALFRED JARETZKI,
*Notary Public, City and County of New York.*

# N. J. Court of Errors & Appeals.

IN THE MATTER OF THE PROBATE OF A PAPER PURPORTING TO BE THE LAST WILL AND TESTAMENT OF MARY B. DUMONT, DECEASED.

Service of a certified copy of the petition of appeal in the above entitled cause is acknowledged for proponents of the will, subject to claim on part of said proponents that no right of appeal exists.

Dated October 13th, 1890.

WILLIAM CRANSTOUN,
*Proctor for Proponents.*

# N. J. Court of Errors & Appeals.

*Between*
WILLIAM H. DUMONT,
*Appellant,*
*and*
THEODORE S. DUMONT *et al.*,
*Appellees.*

*On Appeal from Prerogative Court.*
*Answer.*

The respondents, not acknowledging all or any of the matters which in the said appellant's petition of appeal are contained, to be true, for answer thereunto say and admit that a decree was made and entered in the Prerogative Court on the date, and of the purport mentioned in said petition; but as to the substance and form of said decree these respondents pray to refer thereto when the same shall be produced. And these respondents are advised and believe that the said decree is not erroneous, improper or illegal, but in all respects just and equitable. They therefore pray that said decree may be affirmed, with costs of appeal, &c.

WILLIAM CRANSTOUN,
*Proctor for Respondents.*

ABEL I. SMITH,
*Of Counsel with Respondents.*

THE W. S. SHARP PRINTING CO., 23 & 25 N. Warren St., Trenton, N. J.

# PREROGATIVE COURT.

Between

WILLIAM H. DUMONT,

Appellant,

and

THEODORE S. DUMONT ET AL.,

Respondents.

On Appeal.

## PETITION OF APPEAL.

[Filed July 2, 1888.]

*To the Prerogative Court of the State of New Jersey:*

The petition of William H. Dumont respectfully shows that he is one of the children of Mary B. Dumont, deceased, late of Summit, in the county of Union and State of New Jersey; that the Orphans' Court of the said county of Union, by its decree dated the thirty-first day of May, eighteen hundred and eighty-eight, ordered, adjudged and decreed, that a certain paper writing, offered for probate to said court and purporting to be the last will and testament of Mary B. Dumont, deceased, was properly executed and was genuine and valid; that the said Mary B. Dumont, at

the time of executing said instrument, was in all respects competent to execute the same and was not under restraint or undue influence, and that said instrument be admitted to probate, and that letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in said will; that said Orphans' Court by its said decree further fixed certain allowances and counsel fees to the counsel of proponents and the caveators.

And your petitioner shows that he finds himself aggrieved by so much of the said decree as adjudges and decrees that the instrument in writing, purporting to be the last will and testament of Mary B. Dumont, deceased, and offered for probate by the proponents, was properly executed and was genuine and valid; that the said Mary B. Dumont, at the time of executing said instrument, was in all respects competent to execute the same and was not under restraint or undue influence, and that said instrument be admitted to probate and that letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in said will.

And petitioner appeals from so much of said decree as is above recited, upon the ground that the same is erroneous, improper and illegal, and that your petitioner is aggrieved thereby.

He therefore prays that the said decree may be in the particulars aforesaid reversed, set aside and for nothing holden.

RIKER & RIKER,
*Proctors of William H. Dumont, Appellant.*

CHANDLER W. RIKER,
*Of Counsel.*

State of New Jersey, county of Essex, *ss.*—William H. Dumont, the above-named petitioner, being duly sworn, on his oath says, that he knows the contents of said petition, and that the matters therein set out are true so far as they

relate to his own acts, and so far as they relate to the acts of others he believes them to be true.

WM. H. DUMONT.

Sworn to and subscribed before me, this 27th day of June, A. D. 1888.

F. W. STEVENS, *M. C.*

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## ORDER TO ANSWER.

[Filed October 16, 1888.]

It appearing to the satisfaction of the court that the above-named appellant has filed his petition of appeal in the above-stated cause, and a transcript of the proceedings in the Union County Orphans' Court, with the register of this court, it is, on this sixteenth day of October, A. D. eighteen hundred and eighty-eight, on motion of Chandler W. Riker, proctor and of counsel with the above-named appellant, ordered, by the Ordinary or Surrogate-General of the State of New Jersey, that the above-named respondents answer the said petition of appeal within twenty days after the service of a copy of said petition of appeal and notice of this order, and that in default thereof the said appellant be heard *ex parte*.

ALEXANDER T. MCGILL, *C.*

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## ANSWER.

[Filed November 2, 1888.]

The respondents, not acknowledging all or any of the matters which in the said appellant's petition of appeal are

contained to be true, for answer thereto say and admit that a decree was, on the thirty-first day of May, eighteen hundred and eighty-eight, made and entered by the Orphans' Court of the county of Union, in the matter for that purpose mentioned in said petition in substance as is therein stated; but as to both substance and form of said decree these respondents pray to refer thereto when the same shall be produced.

And these respondents say that the said decree is not erroneous, improper or illegal, but in all respects just and equitable. They therefore pray that said decree may be affirmed, with costs of appeal, &c.

WILLIAM CRANSTOUN, JR.,
*Proctor for Respondents.*

ABEL I. SMITH,
*Of Counsel.*

New Jersey, *ss.*—Theodore S. Dumont, one of the respondents in the above case, being duly sworn according to law, upon his oath deposeth and saith, that the matters and things set forth in the above answer are true so far as they relate to his own acts, and so far as they relate to the acts of others he believes them to be true.

THEODORE S. DUMONT.

Sworn and subscribed before me, this thirtieth day of October, A. D. eighteen hundred and eighty-eight.

SAMUEL A. BESSON, *M. C.*

New Jersey, *ss.*—Charles A. Robbins, one of the respondents in the above case, being duly sworn according to law, upon his oath deposeth and saith, that the matters and things set forth in the foregoing answer, so far as they relate to his own acts, are true, and so far as they relate to the acts of others he believes them to be true.

C. A. ROBBINS.

Sworn and subscribed before me, this thirty-first day of October, A. D. eighteen hundred and eighty-eigh .

JOS. S. PARRY, *M. C.*

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## CAVEAT.

*To James J. Gerber, Esq., Surrogate of the County of Union:*

I, William H. Dumont, one of the children and heirs-at-law of Mary B. Dumont, late of Summit, Union county, New Jersey, deceased, hereby caveat and protest against admitting to probate any paper purporting to be the last will and testament of the said Mary B. Dumont until examination and decree thereon by the Orphans' Court of the said county of Union.

Dated December 18th, A. D. 1886.

WILLIAM H. DUMONT,
by RIKER & RIKER,
*his Proctors.*

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## CITATIONS.

[Returnable January 26, 1887.]

Union County, *ss.*—The State of New Jersey to William H. Dumont and Fanny Dumont, his wife; Theodore S. Dumont and Sophie Dumont, his wife; Henrietta D. Robbins and Charles A. Robbins, her husband; and Robert Dumont Foot and Marie Foot, his wife—You are cited and warned to appear before the judges of the Orphans' Court, to be held at Elizabeth, in and for the county of Union, on Wednesday, the twenty-sixth day of January next, at ten o'clock in the forenoon, to answer unto the caveat of

William H. Dumont against admitting to probate a paper purporting to be the last will and testament of Mary B. Dumont, deceased, and to abide the judgment and decree of the said court in the premises.

Witness, Thomas F. McCormick, Nathan Harper and Lewis S. Hyer, judges, at Elizabeth, this twenty-second day of December, A. D. eighteen hundred and eighty-six.

JAS. J. GERBER,
*Surrogate and Clerk.*

New Jersey, Union County, *ss.*—This is to certify that I do hereby nominate, appoint and depute E. M. Barber, a citizen of said county, to be my special deputy sheriff, to execute the hereunto annexed writ.

Witness my hand this twenty-third day of December, eighteen hundred and eighty-six.

GEORGE M. STILES,
*Sheriff.*

Served December twenty-fourth, eighteen hundred and eighty-six, Henrietta D. Robbins and Charles A. Robbins. *Non est* as to other defendants.

GEORGE M. STILES,
*Sheriff.*

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Union County, *ss.*—The State of New Jersey to William H. Dumont and Fanny Dumont, his wife; Theodore S. Dumont and Sophie Dumont, his wife; Henrietta D. Robbins and Charles A. Robbins, her husband: and Robert Dumont Foot and Marie Foot, his wife—You are cited and warned to appear before the judges of the Orphans' Court, to be held at Elizabeth, in and for the county of Union, on Wednesday, the twenty-sixth day of January next, at ten o'clock in the forenoon, to answer unto the caveat of William H. Dumont against admitting to probate a paper purporting to be the last will and testament

of Mary B. Dumont, deceased, and to abide the judgment and decree of the said court in the premises.

Witness, Thomas F. McCormick, Nathan Harper and Lewis S. Hyer, judges, at Elizabeth, this twenty-second day of December, A. D. eighteen hundred and eighty-six.

JAS. J. GERBER,
*Surrogate and Clerk.*

Received December twenty-fourth, eighteen hundred and eighty-six.

C. A. GILLEN,
*Sheriff.*

I hereby deputize and appoint Frank Gillen my special deputy to execute the within writ for me and in my stead.

Witness my hand and seal, this eighth day of January, A. D. eighteen hundred and eighty-seven.

CHAS. A. GILLEN,
*Sheriff.*

Served personally as to Robert D. Foot; as to Marie Foot by leaving a copy of this writ at her place of abode with her husband, she not being found. All the other defendants named in writ are not found in my county. January eighth, eighteen hundred and eighty-seven.

C. A. GILLEN,
*Sheriff.*
*per* FRANK GILLEN,
*Special Deputy.*

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Union County, *ss.*—The State of New Jersey to William H. Dumont and Fanny Dumont, his wife; Theodore S. Dumont and Sophie Dumont, his wife; Henrietta D. Robbins and Charles A. Robbins, her husband; and Robert Dumont Foot and Marie Foot, his wife—You are cited and warned to appear before the judges of the Orphans' Court, to be held at Elizabeth, in and for the county of

Union, on Wednesday, the twenty-sixth day of January next, at ten o'clock in the forenoon, to answer unto the caveat of William H. Dumont against admitting to probate a paper purporting to be the last will and testament of Mary B. Dumont, deceased, and to abide the judgment and decree of the said court in the premises.

Witness, Thomas F. McCormick, Nathan Harper and Lewis S. Hyer, judges, at Elizabeth, this twenty-second day of December, A. D. eighteen hundred and eighty-six.

JAS. J. GERBER,
*Surrogate and Clerk.*

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State of New Jersey, County of Union, *ss.*—I, James J. Gerber, surrogate of the county of Union, do hereby depute and appoint William M. Kiersted, a citizen of this state, to serve copies of the annexed citation upon William H. Dumont and Fanny Dumont, his wife, and Theodore S. Dumont and Sophie Dumont, his wife, four of the persons named therein, who reside out of this state, in the State of New York.

Witness my hand and seal, this twenty-third day of December, A. D. eighteen hundred and eighty-six.

JAS. J. GERBER,
*Surrogate.*

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State of New Jersey, Hudson County, *ss.*—William M. Kiersted, of full age, being duly sworn according to law, upon his oath says, that on the twenty-fourth day of December last (A. D. eighteen hundred and eighty-six) he served a copy of the within citation upon each of the within-named persons, Theodore S. Dumont and William H. Dumont, personally, and on the twenty-seventh of said month of December last he served a copy of said citation on the within-named Fanny Dumont, personally, and on the same day served a copy of said citation upon the within-named

Sophie Dumont by leaving the same at her dwelling-house, with a member of her family above the age of fourteen years.

WILLIAM M. KIERSTED.

Sworn and subscribed before me, this twenty-fifth day of January, A. D. eighteen hundred and eighty-seven.

CHAS. H. CANNON, *M. C.*

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PETITION.

*To the Orphans' Court of the County of Union:*

The petition of Henrietta D. Robbins respectfully shows—

*First*—That she is one of the children of Mary B. Dumont, deceased, who died at Summit, in the county of Union, New Jersey, on the day of December last.

*Second*—That the said Mary B. Dumont left her surviving the said Henrietta D. Robbins and the following-named heirs and next of kin, to wit: two children, William H. Dumont and Theodore S. Dumont, who reside at Brooklyn, New York, and one grand-child, Robert Dumont Foot, son of Mary D. Foot (formerly Mary Dumont), deceased, who resides at Morristown, New Jersey.

*Third*—That the said Mary B. Dumont left her last will and testament, and that the said Theodore S. Dumont and one Charles A. Robbins, two of the executors therein named, have made application to the surrogate of the said county of Union for probate thereof.

*Fourth*—That a caveat has been filed by the said William H. Dumont, the other executor in said will named, against admitting to probate the said will.

*Fifth*—That the said Mary B. Dumont was possessed of goods, chattels, rights and credits to the value of thirty

thousand dollars, as near as can be ascertained, and consists principally of railroad bonds and stocks.

*Sixth*—That it is necessary and for the best interest not only of your petitioner, but of all other persons interested in said estate, that the said estate should be safely preserved and kept pending the probate of said will, and, to that end, that an administrator *pendente lite* should be appointed.

Therefore, the said Henrietta D. Robbins respectfully prays that an administrator *pendente lite* of the goods and chattels, rights and credits which were of Mary B. Dumont, late of the county of Union, deceased, may be appointed by this court, who shall be duly authorized to administer the same according to law during the suit now pending in this court touching the probate of the will of said Mary B. Dumont, deceased.

WILLIAM CRANSTOUN, JR.,
*Proctor for Petitioner.*

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Union County, *ss.*—Henrietta D. Robbins, being duly sworn according to law, upon her oath deposeth and saith, that she is the petitioner in the above petition named, and that the matter and things therein set forth are true, to the best of her knowledge and belief.

HENRIETTA D. ROBBINS.

Sworn and subscribed before me, this fourth day of January, A. D. eighteen hundred and eighty-seven.

E. G. POTTER,
*Notary Public for Union County, New Jersey.* [L. S.]

### ORDER TO SHOW CAUSE.

Upon reading the petition of Henrietta D. Robbins, and the affidavit thereto annexed—It is ordered that cause be shown before this court on Wednesday, the twenty-sixth day of January, instant, at ten o'clock in the forenoon, by the persons named as executors in the paper writing purporting to be the last will and testament of Mary B. Dumont, deceased, and by the legatees and devisees in said will named, and by the heirs-at-law and next of kin of said deceased, why an administrator *pendente lite* of the goods and chattels, rights and credits, which were of said deceased, should not be appointed by this court to administer the same during the suit now pending, touching the probate of said will.

Dated January 12th, 1887.

T. F. McCormick,
*Prest. Judge.*
Nathan Harper,
Lewis S. Hyer,
*Judges.*

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### PROOFS, SERVICE, &c.

State of New Jersey, Hudson County, *ss.*—William M. Kiersted, of full age, being duly sworn according to law, upon his oath says, that on the fifteenth day of January, instant, he served a copy of the rule to show cause, hereto annexed, upon the said William H. Dumont, therein named, personally, at his place of business, Nos. 16 and 18 Exchange Place, New York City, by delivering the same to him.

William M. Kiersted.

Sworn and subscribed before me this twenty-fifth day of January, A. D. eighteen hundred and eighty-seven.

CHAS. K. CANNON, *M. C.*

State of New Jersey, Hudson County, *ss.*—William Cranstoun, Jr., of full age, being duly sworn according to law, upon his oath says, that on Friday, the fourteenth day of January, instant, he served a copy of the rule to show cause hereto annexed upon the said Theodore S. Dumont, therein named, personally, by delivering the same to him.

WILLIAM CRANSTOUN, JR.

Sworn and subscribed before me this twenty-fifth day of January, A. D. eighteen hundred and eighty-seven.

CHAS. K. CANNON, *M. C.*

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Upon reading the petition of Henrietta D. Robbins, and the affidavit thereto annexed—It is ordered that cause be shown before this court, on Wednesday, the twenty-sixth day of January, instant, at ten o'clock in the forenoon, by the persons named as executors in the paper writing purporting to be the last will and testament of Mary B. Dumont, deceased, and by the legatees and devisees in said will named, and by the heirs-at-law and next of kin of said deceased, why an administrator *pendente lite* of the goods and chattels, rights and credits, which were of said deceased, should not be appointed by this court to administrate the same during the suit now pending, touching the probate of said will.

Dated January 12th, 1887.

T. F. MCCORMICK,
*Prest. Judge.*

NATHAN HARPER,
LEWIS S. HYER,
*Judges.*

State of New Jersey, Union County, *ss.*—Edward G. Potter, of full age, being duly sworn according to law, upon his oath deposes and says, that on the fifteenth day of January, instant, A. D. eighteen hundred and eighty-seven, he served a true copy of the rule to show cause in the within matter, of which the within is also a true copy, upon Charles A. Robbins, within named, personally, and on the same day he served a true copy of said rule to show cause upon the within-named Robert Dumont by leaving the same at his dwelling-house in the city of Morristown, New Jersey, with a member of his family above the age of fourteen years.

EDWARD G. POTTER.

Sworn and subscribed before me this twenty-fifth day of January, A. D. eighteen hundred and eighty-seven.

DAVID M. SMYTHE.

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ORDER APPOINTING ADMINISTRATOR PENDENTE LITE.

The rule to show cause, having been returnable, duly served upon the parties interested, as will appear by proof duly filed, and it appearing to the court that said interested parties agree and consent to the appointment of Charles A. Robbins, one of the executors named in the will of said deceased, as administrator *pendente lite* of the goods and chattels, rights and credits of the said deceased: It is hereby, on this twenty-sixth day of January, in the year one thousand eight hundred and eighty-seven, ordered that that the said Charles A. Robbins be and he hereby is appointed such administrator *pendente lite* of said deceased, and it is further ordered that the surrogate issue to him letters of administration in accordance with this order, and that he give bonds to the Ordinary of this state for the

faithful performance of his duties in the sum of sixty thousand dollars, double the amount of said goods and chattels, etc.

T. F. McCormick,
*Prest. Judge.*
Nathan Harper,
Lewis S. Hyer,
*Judges.*

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ORDER REFERENCE.

A caveat having been filed with the surrogate of said county on the eighteenth day of December, eighteen hundred and eighty-six, by William H. Dumont, against admitting to probate a paper writing, purporting to be the last will and testament of Mary B. Dumont, late of the township of Summit, in said county, deceased, and citations having been issued to all parties interested, returnable at this time, and the proctors representing all the parties in interest being now present in court: It is hereby ordered that the matter be referred to James J. Gerber, surrogate of said county, to take testimony, and after the taking of the same to report the testimony back to this court with all convenient speed.

Dated January 26th, 1887.

T. F. McCormick,
*Prest. Judge.*
Nathan Harper,
Lewis S. Hyer,
*Judges.*

TESTIMONY.

Transcript of short-hand notes of testimony, taken before James J. Gerber, Esq., Surrogate of Union county, on Wednesday, February 9th, 1887.

Appearances: William Cranstoun, Jr., Esq., and Abel I. Smith, Esq., proctor and counsel for proponents.

Riker & Riker and Mr. Curtis, proctors and counsel for caveators.

Mr. Cranstoun offered the citations and proofs of service in evidence.

*William H. Risk*, a witness called and sworn on behalf of the proponents, testified as follows:

Direct examination by Mr. Cranstoun.

*Q.* Doctor, where do you reside?

*A.* Summit.

*Q.* How long have you resided there?

*A.* Thirteen years.

*Q.* What is your profession?

*A.* Practicing physician.

*Q.* Practicing in the township of Summit?

*A.* I do.

*Q.* In this county?

*A.* Yes, sir.

*Q.* How long have you been practicing there?

*A.* Thirteen years.

*Q.* How old are you, Doctor?

*A.* Forty-four years of age.

*Q.* Were you the regular attending physician of Mary B. Dumont?

*A.* I was.

*Q.* Now deceased, of Summit?

*A.* I was.

*Q.* How long, Doctor, were you the attending physician of Mrs. Dumont?

*A.* Do you mean the family, or of Mrs. Dumont herself?

*Q.* Mrs. Dumont?

*A.* I suppose thirteen years; I cannot recollect the date of my first visits.

*Q.* As near as you recollect, about thirteen years?

*A.* Yes, sir.

By Mr. Smith.

*Q.* The whole family?

*A.* Yes, sir; I believe so.

*Q.* That is, including Mrs. Dumont?

*A.* Yes, sir, so far as I know; I believe that is correct; I will correct that; it is not thirteen years; it is less than that.

By Mr. Cranstoun.

*Q.* Well, about how long?

*A.* I should say eleven.

*Q.* [Showing witness a paper purporting to be the last will and testament of Mary B. Dumont, deceased, propounded for probate, and marked *Exhibit 1*]—Doctor, when did you see that paper before?

*A.* I saw it when it was signed.

*Q.* Where?

*A.* In Mrs. Dumont's house.

*Q.* In Summit?

*A.* Yes, sir.

*Q.* In whose handwriting, Doctor, is the name Mary B. Dumont, opposite the seal?

*A.* It is her own handwriting.

*Q.* In whose presence did she sign her signature?

*A.* In the presence of Mr. Greves and myself.

*Q.* What is his first name?

*A.* James, I believe.

*Q.* Did you see her sign her name—her signature?

*A.* I did.

*Q.* In whose handwriting is the name "Risk," one of the subscribing witnesses to said will?

*A.* In my own handwriting.

*Q.* "William H. Risk?"

*A.* My own handwriting.

By Mr. Smith.

*Q.* That is the name to the attestation clause?

*A.* Yes, sir.

By Mr. Cranstoun.

*Q.* In whose presence did you sign your signature?

*A.* In the presence of Mrs. Dumont and Mr. Greves.

*Q.* Did you see Mr. Greves sign his name to the will?

*A.* I did.

*Q.* As one of the subscribing witnesses?

*A.* Yes, sir.

*Q.* Immediately before the witnesses signed their names to the attestation clause what was said to the testatrix, Mrs. Dumont?

*A.* What did she say, do you mean?

*Q.* Yes; did she request you to sign your names as witnesses?

*A.* Yes, sir; she asked us to witness it.

*Q.* At whose request did you sign your name as a witness to the will?

*A.* At the request of Mrs. Dumont.

*Q.* Just look at the attestation clause; what did Mrs. Dumont say to you when she requested you to sign the will?

*A.* She simply asked me to sign—witness her will—witness her signature; she simply asked me to witness her signature to the will.

*Q.* Do you remember whether the attestation clause was read over to her?

*A.* It was read aloud in her presence.

*Q.* By whom?

*A.* By Mr. Greves.

*Q.* And in your presence?

*A.* And in my presence.

*Q.* Then what did she say after that?

*A.* I do not recall any remark.

By Mr. Smith.

*Q.* Look at the attestation clause and may be you can refresh your memory about that?

By Mr. Riker.

I think it would be more proper to ask him if she did say anything.

By Mr. Cranstoun.

*Q.* After that attestation clause was read over to her—you heard it read aloud?

*A.* Yes, sir.

*Q.* What did Mrs. Dumont reply, if anything—what reply did she make, if anything?

*A.* I do not recall any reply; we simply signed it then, after it was read; I do not recall any reply.

*Q.* Did she not, Doctor, when Mr. Greves read that question over to her—that attestation clause—did she not say that she signed, sealed, published and declared it as her last will and testament? [Objected to as leading.]

*A.* Do I answer now?

*Q.* Yes?

*A.* She said that we —— [Witness hesitated.]

*Q.* That is what I want?

*A.* If you will allow me to tell this story I can tell it very shortly; she asked me to come in and sign the will.

*Q.* [Previous question read as follows]: "Did she not, Doctor, when Mr. Greves read that question over to her—that attestation clause—did she not say that she signed, sealed, published and declared it as her last will and testament?" [Objected to.]

*A.* She said—she made that statement, but whether it was just at that time or not I could not answer.

*Q.* I will put a general question to you; what did she say at or about the time, after she had signed the will?

*A.* At that time she said that she signed and published it as her last will and testament.

*Q.* Anything else; did she request you to —— [Interrupted.]

*A.* Yes; she requested us to sign the will as witnesses.

*Q.* How did Mrs. Dumont appear to you at the time she executed the will, as to her sound and disposing mind and memory?

*A.* Perfectly well; her mind was perfectly sound and clear.

*Q.* That was at the time you witnessed the will, was it, Doctor?

*A.* Yes, sir.

*Q.* What time was that; what day, as far as you recollect?

*A.* It was in April, 1884—the 11th, I believe.

*Q.* Do you recollect where the will was signed?

*A.* Yes, sir; in the library of Mrs. Dumont's house.

*Q.* In Summit?

*A.* Yes, sir.

*Q.* Were there any one else present besides Mrs. Dumont, Mr. Greves and yourself?

*A.* No, sir.

Cross-examination by Mr. Riker.

*Q.* I understand that you were the family physician, not only of Mrs. Dumont's family after her husband's death, but of Mr. Dumont and the family before his death?

*A.* Yes, sir; I believe I was.

*Q.* You attended Mr. Dumont in his last illness, did you?

*A.* I did, sir.

*Q.* How long was he ill, and when did he die?

*A.* I think he was ill about two weeks, and I think he died in January, 1884.

*Q.* What was the character of his last illness?

By Mr. Smith—Of whom, Mr. Dumont?

By Mr. Riker—Mr. Dumont.

By Mr. Smith—I object to that as irrelevant at this time, and not proper cross-examination.

*A.* I wish that you would ask that question over again, as I do not understand it.

*Q.* By what name do you term the illness of which Mr. Dumont died?

*A.* He died of pneumonia.

*Q.* Was the disease a painful disease?

*A.* At times he suffered considerably; at other times he was perfectly cheerful and happy.

*Q.* Now, did Mrs. Dumont see much of him during his last illness?

*A.* She did; yes, sir.

*Q.* Did she attend him?

*A.* Until within a few days of his death, at which time there was a professional nurse who took charge.

*Q.* Will you give us the name and address of that nurse?

*A.* I do not know it.

*Q.* Was she from New York?

*A.* No, sir.

By Mr. Smith—I object to all this testimony—all these questions.

By Mr. Riker—This is for my own personal information.

*Q.* You say you do not know?

*A.* No, sir.

*Q.* Do you know whether she had been in the Orange, or Bellevue or New York hospitals?

*A.* It was not a "she;" it was a "he."

*Q.* Well, we will say "he"?

*A.* No, sir; I do not know where he received his training, or whether he had received any.

*Q.* I misunderstood you; I supposed that you had said he was a trained nurse?

*A.* I did not say so; he was a professional nurse; I should say professional nurse instead of trained.

*Q.* Was this nurse called in by your suggestion?

*A.* I think he was.

*Q.* Do you know who secured the services of this nurse?

*A.* I do not.

*Q.* During the last illness of Mr. Dumont, what was the physical condition of his wife?

*A.* She was very anxious, but I think she was in ordinary health until after he died.

*Q.* Do you know what her age was at that time?

*A.* About seventy-four—seventy-three or seventy-four.

By Mr. Curtis.

*Q.* You are now referring to January, 1884?

*A.* Yes, sir; I am.

By Mr. Riker.

*Q.* What was her physical condition; can you describe her physical condition at the time of this sickness—this illness of Mr. Dumont?

*A.* I think up to the time he died she was in her ordinary health, but after that she was prostrated and ill for some little time.

*Q.* What was her ordinary health?

*A.* Good—active.

*Q.* Did she have the usual infirmities of old age, such as difficulty of hearing, difficulty with the heart and rheumatism?

*A.* She had some heart trouble, but I do not think she had any difficulty; yes, she had some difficulty in hearing, but not more than, I think, persons ordinarily—not more than persons of that age.

*Q.* You say she did have difficulty with her heart?

*A.* Yes, sir.

*Q.* What was that difficulty?

*A.* It was supposed to be fatty heart.

*Q.* You had treated her for that, had you, Doctor?

*A.* Yes, sir, I think it was after that time that I treated

her for that difficulty—after 1884; I come down to a later time, but up to 1884 I do not think I have; I would like to make that correction; I do not recall it.

*Q.* You say that she was also suffering from time to time from rheumatism?

*A.* Yes, sir.

*Q.* You say her eyesight——-[Interrupted.]

*A.* I think it was good.

*Q.* You mean for a person of her age?

*A.* Yes, sir, for a person of her age.

*Q.* Was she a stout or a slight person?

*A.* Slight.

*Q.* What would you take to be her weight?

*A.* I would think in the neighborhood of one hundred pounds.

*Q.* You think she weighed as much as that?

*A.* About that—in that neighborhood.

*Q.* After the death of Mr. Dumont you stated that her condition changed; now, will you give us what change then occurred?

*A.* Yes, sir, for some time she was very much prostrated and did not take any active interest in affairs.

*Q.* You were called in to treat her, were you?

*A.* I think I saw her a few times.

*Q.* Running over how long a period?

*A.* A period of a month, I should think.

*Q.* What treatment did you give her?

*A.* Tonics.

*Q.* You treated her, as I understand you, for nervous prostration?

*A.* Well, yes, that is ordinarily what it would be called I presume; it was simply a broken condition.

*Q.* She was, perhaps you might say, physically and mentally, and every other way, collapsed?

*A.* She was physically broken; mentally, of course, she was depressed.

*Q.* Lost her appetite, I presume?

*A.* Yes, I don't think she had a great deal of appetite at that time; I think she had a little appetite at that time.

*Q.* Did you treat her for heart disease at that time?

*A.* I think not.

*Q.* During this period of her illness who took care of her—nursed her?

*A.* Her daughter, and I think her sis'er was at the house.

*Q.* When you say "her daughter," you mean Mrs. Robbins?

*A.* Yes, sir.

*Q.* And when you say her sister——[Interrupted.]

*A.* I mean Mrs. Soards.

*Q.* Did Mrs. Dumont ever recover from that sickness?

*A.* I think she did; yes, sir.

*Q.* When, in your opinion, was she first—did the heart difficulty first develop itself?

*A.* That was probably years before.

*Q.* And you first discovered it when?

*A.* I cannot fix the date.

*Q.* Well, it was soon after the death of Mr. Dumont, was it not?

*A.* I cannot recall that positively; it seems to me that it was a couple of years before her death; I think, but I cannot fix the date positively.

*Q.* During this illness you say that she took no interest in affairs; what do you mean by that, Doctor?

*A.* I mean that she was depressed and did not take the active interest that she ordinarily did before her husband's death; she was a lady who looked after her own house a great deal, and looked after affairs outside of her house; she was an exceedingly active woman; after that she did not—for a time, she did not seem to take any active interest.

*Q.* Did she see her friends when they called?

*A.* That is a question I could not answer; I don't know.

*Q.* After the death of Mr. Dumont you were called in

to see Mrs. Dumont more frequently than you had been before, were you?

*A.* That is a question I cannot answer; by reference to my books is the only way in which I can answer that question.

*Q.* Did you attend Mrs Dumont frequently after, during the three years which elapsed between the death of the husband and the death of Mrs. Dumont?

*A.* At times, yes, sir.

*Q.* And what was the difficulty for which you treated her during that time?

*A.* During the latter part of her illness it was principally heart trouble that she suffered from.

*Q.* And during the former part?

*A.* I cannot recall that, what the trouble was then; I did not treat her any length of time prior to that, that I recall.

*Q.* Was she frequently seriously ill?

*A.* Not until within, I think, the last eighteen months of her life.

*Q.* At the time of which you have been speaking, immediately after Mr. Dumont's death, what was the character of the illness, as to whether it was serious or not?

*A.* Immediately after his death?

*Q.* Yes?

*A.* I do not recall that it was serious now; I cannot; I will have to have an opportunity to refresh my memory before I can answer that question.

*Q.* Perhaps I will be able to refresh you a little; did not you inform the family at that time that it was not probable that Mrs. Dumont would live?

*A.* Immediately after his death? yes, I did; she was quite ill; I recall it now.

*Q.* Between the time of Mr. Dumont's death and the time of making this will, which is now offered for probate, did Mrs. Dumont, to your knowledge, ever leave the house, except in the care of a nurse?

*A.* Not to my knowledge; no, sir; I don't know anything about it.

*Q.* How did it happen that you were at the residence of Mrs. Dumont at the time when you signed the paper which is now produced as the will of Mrs. Dumont?

*A.* I was attending her daughter, Mrs. Robbins.

*Q.* You were making, then, one of your regular professional visits to Mrs. Robbins?

*A.* I was, sir.

*Q.* Had you been instructed to come at any special time to see Mrs. Robbins?

*A.* No, sir; I had not.

*Q.* Had she been ill for some time?

*A.* She had been ill for at least—more than ten days.

*Q.* How frequently had you visited her?

*A.* Every day.

*Q.* At any special hour?

*A.* No, sir; at my convenience.

*Q.* At what time of the day was it that you were first shown the paper in question?

*A.* I cannot fix the exact hour, but it was between ten and four o'clock.

*Q.* Did you know that a will was to be executed on that day when you came to the house?

*A.* No, sir; I did not.

*Q.* Hadn't heard anything about it?

*A.* No, sir.

*Q.* Where were you when you were asked to go the library?

*A.* Coming through the hall to go out of the house.

*Q.* Who called to you?

*A.* I believe it was Mr. Greves.

*Q.* You were acquainted with Mr. Greves?

*A.* Yes, sir.

*Q.* Whom did you meet, if any one, in the hall?

*A.* I don't recall meeting any one else.

*Q.* And that was the first intimation that you had that you were wanted for any such purpose?

*A.* Yes, sir.

*Q.* When you walked into the library who was there?

*A.* Mr. Greves and Mrs. Dumont.

*Q.* Those were the only persons who were present at all?

*A.* Yes, sir.

*Q.* How was Mrs. Dumont dressed?

*A.* She was dressed in black.

*Q.* I mean was she fully dressed in ordinary house dress?

*A.* Yes, sir.

*Q.* Will you explain just how this library is constructed —is it a room by itself or does it open with folding doors into another room?

*A.* No, sir; it is—the only door opening into it is from the hall into the library.

By Mr. Curtis.

*Q.* Is it the first room on the left of the entrance?

*A.* Yes, sir.

By Mr. Riker.

*Q.* Had the paper been completely written when you entered the room?

*A.* I think not. I think I waited a few minutes.

*Q.* Was anything said; any instruction given by Mrs. Dumont to Mr. Greves in regard to the drawing of the will while you were present?

*A.* No, sir.

*Q.* So that whatever writing he did he did simply without instructions, and only took, as I understand, in your opinion, comparatively, a few minutes?

*A.* Yes, sir; it was only a short time. I think he told me he would finish the attestation clause, but I cannot say that positively.

*Q.* Did you not know Mr. Greves was in the house when you came in?

*A.* I did not.

*Q.* You did not know he was in the house until you were called in there?

*A.* I did not.

*Q.* As I understand you, all that took place in that room after you entered it was a completion of this instrument by Mr. Greves; a signing by Mrs. Dumont; a reading of the attestation clause, followed by a statement by her, the words of which you have heretofore attempted to give, and signed by yourself and Mr. Greves as witnesses?

*A.* That is all I recall, sir.

*Q.* In regard to the order in which those things were done, I understand also, you are in doubt?

*A.* I think I can tell the manner in which they were done, if I were allowed to do it in my own way.

*Q.* That is what I want; we want a statement of the whole proceeding there, if you can give it to us, and as near the order as you can give it?

*A.* As I came down stairs, Mr. Greves came to the library door, when I was coming through the hall, and asked me to come in a moment, and he said something to Mrs. Dumont about the finishing of this will; Mrs. Dumont then asked me to sign it as a witness; Mr. Greves expressed himself in the same way; he said he would finish it in a few minutes, and would detain me but a short time; I sat down, and he finished what writing was done; she got up and signed the will in my presence, and made this statement, that it was her last will and testament; after she had been seated and got up and made this statement, and I was handed the will to sign it, and signed it, Mr. Greves signed it, and there were a few words of conversation; what they were I cannot recall; and I left; that is the whole of the story.

*Q.* The will, as I understand you, then, was not read to Mrs. Dumont after it was finished, and before she signed it?

*A.* Mr. Greves read this attestation clause—well, to me

she was standing opposite; she was present when he read the attestation clause; there was nothing else read in my presence.

*Q.* And to that she said nothing—the reading of the attestation clause?

*A.* I do not recall that she did.

*Q.* And after signing her name she did not ask you to sign; the request for you to act as a witness was made when you entered the room, and when Mr. Greves said that there was still some little writing to complete on it, as I understand you, and that when it was done she went to the desk and signed the will, and then Mr. Greves read the attestion clause, and then you signed it; am I right?

*A.* I am not quite certain that you are right; I think he read the attestation clause and she signed the will, and then we signed it.

*Q.* He read the attestation clause, she signed, and then you signed?

*A.* He read the attestation clause first, I believe, before she signed; and then we signed the will.

*Q.* Now, Doctor, did she say herself, or did Mr. Greves read the words, "sign, seal, publish and declare this to be my will"?

*A.* Well, if I recollect it, he said so and she followed him; he asked her the question—put it in the shape of a question, and then she made use of those words, as I recollect it, after Mr. Greves had made the statement as a form.

*Q.* And then she signed the will?

*A.* I believe that was the time.

*Q.* You are not certain about that?

*A.* I would not swear whether it was immediately before or after, but it was at the time.

*Q.* Can you swear that she ever said it?

*A.* Yes, I think I can swear she said it; I believe I can; I think she said it.

*Q.* But she did not, in your presence, ask, after the will was completed, and after she signed it, ask either you or

Mr. Greves to sign the will as witnesses; the will was simply handed to you and you each signed it as witnesses; you on the strength of what you had been informed after you entered the library, that you were wanted as a witness to the will?

*A.* I cannot swear to that; I could not say, positively, whether she asked me the second time or whether she did not; I could not do it.

*Q.* A while ago you were quite positive that she did not ask you a second time?

*A.* No, I did not; she asked me once when I came into the room, but I could not say she asked me a second time.

*Q.* It is your impression that she did not ask you a second time?

*A.* I could not swear to that.

By Mr. Curtis.

*Q.* Was Mr. Greves at that time a resident in Summit?

*A.* No, sir.

By Mr. Riker.

*Q.* How near to Mrs. Dumont were you when she signed her name to this paper?

*A.* Within three or four feet.

*Q.* You saw her write it?

*A.* I did.

*Q.* After she had written her name were there any alterations made or additions made to this, except the writing of your names as witnesses, with your addresses?

*A.* Not while I was present.

*Q.* Who read this attestation clause?

*A.* Mr. Greves.

*Q.* Just explain how you were sitting, or how you were placed in regard to each other, when it was done?

*A.* I was standing near the door; Mrs. Dumont was on the right, and I was on the left of Mrs. Dumont, and Mr. Greves was in the middle.

*Q.* Quite near to each other?

*A.* Yes, sir; there was, I think, four feet between us.

*Q.* I understood you to describe her physical condition at that time, while she was doing that, as being in the ordinary condition for her?

*A.* Yes, sir.

*Q.* She was calm—collected?

*A.* Yes, sir.

*Q.* No trace of excitement?

*A.* I did not see any.

*Q.* Her method of speaking and greeting you would be characterized probably as a quiet and placid kind, wouldn't it?

*A.* It was quiet, and you might call it placid, but a very firm woman.

*Q.* At this particular time was she calm and placid, or was she nervous?

*A.* No, sir; she was perfectly cool, as far as I could see.

*Q.* I presume you have been called frequently to witness wills, have you, Doctor?

*A.* Not very often—occasionally.

*Q.* You, then, would not be able to judge of the usual excitement which attends most people at that time?

*A.* No; I do not think I would be an expert on that.

*Q.* She signed this, as I understand you, and treated this as an ordinary matter, and it did not ruffle or disturb her?

*A.* I do not think she was at all ruffled; I could not see any evidence of it.

*Q.* She treated it as any other matter of large or small account?

*A.* Well, as I said, she treated it in that way; she was perfectly calm and cool.

*Q.* She seemed to take some interest in the matter?

*A.* I suppose she did; she did not express herself in any way, except being perfectly quiet, and asking these questions.

*Q.* While the will was being completed by Mr. Greves, did you have a conversation with Mrs. Dumont?

*A.* No, sir; I did not.

*Q.* Nothing was said between you?

*A.* No, sir.

*Q.* You did not ask her whether she had regained her interest in the things of this world?

*A.* It would be hardly necessary, as I had been talking to her for a couple of weeks almost every day about matters that I saw interested her.

*Q.* You think, then, that she had recovered, at that time, from her depressed state of mind?

*A.* Yes, sir; she had.

*Q.* For how long had she recovered?

*A.* That I could not answer; I had seen her every day for a couple of weeks, and she was taking a pretty active interest in things during that time—during the ten days or two weeks that I saw her daily.

*Q.* She took considerable interest in her daughter's illness?

*A.* Yes, sir.

*Q.* Attended her personally, did she?

*A.* No, sir; her daughter had a nurse who took charge of her?

*Q.* Was she frequently in the room when you called?

*A.* Yes, sir.

*Q.* And you spoke together?

*A.* Yes, sir.

*Q.* Of the illness of the daughter?

*A.* Yes, sir.

*Q.* The illness was very serious?

*A.* No; I do not think it was—not very.

By Mr. Curtis.

*Q.* Doctor, the illness of Mrs. Robbins was due to the birth of her son, wasn't it?

*A.* Yes, sir.

*Q.* At the time of the birth of Mrs. Robbins' son?

*A.* Yes, sir.

By Mr. Riker.

*Q.* At the time of making this will, do you know who were the inmates—the persons who composed the family of Mrs. Dumont?

*A.* I could not tell you all of them positively; I could approximate.

*Q.* Name, as near as you can, the family of Mrs. Dumont living with her at her home, on the 11th day of April, 1884?

*A.* I believe they were Mr. and Mrs. Robbins, and, of course, her grandchild; Mr. Theodore Dumont, and, I think, Miss Soards; I think she was there at that time, although I am not positive about her.

*Q.* And I presume there were servants?

*A.* Yes, sir; servants in the house; I did not count hem.

*Q.* In your daily visits, did you see much of Mr. Theodore Dumont?

*A.* No, sir; I did not see a great deal of him.

*Q.* During the illness which immediately followed the death of Mr. Dumont, did you see Mr. Theodore and Mrs. Dumont together at all?

By Mr. Smith—I object especially to that, and I want a general objection to go to the testimony in relation to the sickness of Mr. Dumont, and all the testimony up to that time—the date when Doctor Risk went to the house—and then I want a specific objection to the question now. All in relation to the day and the time I do not object to, and what took place in connection with the execution of the will. All else I desire my objection to cover, and also a specific objection to this question.

By Mr. Riker—Do I understand you to object to the physical and mental condition of Mrs. Dumont during the three months?

By Mr. Smith—Not as was shown on the day of the execution of the will—yes, I object to all in relation to

that physical and mental condition—physical condition, at least.

By Mr. Riker—Also to the mental condition of Mrs. Dumont previous to the day?

By Mr. Smith—Everything down to the day; I object to her condition and the sickness of Mr. Dumont, and all that follows that, down to the day of the execution of the will. [All testimony of the witness and each question in relation to the sickness of Mr. Dumont and the condition of Mrs. Dumont, down to the date of the execution of the will, are taken as objected to at the time the questions were asked of the witness, and are objected to as irrelevant and not proper cross-examination of the witness, and were and are objected to as irrelevant, and not proper cross-examination of the witness; it being understood that this objection shall be made at this time instead of when each question was asked.]

*Q.* [Last question read as follows:] During the illness which immediately followed the death of Mr. Dumont, did you see Mr. Theodore and Mrs. Dumont together at all?

*A.* A number of times; I do not know exactly how often, though. [Same objection.]

*Q.* During these interviews did you hear Theodore mention the name of William Dumont? [Same objection.]

*A.* No, sir.

*Q.* Did you hear anything said in regard to William Dumont? [Same objection.]

*A.* No, sir.

*Q.* Was Theodore Dumont especially attentive to his mother during this illness? [Same objection.]

*A.* Yes, sir.

*Q.* And demonstrative? [Same objection.]

*A.* In that sense I do not know what demonstrative means; define it.

*A.* I mean affection which shows itself in action as well as in looks? [Same objection.]

*A.* Yes, sir.

*Q.* Put his arms around her and showed that kind of attention to her? [Same objection.]

*A.* I never saw him put his arms around her, but I have seen him kiss his mother.

*Q.* Mr. Theodore Dumont's family was not living with him—with his mother—as I understand it? [Same objection.]

*A.* No, sir; his wife, do you mean?

*Q.* Yes?

*A.* No, sir.

*Q.* From what you saw of Theodore Dumont and Mrs. Dumont would it appear to you that Mrs. Dumont placed reliance upon Mr. Theodore Dumont's judgment and was anxious to please him? [Same objection.]

*A.* I do not know about her placing reliance upon his judgment; she was anxious to please him.

*Q.* In what way did that exhibit itself, Doctor? [Same objection.]

*A.* Well, she liked to have him about her; she did not like to have him to be away at long intervals; when he went away she always wanted him to come back; at least, I have heard her express herself on one or two occasions.

*Q.* What would she do, if anything, to secure his return? [Same objection.]

*A.* I don't know anything about that.

*Q.* What other things can you recall? [Same objection.]

*A.* Nothing more than that.

*Q.* She then seemed anxious to have him at home? [Same objection.]

*A.* Yes, I think she was always glad to have him there.

*Q.* After the death of Mr. Dumont, and before the making of this will, did you ever hear Mr. Theodore Dumont express his opinion in regard to his brother? [Same objection.]

*A.* I don't think I ever did.

*Q.* You cannot answer that question? [Same objection.]

*A.* I don't think I ever heard him express himself.

*Q.* Do you know in what estimation Theodore held his brother? [Same objection.]

*A.* At that time?

*Q.* Yes?

*A.* No, I do not.

*Q.* Since? [Same objection.]

*A.* Not from himself.

*Q.* From whom, if you know? [Same objection.]

*A.* From his nephew.

*Q.* What is the nephew's name? [Same objection.]

*A.* Well, I could not say; it is Mr. Foote.

*Q.* The gentleman who is present in court?

*A.* Yes, sir.

*Q.* Did you ever hear from Mrs. Dumont in her lifetime anything in regard to the relations between Theodore and William? [Same objection, and also as hearsay evidence.]

*A.* No, sir.

*Q.* Did, so far as you were able to observe, the relations between Theodore and his mother change during the period which elapsed between the death of Mr. Dumont and the death of Mrs. Dumont? [Same objection.]

*A.* No, sir.

*Q.* They remained the same so far as you could see? [Same objection.]

*A.* So far as I could see; yes, sir.

*Q.* Was there any noticeable difference in the relations between Theodore and his mother observable after the death of Mr. Dumont? [Same objection.]

*A.* No, sir; I did not notice any difference.

*Q.* How long had Theodore been a member of the family prior to the death of Mr. Dumont. [Same objection.]

*A.* I should say a year; he may have been longer, but I should say a year.

*Q.* And during all that time the same sort of relationship seemed to have existed between Theodore and his mother? [Same objection.]

*A.* They did.

*Q.* What was Theodore's characteristics in speech? [Same objection.]

*A.* Well, he was always very frank and bluff in his manner of speech.

*Q.* Violent and profane? [Same objection.]

*A.* Sometimes he was profane.

*Q.* Sometimes violent? [Same objection.]

*A.* I never saw him violent.

*Q.* Very excitable? [Same objection.]

*A.* Yes, sir; he was exciteable.

*Q.* When excited talked loud? [Same objection.]

*A.* Yes, sir; I have heard him talk loud.

*Q.* Swear and curse? [Same objection.]

*A.* Yes, sir; I have heard him swear.

*Q.* This he would do in the presence of his family, would he? [Same objection.]

*A.* I never heard him swear in the presence of his mother; I have in the presence of other members of the family.

*Q.* You think his characteristics of speech the same before his mother as before the rest of the family, except swearing? [Same objection.]

*A.* I think so.

*Q.* Have you seen his mother attempt to pacify him under those circumstances? [Same objection.]

*A.* No, sir; I don't think I ever have.

*Q.* Recall, and think of it a little while.

*A.* How is that?

*Q.* Try and refresh your memory on that? [Same objection.]

*A.* No; I don't think I ever have; I cannot recall it now, if I ever did.

*Q.* When he was in this excited condition, would his mother comply with his wishes? [Same objection.]

*A.* I do not know that I ever saw him in that condition

in the presence of his mother; I cannot recall any time; I do not recall any circumstances.

*Q.* What would be the natural effect on a person, exhibiting that kind of action, in the presence of a lady of seventy-four years, suffering from fatty degeneracy of the heart? [Same objection, and also on the further ground that there is no evidence of any such action in the presence of his mother.]

*A.* I cannot answer that question; I do not know what the effect would be.

*Q.* Rather a dangerous method of treatment, wouldn't it be?

*A.* If it produced any effect at all, it would probably produce palpitation, if she accepted it seriously—if it worried her.

*Q.* Do you know, during the last three years of Mrs. Dumont's life, who had the control of her household cares? [Same objection.]

*A.* I do not know; she apparently did, until a short time prior to her death, or seemed to be the head of the house, but I do not know, of my own personal knowledge, anything about it.

*Q.* What was the attitude of Mrs. Dumont to her son; was she indulgent, kind and attentive? [Same objection.]

*A.* Yes, sir; always kind; I do not know anything about indulgency, but she was always kind; the relations were always apparently very kindly.

*Q.* Did you ever hear her say that she would do thus and so, if Theodore approved? [Same objection.]

*A.* No, sir; I never did.

*Q.* Do you know of anything that transpired between Theodore and his mother at the time that the papers belonging and securities belonging to her were brought or were sent for, and ordered brought from William Dumont's office? [Same objection.]

*A.* No, sir; I don't know anything about it.

*Q.* You have no information on that subject? [Same objection.]

*A.* None whatever.

*Q.* What are your relations to Theodore Dumont? [Same objection.]

*A.* We are very friendly.

*Q.* Especially so, are they not? [Same objection.]

*A.* We are very good friends; I don't know anything more than that.

*Q.* You exchange presents? [Same objection.]

*A.* I don't recall any presents; I don't recall any presents.

*Q.* Then, as I understand you, you have not recently received any presents, or any gift from Mr. Theodore Dumont? [Same objection.]

*A.* I don't recall any; let me ask Mr. Theodore Dumont if he has given me anything or not; he might have.

By Mr. Cranstoun—That is all; you do not recall any?

By the witness—I do not recall any.

*Q.* Do you remember receiving some whisky recently? [Same objection.]

*A.* Yes; you are correct; I did; he gave me a gallon of whisky, but I had forgotten it.

*Q.* How long ago was that? [Same objection.]

*A.* That was last spring; it was, I guess, pretty nearly a year ago—about a year ago, I think.

*Q.* Was it good?

*A.* I thought it was.

*Q.* You consider, then, you are on quite intimate terms? [Same objection.]

*A.* Yes, sir; we are on quite good terms.

By Mr. Smith—Notice is hereby given that application will be made on the hearing of the case to strike out from the testimony all evidence that has been taken on cross-examination, excepting what relates to the time the will was signed, and the matters in connection with the signing

of the will, on the ground that it is irrelevant, and not a proper subject of cross-examination.

Re-direct by Mr. Smith.

*Q.* While we are on the whisky subject, Doctor, you asked Mr. Dumont to buy you some, didn't you?

*A.* Yes, sir.

*Q.* How came you to get what was given you afterwards?

*A.* After I got the whisky I wanted to pay for it, and he said that don't amount to anything; you need not mind that at all; that was all there was about the whisky.

By Mr. Curtis.

*Q.* Will you tell how many times you attended Mrs. Dumont?

*A.* No; I cannot tell you; I do not think I made any visits to her after January; I can tell by referring to my books.

By Mr. Riker.

*Q.* I wish you would refer to your books and let Mr. Curtis know—will you?

*A.* Yes, sir.

Further re-direct.

*Q.* As you remember now, the last visits paid to Mrs. Dumont previous to April were the latter part of January, 1884?

*A.* That is, as I recollect it.

*Q.* That is the last visit, professionally?

*A.* Yes, sir.

*Q.* You saw Mrs. Dumont, I suppose, in the meantime, did you not?

*A.* I am not certain about that; I presume I saw her when visiting Mrs. Robbins.

*Q.* But you don't remember until that time?

*A.* No, sir.

*Q.* Then, as I understand, you saw her nearly every day?

*A.* This was in March that I saw her every day.

*Q.* That is, during the sickness of Mrs. Robbins, you saw her then nearly every day?

*A.* Yes, sir.

*Q.* Not professionally?

*A.* No, sir.

*Q.* But socially?

*A.* Yes, sir.

*Q.* That is, when you went to call on Mrs. Robbins, you would meet Mrs. Dumont, and would converse with her?

*A.* Yes, sir.

*Q.* Did you notice a difference in her physical condition between what it was in January, after the death of her husband, and in March, when you saw her next, or at that time?

*A.* Yes, sir.

*Q.* An improved condition?

*A.* Yes, sir.

*Q.* Much improved?

*A.* Decidedly improved.

*Q.* How was her general health, then, in March?

*A.* It was good.

*Q.* In January her condition resulted, as I understand, from the death of her husband, to a great extent?

*A.* To a certain extent; she had a bad cold at the time; she had bronchitis, but the depression I considered due to grief due to the death of her husband.

*Q.* Previous to that time you had frequently seen Mrs. Dumont?

*A.* Yes, sir.

*Q.* That is, during the years previous, up to that time?

*A.* Yes, sir.

*Q.* Had you noticed any depression previous to this time that you have spoken about after the death of her husband?

*A.* No, sir.

*Q.* That is quite usual, isn't it; in the case of the death of a member of the family you have depression, more or less—greater or less—to follow?

*A.* Yes, sir.

*Q.* Is that restricted to any particular age or condition?

*A.* No, sir.

*Q.* It happens with men as well as women, doesn't it?

*A.* Yes, sir.

*Q.* Old persons and young persons?

*A.* Yes, sir.

*Q.* Of mature age?

*A.* Yes, sir.

*Q.* And middle age?

*A.* Yes, sir.

*Q.* Is that condition of depression usually remaining or does it pass off as the length of time from the death—as the time lengthens from the death?

*A.* It usually passes off.

*Q.* Sometimes in a shorter time with some persons and sometimes it takes longer, I suppose?

*A.* Yes, sir.

*Q.* In the case of Mrs. Dumont, when you saw her in March, that had passed off, you think, had it?

*A.* Practically; yes, sir.

*Q.* What was the condition of her mind in March?

*A.* Her mind was perfectly clear.

*Q.* And it was so on the day of the making of the will, as you say?

*A.* Yes, sir, and ever afterward.

*Q.* During the conversations that you had with her in March, and down to the date of the will, did you notice any failing of her mental capacities in any way?

*A.* No, sir.

*Q.* Was she capable of attending to the ordinary duties of her house?

*A.* Yes, sir.

*Q.* And business—ordinary business?

*A.* I didn't see her do any business.

*Q.* From her condition should you judge she was?

*A.* Yes, sir.

*Q.* And from your conversations with her?

*A.* Yes, sir; I supposed she was.

By Mr. Curtis—During what time?

By Mr. Smith—From the time he first saw her to the execution of the will.

*Q.* Did you talk to her during that period on various subjects?

*A.* I saw her every day and talked about different thing.

*Q.* What?

*A.* About her chickens; she was very fond of her chickens; I talked to her about them and about her daughter's condition, and current topics.

*Q.* And her conversation was intelligent on all those subjects?

*A.* Yes, sir; and about her household, as for that matter.

*Q.* The deafness that you spoke about—did you have to raise your voice very loud to speak to her?

*A.* No, sir; I don't think it was any more than you would find in persons of that age.

*Q.* There is more or less deafness in persons of that age?

*A.* Very likely to be; yes, sir.

*Q.* But it was not so great as to require an extreme loud tone of voice to make her understand, was it?

*A.* No, sir.

*Q.* The eyesight, you say, was in what condition?

*A.* I think it was as good as persons of that age.

*Q.* Did she use glasses, do you know?

*A.* She did when she read; she did not ordinarily.

*Q.* In your conversations with her during March and April was there any defect in memory that you noticed?

*A.* No, sir.

*Q.* Any lack of intelligence on subjects that she talked about?

*A.* No, sir.

*Q.* So far as you noticed her capacities were—that is, her mental capacities were—the same as they had been before Mr. Dumont's death?

*A.* Yes, sir.

*Q.* You say that she was a woman, I think you said, of strong will?

*A.* Yes, sir; I think she was.

*Q.* How did she evidence that?

*A.* By controlling everything herself, and managing her household on her own hook, and by doing things sometimes that we did not want her to do.

*Q.* Was it evidenced in her conversation?

*A.* Yes, sir.

*Q.* Was she decided?

*A.* Yes, sir; she was decided in her opinions.

*Q.* In your judgment, was she a woman that would be easily influenced by others?

*A.* No, sir.

*Q.* You think not?

*A.* No, sir.

*Q.* You were asked in relation to what took place at the signing of the will, as to whether Mrs. Dumont requested you to sign it as a witness after she had signed it—actually signed it?

*A.* Yes, sir.

*Q.* As I understand, your memory is not positive as to whether she asked you more than once or not?

*A.* I don't know positively whether she asked me more than once or not; once, I know, she did ask.

*Q.* You do not remember the exact time, whether it was before or after she signed?

*A.* I could not swear to that, positively.

*Q.* So, also, you remember that the attestation clause was read to her by Mr. Greves?

*A.* Yes, sir.

*Q.* That she followed him nearly in the words that he used—that is, "signed, sealed, published and declared"? [Objected to.]

*A.* Yes, sir; she followed him as he went over the words.

*Q.* And you do not remember whether she asked you to sign as a witness after she made this declaration or not?

*A.* I cannot say that, positively.

*Q.* Mrs. Robbins, on April 11th, was in another room of the house, was she—the same house, sick?

*A.* What other room?

*Q.* She was in another room of the house—Mrs. Dumont's house—sick?

*A.* Than where the will was signed?

*Q.* Yes?

*A.* Yes, sir; she was up-stairs.

*Q.* Sick in bed?

*A.* Yes, sir; sick in bed.

*Q.* The library is down-stairs, is it?

*A.* Yes, sir.

*Q.* On the —— [Interrupted.]

*A.* On the first floor.

*Q.* Mrs. Dumont's bedroom is where?

*A.* Up-stairs.

*Q.* Was she in such a condition of health that she was able to go about the house—Mrs. Dumont?

*A.* Yes, sir.

*Q.* Able to go outdoors if she wanted to, wasn't she?

*A.* Yes, sir.

*Q.* And, so far as you saw, able to attend to her customary duties?

*A.* Yes, sir.

*Q.* You have been asked some questions about Mr.

Theodore Dumont and his mother; the relations were pleasant, were they not?

*A.* Yes, sir, so far as I saw.

*Q.* You never saw anything on the part of Mr. Theodore Dumont, in the presence of his mother, that would tend to aggravate or annoy her, did you?

*A.* No, sir.

*Q.* How did he usually, when you saw him, act in her presence?

*A.* He acted in a gentlemanly way.

*Q.* Was he kind to his mother?

*A.* Yes, sir, always.

*Q.* And there appeared to be considerable affection between them?

*A.* Yes, sir.

*Q* Did Mrs. Dumont—did there appear to be great affection between Mrs. Dumont and her daughter, Mrs. Robbins, also?

*A.* Yes, sir, there was; I think so.

*Q.* How long was she sick during her last illness?

*A.* With a short interval of apparent health, about eight months, I think; possibly only seven.

*Q.* You attended her during all that period?

*A.* I did, sir.

*Q.* Up to the last sickness, and from April, 1884, what was her condition of health?

*A.* Most of the time she was in moderately good health—good health for a woman of her age.

*Q.* Did you visit her frequently?

*A.* Not frequently, but I did occasionally.

*Q.* Did you notice any return of the depression that existed after her husband's death, up to the time of her death?

*A.* No, sir.

*Q.* How did her mental condition continue after January, 1884, down to the time of her death?

*A.* After she recovered from that depression her mental

condition was good to the time of her death; her mind was perfectly clear.

Re-cross-examined by Mr. Riker.

*Q.* You say that her eyesight was good; were you aware that she had, about the time you are speaking of, a cataract on one of her eyes?

*A.* No, sir, I was not aware of it.

*Q.* Did not know she ever had a cataract?

*A.* No, sir.

*Q.* You did not know that she had an operation performed on her eyes for a cataract?

*A.* No, sir.

*Q.* You hadn't any information of that kind?

*A.* No, sir; if I knew of it at the time I have forgotten it entirely.

*Q.* Did you know that she was treated for her eyes by Dr. Agnew about this time?

*A.* No, sir.

*Q.* Did you know of her being treated at all by Dr. Agnew?

*A.* No, sir.

*Q.* Did you treat her for dyspepsia?

*A.* Yes, sir.

*Q.* There were difficulties of the digestive organs?

*A.* Yes, sir.

*Q.* During these three years between the death of her husband and her own death?

*A.* Yes, sir.

*Q.* You gave her considerable morphine, didn't you?

*A.* At the latter part of her life, yes, sir; during her last illness, yes, sir.

*Q.* When did you first begin to give her morphine?

*A.* I could not give you the exact date, but I should say it was within seven months of her death.

*Q.* I understood, on your direct examination, that you had been treating her for eighteen months before she died?

*A.* I did; but not for any serious illness; her serious illness, I think, was within seven or eight months of her death, but I saw her more or less frequently, I think, about eighteen months prior to her death.

*Q.* That illness which took place immediately after the death of her husband—did you give her morphine?

*A.* No, sir.

*Q.* Did you give her any medicine of that character?

*A.* No, sir; if you will allow me I will say this: that in giving her expectorants for this bronchitis, there was a slight amount of morphine given as an expectorant, but not as an anodyne.

*Q.* As I understood you, this rough speaking of Theodore's, in the presence of Mrs. Dumont and her family, did not affect Mrs. Dumont in any way, so far as you could see? [Objected to, because there is no evidence of rough speaking in the presence of his mother.]

*A.* I never heard him speak roughly in the presence of his mother, but in the presence of the other members of the family I have.

*Q.* When you said that his conduct and his method of speech were the same before his mother as before the rest of the family, except in that he did not swear before his mother, what did you mean?

*A.* If I made that statement it was incorrect; I do not think I made it; if I did make it, it was incorrect, that is all; I mean, that he was persistently, in my presence, courteous to his mother, and in her presence; but I have heard him swear before the rest of the family and speak pretty roughly.

*Q.* You say that Mrs. Dumont was a person, in your opinion, of considerable firmness, and base your opinion somewhat on the fact that she insisted upon doing those things which we disapproved of; when you used the word "we," to whom did you refer?

*A.* I referred to her daughter and myself.

*Q.* What character of actions were those?

*A.* When she ought to have stayed in the house and taken care of herself, she would insist on going out and looking after her chickens; that was one thing; another thing, she would insist on managing the household servants, when she ought not to have done it, and allowed her daughter to do it; she wanted to overlook the servants and see what they were doing and how the household affairs were going on; she would want to look over the closets and keep things in trim, when she should have allowed others to do it, and was urged to allow others to do it; she had a decided opinion, and on other subjects suggested and had her opinion like the rest of women; I saw that she was a woman of a great amount of determination of mind.

*Q.* If she had reached a conclusion that certain things were facts, she would be difficult to move from that position?

*A.* It would require evidence to remove it, I think.

*Q.* And require a good deal of evidence?

*A.* She could weigh evidence, I think; I think she could weigh evidence well.

*Q.* You think that she would be a person who would act very decidedly?

*A.* I do; I think after she made up her mind she would.

*Q.* And after she made up her mind, like many ladies, she would be very likely to stick to it?

*A.* I think it would require evidence to change her mind; she would have to see a reason for it; she was not a vascillating woman.

*Q.* Are not those things you have stated as influencing you in reaching the conclusion that she was firm, the ordinary characteristics of people as they grow old—that is, the determination to look after things as they always did; straighten out closets, look after chickens and look after their usual work, when they have been doing those things through their life?

*A.* That, to a certain extent, would have formed my opinion, but my opinion was more formed by my knowledge of the woman, knowing her so many years, and knowing her character; I do not think that alone would have done it.

*Q.* I asked whether those are not the ordinary characteristics of age?

*A.* I do not know about that; with regard to age, I am unable to answer it; I do not think my experience has been large enough to answer that question in that way; good many old people drop their interest in things, but this was not the case with her.

*Q.* Mrs. Robbins was almost continually with her mother in the house?

*A.* Yes, sir.

*Q.* And helped her in the household duties?

*A.* Yes, sir; I think so.

*Q.* And being in company with her most of the time?

*A.* Yes, sir; with her a great deal of the time.

*Q.* What conversation, if any, have you had with Theodore since the death of Mrs. Dumont, or since the making of this will, in regard to how the will was made and executed? [Objected to as irrelevant and not proper cross-examination.]

*A.* Is that up to this hour?

*Q.* After the making of the will and up to her death?

*A.* None; no conversation whatever.

By Mr. Curtis.

*Q.* Was not Mrs. Dumont a lady of particularly lovely and lovable character?

*A.* Yes, sir.

*Q.* And wasn't she a lenient mother?

*A.* Lenient? [Objected to as not proper cross-examination.]

By the witness—I do not know anything about her leniency.

*Q.* In her sphere as mother of that household, did not

she manage her affairs with evenness and with affection? [Objected to.]

*A.* Yes, sir; as far as I ever saw.

*Q.* And her household affairs, as far as she was concerned, were entirely harmonious, as far as you could observe?

*A.* Yes, sir.

*Q.* Did she exhibit, at any time, to you any other characteristics than would usually be possessed by a woman of good character?

*A.* No, sir.

*Q.* By "good character," I mean strong characteristics?

*A.* No, sir.

*Q.* Do you know whether she was a lady of strong prejudices?

*A.* I don't know anything about that.

*Q.* That you don't know?

*A.* That I don't know.

*Q.* Do you know whose advice she sought in her business affairs?

*A.* No; I do not.

*Q.* Do you know whether she sought anybody's advice?

*A.* No, sir; I do not.

*Q.* Did she exhibit any characteristics after her husband's death different from those she possessed prior to his death? [Objected to.]

*A.* She exhibited the grief that I have spoken of.

*Q.* Nothing but the grief?

*A.* No, sir.

*Q.* There was never any change in her mental characteristics between those periods?

*A.* No, sir.

*Q.* As far as you could observe?

*A.* No, sir.

*Q.* Was she a lady of stubborn disposition?

*A.* I never saw any evidence of that.

*Q.* You have referred to the fact that she often did things which you and Mrs. Robbins did not wish her to do?

*A.* Yes, sir.

*Q.* Is it not a common occurrence in your practice that patients do the same thing?

*A.* Patients often do what we do not wish them to; yes, sir.

*Q.* Do you know whether Mrs. Dumont's condition of health after her husband's death permitted her to go about very much?

*A.* I think after the January following his death she was capable of going about.

*Q.* Do you know whether she did or not?

*A.* I know of some—yes; at what time after his death do you refer to?

*Q.* At any time immediately after his death prior to her last illness?

*A.* Yes, sir; she was capable of going about; she made several trips to my knowledge.

*Q.* To New York?

*A.* Yes, and further than New York; I think she went to Montreal once.

*Q.* Would you speak of her, at any time after her husband's death and up to the execution of this will, as a woman of robust health?

*A.* She was in good health for a woman of her years.

*Q.* You use the word good health *relevantly?*

*A.* I mean a woman of her time of life; she was not as active and vigorous as a woman of twenty.

*Q.* Would you call a woman of good health who was suffering from chronic diseases, as fatty degeneration of the heart, or rheumatism, or want of hearing or eyesight?

*A.* She might be in moderately good health; it depends on the character of the rheumatism, and to what extent the fatty degeneration has taken place, and the age; we are to consider all those things in passing an opinion of that kind.

*Q.* Whatever a person did who was suffering from such

passive illness, they would have to be mindful of this condition in respect to those ailments?

*A.* Yes, sir.

*Q.* Careful of themselves?

*A.* Yes, sir.

*Q.* Was Mrs. Dumont a lady of strong affections?

*A.* I think she was.

*Q.* Did she have also strong prejudices?

*A.* I never saw any evidence of them.

*Q.* Did she have strong likes and dislikes?

*A.* I never saw any evidence of dislikes; I have seen evidences of her likes.

*Q.* And they were positive in character?

*A.* I think they were.

*Q.* Her relations to her son Theodore were of that character?

*A.* Yes, sir.

*Q.* Positive exhibitions of affection and regard?

*A.* Yes, sir.

*Q.* And the opposite was also true of him?

*A.* The opposite?

*Q.* Not opposite; but he was also positive and strong in his exhibition of affection and attention to his mother?

*A.* Yes, sir; I think he always showed his love for her plainly.

*Q.* And you think she reciprocated that to him?

*A.* I do.

*Q.* So far as you could observe, her relations to her son Theodore justified you in believing that she had confidence in him? [Objected to.]

*A.* Yes, sir.

*Q.* And placed reliance upon him?

*A.* I don't know about reliance, but I think she had confidence in him, and affection for him; reliance I don't know anything about.

*Q.* Do you know of any one else in whom she had more confidence and more reliance than in her son Theodore?

*A.* I do not.

*Q.* Since the death of Mrs. Dumont her son Theodore has not been a resident of Summit has he?

*A.* I think not; at least a very short time after her death I think he removed from the village.

*Q.* Do you know whether or not Mr. Theodore Dumont is a person of strong likes and dislikes? [Objected to.]

*A.* Yes, sir; I think he is.

*Q.* And a person of strong prejudices?

*A.* I think he is.

*Q.* If he likes a person he is apt to be demonstrative and strong in his affection for that person?

*A.* He expresses himself strongly, I think.

*Q.* And the contrary is true if he dislikes a person?

*A.* Yes, sir.

*Q.* He is also strong in his dislikes?

*A.* That is my impression.

*Q.* If he entertains hatred for a person, that hatred is apt to be very strong?

*A.* I presume so.

*Q.* Have you no opinion on that subject? [Objected to.]

*A.* That is my opinion.

*Q.* And that is derived from your intercourse and acquantance with him?

*A.* Yes, sir.

*Q.* Is it not a fact that Mr. Theodore Dumont is a person of strong and extreme characteristics in that respect?

*A.* I should say strong characteristics; yes, sir.

*Q.* Is it not a fact that Mr. Theodore Dumont, as far as you have been able to observe, if he entertains hatred for a person is almost vindictive in his hatred?

*A.* That is more than I can say.

*Q.* Perhaps I had better use the word extreme in his hatred?

*A.* Extreme is a very strong word; I think his hatred

would be strong, but I would not be willing to say extreme.

*Q.* I am not speaking about justification?

*A.* No, I am not either, but the word extreme is a very expressive word—but I think his hatred is very strong and positive.

*Q.* Very positive?

*A.* I say it would be positive, but not very positive.

Re-direct.

*Q.* Mrs. Robbins is the only daughter of Mrs. Dumont?

*A.* That is, the only daughter I know of.

*Q.* Only three members of the family now?

*A.* Yes, sir; two sons and one daughter; that is all that I know of.

By Mr. Curtis.

*Q.* Do you know whether Mrs. Dumont had a former will prior to this will?

*A.* I do not know of any other will.

*Q.* Or any subsequent one?

*A.* No, sir; I do not know anything about it.

Re-direct.

*Q.* Mrs. Dumont, as far as you know—at the time you knew her—was a very conscientious woman?

*A.* Yes, sir.

*Q.* And had strong ideas of right and wrong?

*A.* Yes, sir; I think she was a remarkably just woman.

By Mr. Riker—I now give notice that I call for the production of a will made by Mrs. Dumont prior to the death of Mr. Dumont, and which, at a short time subsequent to the death of Mrs. Dumont, went into the possession of Theodore Dumont.

By Mr. Smith—Counsel for proponent say that they know nothing about any such will, but will have an examination made to see if they can find any such will.

By Mr. Riker—It is supposed to be in your possession.

By Mr. Smith—We do not know of any such, but we will have an examination made and see.

[Each and all questions taken on the cross-examination, made by Mr. Curtis, of Doctor Risk, are objected to as irrelevant and not proper cross-examination, and notice is given that a motion will be made to strike them out on the hearing.]

*James S. Greves*, a witness called and sworn on the part of the proponents, testified as follows:

Direct-examination, by Mr. Cranstoun.

*Q.* Where do you reside?

*A.* New York city.

*Q.* What is your profession?

*A.* Lawyer.

*Q.* Attorney and counselor-at-law?

*A.* Attorney and counselor-at-law.

*Q.* Of what state?

*A.* New York state.

*Q.* How long have you been an attorney and counselor-at-law in the State of New York?

*A.* Nearly twenty years; fully twenty years.

*Q.* Are you a friend of the family of Mrs. Dumont?

*A.* I am an acquaintance of the family—of the different members of the family—no very close or intimate relation; I have known Mr. Theodore Dumont longer than any other member of the family.

*Q.* How about the other members of the family?

*A.* I have known them since 1876.

*Q.* Did you formerly live in Summit?

*A.* I did, in 1876 and part of 1877, and then again in 1881, I think it was.

*Q.* [Paper being shown witness, purporting to be the last will and testament of Mary B. Dumont.] Have you seen that before?

*A.* I have.

*Q.* When?

*A.* On the day of the date of it—the 11th of April, 1884.

*Q.* In whose handwriting is the name of Mary B. Dumont, opposite the seal?

*A.* In her own handwriting.

*Q.* Did you see her sign her signature?

*A.* I did.

*Q.* In whose presence?

*A.* In the presence of Dr. William H. Risk and myself.

*Q.* In whose handwriting is the name James S. Greves?

*A.* In mine.

*Q.* And the witness to the attestation clause?

*A.* In mine.

*Q.* Did you also see the other subscribing witness sign his name to it?

*A.* I did.

*Q.* Did he sign it in your presence, and also in the presence of Mrs. Dumont? [Objected to as leading.]

*A.* He did.

*Q.* I will put it in this form: when and where did he sign it, and when and where did you see him sign it?

*A.* He signed it on the day of the date of the will, after Mrs. Dumont had signed it, and just before I signed it, in her presence and my presence.

*Q.* Where were you when you wrote your signature?

*A.* I was in the library of Mrs. Dumont's house, a room just to the left of the hall, as you enter the house—first floor.

*Q.* Who were present?

*A.* Mrs. Dumont and Doctor Risk.

*Q.* Were you three the only persons present in the room at the time the will was signed and witnessed?

*A.* We were the only ones.

*Q.* Just state how Doctor Risk came to be called in?

*A.* I called him in as we heard him coming down-stairs; I asked him to step into the room, as Mrs. Dumont wanted to see him——[Interrupted.]

*Q.* Just then what was said—what did Mrs. Dumont say?

*A.* She said: "Doctor, I would like to have you witness the execution of my will."

*Q.* Just state what occurred then?

*A.* I then sat down at the little table where the will had been prepared and inserted the date—wrote in the word "eleventh," as that had been left blank until the witness should come; the will had otherwise been completed; I sat at the table and wrote in that date, and then called Mrs. Dumont to take the seat and sign her name opposite the seal, which she did; I then took the instrument in my hand and said: "You sign, seal, publish and declare this to be your last will and testament, do you?" she said, "I do publish and declare it to be my last will and testament;" I said, "And you request Doctor Risk and myself to witness it as such?" she said, "I do;" thereupon Doctor Risk took his seat at the table and signed the attestation clause—or, before that, I said, "I will now read the attestation clause;" I read the clause aloud to Mrs. Dumont, in the hearing of Doctor Risk, and thereupon Doctor Risk sat down and signed the attestation clause, and I signed it after him, and then followed a few remarks—general conversation—and Doctor Risk bade us good-bye and left the room.

*Q.* You and Doctor Risk signed it in her presence?

*A.* We did.

*Q.* And in the presence of each other?

*A.* Yes, sir; in the presence of each other.

*Q.* You say that you requested her—you asked her if she requested you and the Doctor to sign your names as witnesses?

*A.* Yes, sir.

*Q.* That was after you read the attestation clause?

*A.* Yes, sir.

*Q.* And you witnessed it after you read the attestation clause?

*A.* Yes, sir.

*Q.* And after she had signed it?

*A.* Yes, sir.

*Q.* About what was your position in the library at the time, do you remember?

*A.* No, I do not remember distinctly, though my impression is that Mrs. Dumont had just risen from the table and stepped to the right and the Doctor stood to the left, nearer the door, and I took the will from the table in front of me; my impression is that I stood between the two when I read it.

*Q.* The attestation clause?

*A.* The attestation clause.

*Q.* And she signed it in your presence?

*A.* She did.

*Q.* And also in the presence of Doctor Risk?

*A.* Yes, sir.

Cross-examination by Mr. Riker.

*Q.* When did you receive your instructions to come to Summit for the purpose of drawing this will? [Objected to.]

*A.* I do not remember the date; it was a short time only before the will was drawn—before the will was executed. [Objected to as irrelevant and not proper cross-examination.]

*Q.* Who instructed you to go to Summit for that purpose? [Objected to on the same ground as before, and also all testimony of this class is objected to on the same ground.]

*A.* Well, I had—I do not know whether he came to my office or whether I met him on the street; but I saw —— [Interrupted.]

*Q.* Just try and remember that; your memory is no doubt good?

*A.* It was either on the street or in Mr. Dumont's office; my impression is that it was in Mr. Theodore Dumont's

office; I think I called to see him on a matter of his own, and he told me that his mother wanted me to draw her will.

*Q.* Did he appoint the time?

*A.* I do not think the time was appointed; I think I said I was going out before long and I would drop in, and I would take an earlier train and go in and see his mother; I do not think the time was set.

*Q.* That was the first conversation that you had with regard to the drawing of the will for Mrs. Dumont?

*A.* Yes, sir.

*Q.* At that conversation was anything said about the length of time it would take to draw the will?

*A.* No; not that I recall.

*Q.* Was anything said of the nature of the will to be drawn?

*A.* The provisions of it?

*Q.* Yes?

*A.* As nearly as I recall Theodore said that his mother —I do not know but what I asked him what she wanted done with the property, and he said that she wanted to make some bequests—wanted to give $5,000 to Bessie, and after the legacies to give the rest to himself and Mrs. Robbins; that, I think, is all that he said on the subject.

*Q.* Did he say anything about William Dumont at that time?

*A.* Not that I recall.

*Q.* You had been Theodore Dumont's personal lawyer for a number of years, had you?

*A.* No; I had two matters, I think, for Theodore Dumont, and, so far as I can recall, but two, and, as I remember, it was on one of those matters that I called to see him that afternoon, or that day.

*Q.* As I understand you, you were acquainted with Mrs. Dumont, but was not at all intimate with her?

*A.* No, sir.

*Q.* You never practiced law in the State of New Jersey?

*A.* No, sir.

*Q.* Do you know who was Mrs. Dumont's New Jersey lawyer, if she had one?

*A.* No; I do not.

*Q.* You said that the provisions of the will—in talking over the provisions of the will with Mr. Theodore Dumont he said something of legacies—one of $5,000—what other ones?

*A.* He did not mention any others that I recall.

*Q.* He didn't mention anything of a legacy to William?

*A.* No; I have no recollection of that.

*Q.* Didn't you ask?

*A.* I know I had the impression at the time that there were several legacies.

*Q.* Didn't you ask whether Mr. William Dumont was not going to receive anything?

*A.* No.

*Q.* Did you know the relations that existed between Theodore and William at that time?

*A.* No, sir.

*Q.* You knew of the Libby family?

*A.* Very well.

*Q.* Did you ask anything about legacies to them?

*A.* Not at all—I beg your pardon, what do you mean by "Libby"?

*Q.* I understand Mr. Foot is connected—did he say anything about Mr. Foot?

*A.* No, sir.

*Q.* Nothing about legacies to him?

*A.* No.

*Q.* What other conversation, if any, did you have with Mr. Theodore Dumont before going to Summit?

*A.* None.

*Q.* That was the only one?

*A.* That was all.

*Q.* At that time you knew of the existence of a will already drawn—a prior will?

*A.* No; I did not.

*Q.* When did you first learn of that will?

*A.* In the general talk about this contest; I did not know of it until this will was presented for probate.

*Q.* You have seen that will, have you?

*A.* I have not.

*Q.* Do you know where it is?

*A.* I do not.

*Q.* Then, as I understand, you had no conversation with any one on the subject of this will at all from the time you talked with Theodore Dumont until you went to the house to draw the will?

*A.* No, sir.

*Q.* What time did you reach the house of Mrs. Dumont?

*A.* I think it was between one and two, for I took the twelve o'clock, noon, train from New York.

By Mr. Smith.

*Q.* Was it the same day you went up?

*A.* No.

Further cross.

*Q.* You testified there were several days elapsed.

*A.* Yes, sir.

*Q.* Whom did you see at the house when you arrived?

*A.* I do not remember who opened the door; I presume it was one of the servants; I have no recollection of any ene else; at any rate, I inquired for Mrs. Dumont; I was shown into the library; sent my name up to Mrs. Dumont, and she shortly came down.

*Q.* How long did you remain there altogether, do you suppose?

*A.* I think about two hours.

*Q.* You told her what Theodore had said, I presume, to you?

*A.* No, I did not; she opened the conversation.

*Q.* What did she say?

*A.* She said, after the usual greetings and inquiry after

health, and so on, she said: "Now, has Theodore told you what provision I want to make of my property, what disposition I want to make of my property?" I said, "No, except generally; at least he has not given me the details at all;" she said, "Well, I want to give five thousand dollars to Bessie;" I made the remark then, "Do you want to give it to her out and out?" she said, "Oh, no; I only want to give her the interest of it until she marries, or until the death of her father; no," she said, "I will not; she may as well have the interest of it from the time she is twenty-one, whether her father is living or not; so you give her the interest of it to the time she marries, or to the time she arrives at the age of twenty-one, or his death, if that occurs first, and the principal on the occurrence of either one of those events."

*Q.* What else was said?

*A.* I think that she wanted Mrs. Robbins to have the furniture, and I think the silver and plated ware; I do not recall exactly; but the household furniture, silver and plated ware, and books, except the books that were her husband's.

*Q.* What next?

*A.* And she said: "As to Willie, I hardly know what I ought to give him; I do not know whether a $1,000 would be enough;" she said, "What do you think?" I said, "Mrs. Dumont, I am not competent to advise you in that matter; that is a matter you must determine for yourself entirely;" I said, "If I were competent, I would not be in this respect, as I do not know anything about how much property you have to leave;" well, she said she thought she would have in the neighborhood of $40,000; she said, "Willie did not do right by his father in his lifetime; and Mr. Dumont has often come home and told me, sometimes with tears in his eyes, that Willie was treating him badly in his business; that he was constantly drawing from the business more than his agreed share of the profits, both when he had a third interest and when he

had a half interest, and that he had never accounted in any way for the value of the business which her husband had built up during his long years of attendance to it, and the other children had received no share of it, and she had received no share of it, and she deemed that Willie had received a full share already;" and she says, "$1,000 is enough; give him $1,000;" I then asked her if there was anything more; she said, "No, that was all;" the rest of her estate she wanted to go to Mrs. Robbins and Theodore, share and share alike; I asked whom she wanted to have named as executors, and she named the three children—Theodore, Willie and Mrs. Robbins; I then proceeded to write out the will in full; she said, in connection with Willie's share—in talking about Willie's legacy—that she did not want to have Willie have any hard feelings against her; and she wanted me to indicate in some way in the will why she discriminated against him; I then wrote on a little scrap of paper the language, I believe exactly as I have written it here [witness referred to will] and read it over to her, and she said that would do—that was just right; I then proceeded to write out the will as she had directed, and when I had completed it she took it and read it over and said that was just right; that was just as good as it could be; the will was complete then, except the insertion of the date—the eleventh; then there was an interval of about three-quarters of an hour before Doctor Risk came down from up-stairs, and I asked him into the room, and at that time Mrs. Dumont and I were engaged in general conversation, not relating to the will as I remember; I do not recall anything more that was said on her part or mine relating to the will, after she had read it over and expressed herself that it was all right.

*Q.* Did she, in this conversation, mention anything about the relations which existed between Theodore and William?

*A.* No, sir.

*Q.* Did she make any statement in regard to the income of William from the business—the amount of it?

*A.* No; I think not; I have no recollection of any such statement.

*Q.* Did she state to you that Theodore had told her anything in connection with William's business?

*A.* No, sir.

*Q.* Or William's property?

*A.* No.

*Q.* She did not use the name of Theodore in connection with any of her information in regard to how William had treated her husband, or property?

*A.* No.

*Q.* She made no reference to a former will at that time?

*A.* None at all, except that I put in the usual clause, "I hereby revoke any former wills;" I do not know whether she spoke of that; I put it in the will as I do all wills I draw, unless specially designated otherwise; I put in the general clause, "I hereby revoke any and all former wills heretofore by me made."

*Q.* You did not know there was a former will?

*A.* No, sir; I did not know.

*Q.* You knew that Doctor Risk was in the house and was waiting for him to come down-stairs?

*A.* I suppose I did; I do not know how I knew it, but I have a vague impression that Mrs. Dumont said, in answer to my question who we would have to witness it, that Doctor Risk was likely to be in in a moment, and probably he would serve; I cannot recall that as a distinct fact, still I have the impression that that conversation occurred.

*Q.* As I understand you, she at that time stated that the property would be worth $40,000?

*A.* Yes, sir.

*Q.* Was there anything at that time stated in regard to the method in which it was invested?

*A.* No, sir.

*Q.* Or what security was held?

*A.* No, sir.

*Q.* Or what property was held of any kind?

*A.* No, sir.

*Q.* Was there anything said whatever concerning Mr. Foot?

*A.* Not at all; I did not know of the relationship of Mr. Foot at the time; I had never known, or if I had, I had forgotten that she ever had another child; there were only three living.

*Q.* She made no mention whatever of any but three branches of her descendants?

*A.* That is all.

*Q.* And you received no knowledge whatever that there was a fourth branch?

*A.* I did not know of the fact.

*Q.* You had not seen Mrs. Dumont for some years, had you, at that time?

*A.* I do not think I had seen her since 1881.

*Q.* Did you notice any marked change in her at the time? [Objected to.]

*A.* No; I cannot say that I did.

*Q.* As I understand you, you conversed, after the drawing of this will, three-quarters of an hour with Mrs. Dumont, and you are unable to recall anything which in any way related to Mr. Foot?

*A.* I cannot recall the name at all.

*Q.* Did she say anything about Robert?

*A.* No; I have no recollection of it; I do not think anything was said of the Foot family at all in the course of the whole interview.

*Q.* Did she say anything about Bertie?

*A.* No; not that I remember.

*Q.* You are quite sure that she did not wish him to be remembered in any way in that will?

*A.* Bertie?

*Q.* Bertie or Robert Foot?

*A.* No.

*Q.* I notice you use the word "good-will of the business" in this instrument; did she suggest that term?

*A.* I think not; I think that was my phrase.

*Q.* How did you get the idea that there was a good-will which had not been accounted for?

*A.* She suggested that; she said that neither she nor Theodore nor Mrs. Robbins had received anything from the business which her husband had built up with so many years of labor.

*Q.* Had not received anything from it?

*A.* No.

*Q.* She must have said something so as to fix the time?

*A.* Since Mr. Dumont's death, in the way of accounting —Willie had succeeded to the business and had accounted for no part of it, and it was a valuable business to either herself or to the children—the other two children.

*Q.* You understood her that he had rendered no accounting at the time of his father's death of the business, or since his father's death?

*A.* That he rendered no account of any value in that business which she considered of value; her husband's portion of it—it was a valuable business and Willie had succeeded to it without accounting in any way to her or the other children for that value; I took it that she meant the good-will of the business, and I so used that term in writing that phrase—that sentence.

*Q.* You understood from her, then, simply, not that he had not accounted for the profits of the business up to the death of his father, but that he had not paid anything—any money—for the privilege of succeeding to the business as surviving partner?

*A.* She said that—she did not say so in so many words —that he had not accounted for the profits of the business up to the death of Mr. Dumont, except that she said that Mr. Dumont told her that Willie was repeatedly drawing more than his share of the business, and that had never

been paid back, and that, also, the value which was in the business had not been accounted for by Willie—in any way by Willie—to her or to any of the other two children, after Mr. Dumont's death; he succeeded to it as a very valuable business—the business built up by her husband.

*Q.* I do not get your meaning; did she give you the impression that she thought th t William had to pay something for being the surviving partner of the business in which he and his father had been engaged; was that your idea?

*A.* Yes, sir; that was the impression—that the business was a valuable one; Mr. Dumont, the husband, had his share in it, and Mr. William Dumont had his share in it, and that Mr. William Dumont got more out of that business—or she considered he got more out of that business, of value—than his portion of the estate would amount to.

*Q.* Not that the assets of the business he did not pay over, but, as you have expressed it, the good-will?

*A.* The good-will is the understanding that I had in using that phrase—the good-will of the business.

*Q.* Then you understood her that he should have paid something to her, or to the estate of Robert Dumont, for the privilege of outliving his father, and being the surviving partner of the business in which he was a partner; was that the idea?

*A.* Yes; the idea was that there was a value in that business which should have gone to her and the other two children, that belonged virtually to the estate of her husband.

*Q.* And you did not disabuse her mind of that proposition?

*A.* No; I simply took her direction.

*Q.* Did she place any value upon that privilege of succeeding—of being the successor of a business in which he was already engaged?

*A.* Yes, I think she did; I think she said it was well worth $10,000 to Willie.

By Mr. Smith.

*Q.* A year?

*A.* No.

*Q.* To himself?

*A.* To him; yes, sir; that is, her husband's share of it; that her husband had been instrumental in building up the business, and it was worth fully that sum to his successor, Willie.

Further cross.

*Q.* Was anything said in regard to what the profits of that business were?

*A.* No, sir.

*Q.* Was anything said in regard to William paying an annuity during life from the business?

*A.* No, sir.

*Q.* Did she say that William was making $10,000 out of the business?

*A.* No.

*Q.* Or any sum?

*A.* No.

*Q.* Was anything said about the profits of the business?

*A.* No, sir.

*Q.* Was anything said about what had been the profits of the business during the life of Robert Dumont?

*A.* No, sir.

*Q.* You knew what the business was at that time?

*A.* Yes, sir.

*Q.* The business in which they had been engaged?

*A.* Yes, sir; custom-house brokers.

*Q.* So that you got the impression, and you think you were justified in getting it, that Mrs. Dumont cut off her son William because she thought that he had received the value of a one-third interest in the estate from the fact that he succeeded to the business of Robert Dumont?

*A.* Not only that, but from the fact that he persistently, both before he had a one-half interest and after he had a

one-half interest, had drawn from the business more than his share of the profits, and had not accounted for it.

*Q.* Did she place that sum, or did she approximate it in any way?

*A.* She did not approximate it even; she did not name any sum at all, either definitely or approximately.

*Q.* She wished you to place this clause in the will in regard to William so that he would have no hard feelings in regard to her and would appreciate that her feelings were kindly towards him.

*A.* She said that she did not want him to have any hard feelings towards her, and would like to have something in the will to indicate the reason for her making the discrimination in favor of the two other children.

*Q.* In other words she wished him to feel that her affections towards him were the same as towards the other children?

*A.* Well, she did not say so, although I believed that was so.

*Q.* That was the impression that you received?

*A.* Yes, sir.

*Q.* How did you come to use the word "estimated" when you said, in the will, "One thousand dollars was less than the estimated one-third of the estate"?

*A.* That sentence was framed with the idea of giving a reason in this will, without giving such reason as would put upon the record anything that would be distasteful to William or any of the family; that was my motive in drafting the explanation in those words; it did not contain all the reason that she gave me for making this discrimination; that I thought she would not want to go in the will, and I did not put it in the will, but I put what I thought, in her mind, was necessary for the purpose, and for that reason I wrote it on a separate piece of paper first and submitted it to her to see if it was in accordance with her wishes; she expressed herself satisfied with it and I put it in the will itself.

*Q.* It would strike me, and I should think it would strike you, as peculiar, when you knew that an estate was worth $40,000, to say that $10,000 was less than the estimated one-third of that amount; the discrepancy is very large?

*A.* The assumption—— [Interrupted].

*Q.* And I should scarcely think you would use the word "estimated"?

*A.* It was, maybe, a careless use of language, but I had in my mind not only the $1,000 given to William, but the $5,000 given to his daughter--regarding it in the way of his family, and so being virtually to him, and of course we never know what an estate is going to turn out.

By Mr. Smith—All this testimony in relation to the last answers and questions is objected to, in addition to the general objection which I made, on the ground that the construction of the will is not to be proved by witness' ideas of what he means—about what the language means.

*Q.* You say that Doctor Risk left the house?

*A.* Yes, sir.

*Q.* Were there any further matters of business between you and Mrs. Dumont transacted?

*A.* No.

*Q.* The customary fee was not produced at that time?

*A.* No, sir.

*Q.* Did she ask you how much you would charge?

*A.* No, I do not remember that she did.

*Q.* After you drew the will, what did you do with it?

*A.* I left it with her, as I remember.

*Q.* And you returned to New York?

*A.* Well, I did later in the evening.

*Q.* Who next spoke to you in regard to this will?

*A.* Theodore Dumont.

*Q.* What was the conversation that time?

*A.* Well, he said—it was shortly after his mother's death—and he said he wanted me to attend to the proving of the will.

*Q.* Haven't you had any communication with any one in regard to the will since that time?

*A.* No, sir.

*Q.* Haven't you been paid for it?

*A.* Yes, sir, I have; I did not regard that as a part of the will.

*Q.* Who paid you?

*A.* Theodore.

*Q.* How soon after the will was drawn?

*A.* That I do not remember.

*Q.* Wasn't anything said at that interview in regard to the will?

*A.* Nothing that I recall.

*Q.* You received a certain charge?

*A.* Yes, sir.

*Q.* And he paid it?

*A.* I do not remember whether I made a bill of it or not.

*Q.* You never did any other business for Mrs. Dumont, except this?

*A.* No, I think Mrs. Dumont, after the interview, said that if I would present the bill to Theodore he would pay it.

*Q.* Are you sure that Doctor Risk did not leave that room before you had completed signing your name to the attestation clause of that will?

*A.* Very sure.

*Q.* When he finished writing his name to that will, did not he get up from the table and go directly to the door to leave that room?

*A.* No, sir.

*Q.* Did he sit down?

*A.* No.

*Q.* Was the door in the hall left open?

*A.* That I do not remember; but I don't think it was; I think it was shut.

*Q.* Still, your memory is not clear?

*A.* No, sir; not on that point.

*Q.* You do not remember any one appearing in the hall during the progress of the signing of the will?

*A.* No, sir.

*Q.* You cannot recall anything of that kind?

*A.* No, sir; I do not recall seeing any one there but Mrs. Dumont and the one who let me in the door; whether that was a servant or not I do not recall; I presume it was.

By Mr. Smith—I object to all the cross-examination of the witness, and all testimony given, and the questions asked on cross-examination, and notice is given that a motion will be made to strike them out on the hearing, on the ground that they are irrelevant and not proper cross-examination, except so far as it relates to the execution of the will on the day it was executed.

Re-direct.

*Q.* You said that she requested that the three children should be executors—Mrs. Robbins, Theodore Dumont and William Dumont?

*A.* Well, I guess I was wrong there; Mr. Robbins was named as executor in the place of Mrs. Robbins; the impression I had was that the three were represented; I was thinking it was the three children that were named.

*Q.* That was an error when you said Mrs. Robbins?

*A.* Yes, sir; it should be Mr. Robbins.

*Q.* And Theodore Dumont and William H. Dumont?

*A.* Yes, sir.

Adjourned until Wednesday, February 23d, 1887, at 10 o'clock A. M.

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ELIZABETH, N. J., February 23d, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment.

Appearances as before.

By Mr. Smith—Exhibit No. 1 is now offered for probate, and proponents rest.

By Mr. Riker—The offer is objected to as having been insufficiently proved; and secondly, on the ground that it is not the last will and testament of Mary B. Dumont, and thirdly, that the will on its face shows an injustice, which has not been sufficiently explained by the proof offered by proponents.

Adjourned until Wednesday, March 2d, 1887, at 10 A. M.

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ELIZABETH, N. J., March 2d, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment last had.

Appearances as before.

*Henrietta Swords*, a witness called and sworn on behalf of the caveator, testified as follows:

Direct examination by Mr. Curtis.

*Q.* Where do you reside?

*A.* 106 Madison avenue, New York.

*Q.* You are a sister, I believe, of Mrs. Mary B. Dumont, late of Summit?

*A.* Yes, sir.

*Q.* Prior to the death of her husband, which took place in January, 1884, had you been a frequent visitor at the house of Mrs. Dumont, at Summit?

*A.* I had.

*Q.* After the death of Mr. Dumont were you a frequent visitor at the house of Mrs. Dumont?

*A.* I was.

*Q.* Were you present at Mrs. Dumont's house at the time of Mr. Dumont's death?

*A.* I was.

*Q.* And how long did you remain there after his death?

*A.* About three weeks.

*Q.* Were you there after that any time?

*A.* Yes; off and on; not until the next May.

*Q.* It was a fact, I believe, that you had a room in the house that you called your own?

*A.* Yes, sir.

*Q.* Which was for you especially?

*A.* Yes, sir.

*Q.* And you were a visitor after May, were you, in 1884?

*A.* For a short time I was; on the 11th of June.

*Q.* And then, in 1885, you visited there frequently?

*A.* Yes, sir; but I was away after that summer—after Mr. Dumont's death—and returned in November and spent a short time there.

*Q.* State how much time you spent at the house of Mrs. Dumont, in your own way, up to the time of her death?

*A.* I was there more than half of the time for the past two years.

*Q.* Who were the residents of the house?

*A.* Mr. and Mrs. Robbins, their child, and Theodore.

*Q.* I am now referring to the time of Mr. Dumont's death and immediately afterwards?

*A.* Mr. and Mrs. Robbins and Theodore were there part of the time, at the time of Mr. Dumont's death.

*Q.* What do you mean by "part of the time"?

*A.* He was there off and on—not there regularly—all the time; I don't think he was.

*Q.* Did he not make his home in Summit at that time?

*A.* I think he looked upon it as his home.

By Mr. Smith—Objected to.

*Q.* Do you know whether or not Mr. Theodore Dumont had any other home than in Summit at that time?

*A.* I do not.

*Q.* And so far as you know, Summit was his only home at that time—at the time of his father's death—and subsequently thereto?

*A.* I could not speak truthfully; I cannot recall it.

*Q.* You do not know whether he had another home or not?

*A.* Not at that time.

*Q.* Don't you know that he did not?

*A.* I am not positive about it; I could not speak truthfully about it, but he was there a great deal of the time.

*Q.* He had a room in the house?

*A.* Yes; he had his room in the house; he had his room there for three or four years, at the time of his father's death.

*Q.* And kept his horses there?

*A.* He kept one horse there.

*Q.* Were you present at Mr. Dumont's house, in Summit, on the day and a day or two prior to the death of Mr. Dumont?

*A.* I was.

*Q.* Do you know in what esteem or regard Mr. William H. Dumont was held by his father at the time of his death? [Objected to.]

*A.* I think he was very fond of him; he had spoken of him to me in most affectionate terms only a few days before his death; that he was such a good business man, and that he left everything with Willie.

*Q.* Do you know whether or not Mr. Dumont—Robert Dumont—was a constant attendant at his place of business?

*A.* He was not.

*Q.* During the last few years of his life?

*A.* He was not.

*Q.* How do you know that?

*A.* Because he used to come and see me very frequently, at 117 East 17th street; always once a week; and some-

times he spent two or three hours with me, and he would say he would not go down town, but left everything with Willie, and that it was not necessary for him to go there, for he did not do anything when he went there.

By Mr. Smith—All this is objected to as incompetent.

*Q.* And when he made those visits, was it during business hours?

*A.* It was; he would come from Summit to my door in the car.

*Q.* Do you know whether or not he visited others during business hours?

*A.* Yes, sir; he did; he would frequently leave me and say he would make other calls. [Objected to.]

*Q.* When you visited the house of Mr. Dumont, in Summit, prior to his death, say the last few years of his life, do you know whether he constantly went to business every day, or not?

*A.* When he was well, he always did.

*Q.* What were his business hours?

*A.* Well, I think, he always left in the twenty minutes past four train; half-past three train, I think, generally, to go home.

*Q.* A few days prior to Mr. Dumont's death, do you know what, if any, statement he made regarding the care of his wife to either of his sons? [Objected to as incompetent.]

*A.* He said, "Willie, if anything happens to me, I leave your mother in your care."

*Q.* How do you know he made that statement?

*A.* Because Theodore and Willie came down-stairs, and it was repeated down stairs immediately.

*Q.* By whom?

*A.* I think by both, and I heard Mrs. Dumont speak of it, too.

*Q.* How long was that before the death of Mr. Dumont?

*A.* I cannot say that, positively.

*Q.* Do you know whether or not Mr. Theodore Du-

mont was present at the time Mr. Robert Dumont made this statement?

*A.* The time he made that statement?

*Q.* Yes?

*A.* He was.

*Q.* Mr. Theodore Dumont was present at that time?

*A.* He was.

*Q.* Do you know whether Mrs. Mary B. Dumont knew of the request of Mr. Robert Dumont?

*A.* She did.

*Q.* How soon after he made it did she know of it?

*A.* I do not remember; I think it was at the time, but I cannot say.

*Q.* Your impression is at the time?

*A.* Yes, sir; at the time.

*Q.* At any rate the matter was the subject of remark immediately afterwards in the house by Mr. Theodore and Mr. William?

*A.* Yes, sir.

*Q.* Did you hear from Mr. Theodore Dumont anything regarding a contribution by Mr. William Dumont from his business to his mother?

*A.* I did.

*Q.* State what you heard, and when? [Objected to on the same ground as before.]

*A.* Immediately after his death he said —— [Interrupted.]

*Q.* You are speaking now what Mr. Theodore said?

*A.* Yes, sir, that Willie should allow his mother something from the business.

*Q.* Did he state how much?

*A.* $1,800 a year.

*Q.* What do you mean by "immediately after his death"?

*A.* I think it was before he was buried.

*Q.* Before Mr. Dumont was buried?

*A.* I think so.

*Q.* Did you hear any other reference to that by Mr. Theodore Dumont? [Objected to.]

*A.* I heard it referred to, that Willie was not ready to do it.

*Q.* By whom?

*A.* By Theodore.

*Q.* How did he refer to William in regard to that subject—what was his manner of speech?

*A.* He was merely speaking about his mother's income, and that Willie should allow his mother something from the business.

*Q.* Did he speak of the amount of William's income?

*A.* I do not remember that at that particular time that he did.

*Q.* But he did at some time?

*A.* At other times I have heard him refer to it.

*Q.* What did he say?

*A.* He said that they were making $10,000 a year.

*Q.* Did he give the source of his information?

*A.* No; excepting once, when he said he knew all about their business; that was a short time ago—through a boy in his office.

*Q.* What were the relations existing between Theodore and William after the death of their father?

*A.* They had no intercourse.

*Q.* Was there any estrangement between them?

*A.* There was, decidedly.

*Q.* And, so far as you know, can you state what the cause of it was, on Theodore's part?

*A.* Because he would not allow his mother this money.

*Q.* In referring to William, after his father's death, on the subject of allowance to his mother, was the reference that Theodore made to him of a pleasant character?

*A.* It was not.

*Q.* Can you give us some idea of the character of speech, and the manner in which he referred to William

in connection with this speech, and what he said? [Objected to.]

*A.* I cannot.

*Q.* Did he use profanity in referring to him?

*A.* Well, I cannot recall it, but he generally did.

*Q.* Did he use epithets in referring to him? [Objected to as leading, as well as incompetent and irrelevant.]

*A.* I cannot say.

*Q.* Was his speech violent or abusive in referring to William?

*A.* Decidedly.

*Q.* Can you give any of the words or expressions that he used?

*A.* I cannot.

*Q.* Do you mean to say that you do not recall them?

*A.* I cannot recall them.

*Q.* Do you know whether the relations between Theodore and William changed after the father's death?

*A.* I do not.

*Q.* Do you know whether or not Mr. Theodore Dumont and William spoke to each other after the trouble which you have referred to, in regard to the mother's income? [Objected to.]

*A.* They did not speak after their father's funeral.

*Q.* As far as you know?

*A.* Yes, sir. [Objected to for the same reasons as before.]

*Q.* Do you know whether or not Mr. William Dumont visited the house after his father's death?

*A.* Yes, sir.

*Q.* To see his mother?

*A.* Yes, sir; frequently.

*Q.* Did he, so far as you know, ever meet his brother Theodore in the house?

*A.* I think they have met on the piazza.

*Q.* You say you "think;" is that your best recollection?

*A.* That is my recollection, that William has passed Theodore in going up-stairs to his mother's room, and they did not speak to each other.

*Q.* Do you know whether or not they ever met in their mother's room?

*A.* Not until she was very ill—when she was ill last winter and this winter.

*Q.* Did they meet in their mother's room at that time?

*A.* Several times—when their mother was very ill last winter.

*Q.* Did they speak to each other at that time?

*A.* They did not.

*Q.* What was Mrs. Dumont's age at the time of her death?

*A.* She would have been seventy-eight on the 28th of February of this year had she lived.

*Q.* After the death of Mr. Dumont, do you know what the condition of Mrs. Dumont's health was?

*A.* She was very miserable.

*Q.* Will you explain what you mean by "miserable"?

*A.* She was very weak, and not well; immediately after his death she had an attack of prostration, and for the last year of her life she was very much out of health.

*Q.* Were you with her pretty constantly at that time?

*A.* Most of the time; I went out there last March, and with the exception of one week in July, I was with her until she died.

*Q.* What was Mrs. Dumont's character?

*A.* She was the most self-sacrificing and unselfish woman that ever lived. [Objected to as incompetent and irrelevant.]

*Q.* As to her affections—what was her disposition in that respect?

*A.* She was strong in her prejudices, but very fond of her friends and family.

*Q.* Do you know in what esteem she held her son William prior to her husband's death? [Objected to.]

*A.* She loved him very much.

*Q.* How do you know?

*A.* She always expressed herself so—if he did not come to see her she missed him very much; on Sundays she always looked for him.

*Q.* As to the conduct of her business affairs, do you know who had charge of them prior to her husband's death?

*A.* Her son Theodore took charge of them after—[Interrupted.)

*Q.* I say prior.

*A.* Oh! her son William.

*Q.* After her husband's death, do you know who had charge of her business?

*A.* Theodore.

*Q.* Do you know whether or not, at the time she changed her business from William to Theodore, she knew of the request made by her husband upon his death-bed in regard to her care?

*A.* She did.

*Q.* What was the relation existing between Theodore and his mother after the death of his father?

*A.* Well, I don't understand—do you mean affection?

*Q.* Well, if it was affection say so—I mean whatever it was?

*A.* Theodore was very much devoted to his mother after the death of his father, and I think she looked to him for advice.

*Q.* So far as you could judge or know, please state upon whom Mrs. Dumont relied in business and in advice, as to her matters, after her husband's death? [Objected to as irrelevant and as the mere opinion of witness.]

*A.* Theodore, altogether.

*Q.* Do you know Mr. Theodore Dumont's character and temperament?

*A.* Extremely excitable and nervous.

*Q.* Did you ever see any exhibitions of it? [Objected to for the same reasons.]

*A.* Several times.

*Q.* Where?

*A.* At Summit.

*Q.* And in whose presence?

*A.* In the presence of the family.

*Q.* Do you include in that Mrs. Dumont as well as the others?

*A.* Mrs. Dumont.

*Q.* Mrs. Dumont——[Interrupted.]

*A.* Never with her, but before her.

*Q.* I mean in her presence, and your presence as well?

*A.* In mine.

*Q.* When was that?

*A.* I cannot specify any time, but several times.

*Q.* After the death of Mr. Dumont?

*A.* After the death of Mr. Dumont.

*Q.* Do you recall any such exhibitions prior to the death of Mr. Dumont?

*A.* I do not—none, specially.

*Q.* Do you know whether or not Mr. Theodore Dumont was at the house of Mr. Robert Dumont, in Summit, prior to his death, more frequently or less frequently than afterwards?

*A.* He was there more after his father's death.

*Q.* Was he considered as one of the household?

*A.* He was considered as one of the household.

*Q.* After his father's death?

*A.* Yes, sir.

*Q.* State, if you know, whether or not Mr. Theodore Dumont contributed to the support of the household. [Objected to for the same reasons as before.]

*A.* He did not.

*Q.* How do you know that he did not?

*A.* I ofted heard his mother say so.

*Q.* State, if you know, whether or not Mr. and Mrs.

Robbins contributed to the support of the household? [Objected to.]

*A.* They paid their board.

*Q.* How do you know that?

*A.* I have heard Mrs. Dumont say so.

*Q.* What did she say?

*A.* She merely would allude—I know she told me that they paid their board.

*Q.* Did she name the amount?

*A.* I knew the amount.

*Q.* Did she name the amount?

*A.* Yes.

*Q.* How much was that?

*A.* $40 a month.

*Q.* Was any statement made to you by any one regarding the value of William's business after the death of Mr. Dumont? [Objected to as incompetent and hearsay testimony.]

*A.* Yes; I have heard Theodore say that he was making $10,000 a year.

*Q.* When was that said?

*A.* Several times I have heard it.

*Q.* Do you know whether or not that statement was made in the presence of Mrs. Dumont?

*A.* It was.

*Q.* By whom was it so made?

*A.* Theodore.

*Q.* Did you ever hear Theodore refer to William in the presence of his mother?

*A.* I have.

*Q.* In what manner would he allude to him?

*A.* Well, spoke of him as not contributing and not treating her as he thought he ought to.

*Q.* In such conversations would he use any profanity in referring to William?

*A.* I think he would. [Objected to.]

*Q.* You "think he would"—what do you mean by that?

*A.* Because that is his custom—an excitable disposition.

*Q.* Is that your best recollection?

*A.* Yes, it is.

*Q.* Do you know whether or not Mrs. Dumont had received some information in regard to the business of William from other persons than Theodore?

*A.* I do not know.

*Q.* State what information she did receive, if any, from Theodore on that subject?

*A.* Merely what I have told you; that he was doing very well and he thought he was making $10,000 a year.

*Q.* Did he state the source of his information to his mother?

*A.* Once he spoke about a boy he had in his office who had a brother in William's office, and he heard about the business through him.

*Q.* Did this conversation take place with Mrs. Dumont or in her presence?

*A.* In her presence.

*Q.* Do you know what Mrs. Dumont's bearing or demeanor was in the presence of her son Theodore?

*A.* Always kind and affectionate.

*Q.* Did you ever hear Mrs. Dumont contradict Theodore in conversation? [Objected to as incompetent, irrelevant and leading.]

*A.* No, never.

*Q.* Are you quite sure of that?

*A.* I am.

*Q.* Did she always agree with Theodore? [Objected to for same reasons as before.]

*A.* Always.

*Q.* Describe, if you can, more particularly, the manner in which Mrs. Dumont conducted herself towards Theodore, both in speech and other relations of life? [Objected to as incompetent and irrelevant.]

*A.* She was always as sweet and affectionate as she could be.

*Q.* State, if you know, what, if any, influence Theodore exerted over his mother? [Objected to for same reasons as before.]

*Q.* [Question continued.] After the death of his father —at that time?

*A.* He had great influence.

*Q.* What was his influence as compared to the influence of others?

*A.* He had the greatest. [Objected to for same reasons as before.]

*Q.* How do you know that?

*A.* I was there and I saw it. [Same objection.]

*Q.* Can you give any instance, in the relation of Theodore and his mother, which would justify you in that conclusion? [Same objection.]

*A.* Well, on account of his excitable disposition, she always said she wished me to agree with him, and never contradict him in anything, and I think she did, on that account, herself.

*Q.* When did she make that statement to you?

*A.* More than once; I cannot recall the times.

*Q.* Was it before her husband's death?

*A.* No; after.

*Q.* Do you know whether or not Theodore Dumont was consulted by his mother in regard to the household and its management? [Same objection.]

*A.* Of the funds?

*Q.* Yes; or anything of that kind?

*A.* Well, I don't know.

*Q.* Do you recall her ever consulting him in regard to the guests of the house—who should visit there?

*A.* If he suggested anything or wanted anything she got it.

*Q.* Do you remember any conversation at any time

regarding a visit to be made by Mrs. George Swords? [Objected to.]

*A.* Well, Mrs. Dumont said to me that she thought it was very hard that she could not have her friends in her own house, and I said, "Why not?" and she said she would like very much to see her sister-in-law, and she said, "I wish you would write to her and ask her to come and spend the day," and the next day she told me not to write until she had seen Theodore and spoken to him about it.

*Q.* When did this conversation take place?

*A.* About three weeks before her death.

*Q.* Did you ever have any conversation with Mrs. Dumont with regard to the influence of Theodore over her? [Same objection as before.]

*A.* No; at that time I said I thought it was very hard that she could not have her friends.

*Q.* I do not mean that—but did you at any other time?

*A.* No.

*Q.* What was Mrs. Dumont's rela ion to you?

*A.* Always affectionate and kind as she could be.

*Q.* Was it in any sense confidential?

*A.* Yes; she was.

*Q.* State whether or not she was in the habit of discussing or did discuss family matters, and matters of confidence with you?

*A.* Yes; she often talked about family affairs.

*Q.* Did she tell you in advance of making the will that is in question?

*A.* I never knew anything about the will. [Question objected to.]

[Answer continued.] She merely said to me, in June, that she was disturbed in her mind about some things she had done, that she regretted, and one night she said to me that she thought that she had done wrong in not giving Nettie—Mrs. Robbins—the house; I said I thought it would be very unjust, if she had; that she had a house, and William had a very large family; she said, "William

has the business;" I said, "What does the business amount to? he is not doing anything;" "but," she said, "he laid up money before his father's death;" she then told me that she wanted me to copy some writing—write something for her next day—some allusion was made about disposition of furniture and other articles about the house; she said that she did many things after Mr. Dumont's death, when she was excited, that she felt sorry for, but she never told me of her will; I did not know that she made her will; she was very much worried at that time, and Theodore asked me one evening if I did not think Mrs. Robbins was trying to get his mother to give her that house, and I said I had no reason to think so; I said if she had spoken to me about it; he said if she did do it he would make a row about it.

*Q.* When was this conversation?

*A.* In the early part of June.

*Q.* Immediately following the death of Mr. Dumont?

*A.* No; this last June—in 1886.

*Q.* Did you ever have any conversation with Mrs. Dumont, after her husband's death, relating to the amount of her property? [Objected to.]

*A.* She spoke to me last summer about her affairs; I asked her what her income was, and she said she did not know.

*Q.* Were you present when she received a check—was that the time that she received a check, and which gave rise to the conversation?

*A.* I was present often when she received checks—do you mean when she received her checks?

*Q.* Did she not receive a check which gave rise to some such conversation?

*A.* No; she received, once, a notice that some stock was due—some interest money.

*Q.* When was that?

*A.* Theodore was away, and she asked me to open and read it—her eyesight was not very good; at times it was

very much impaired; I read it, and she said, "I did not know I had such stock;" I told her she ought to look after her business more closely, and she said that it did not trouble her; that Theodore told her that she had income enough, and never to stint herself, or trouble herself about it.

Cross-examination by Mr. Smith.

*Q.* At whose suggestion did you come here to testify to-day?

*A.* I was sent for by Mr. Curtis.

*Q.* The gentleman who has been conducting the examination?

*A.* Who questioned me.

*Q.* Were you asked particularly as to what testimony you were desired to give?

*A.* I was not; I did not know what questions were to be put to me.

*Q.* What was it that you were told was wanted of you?

*A.* I heard after Mrs. Dumont's death——[Interrupted.]

*Q.* What was it that Mr. Curtis told you?

*A.* He merely told me that he wished to see me in Elizabeth to-day.

*Q.* For any particular purpose?

*A.* No; I knew what I was coming for.

*Q.* When did you find that out?

*A.* I heard soon after Mrs. Dumont's death that I would be subpœnaed.

*Q.* Who did you hear that from?

*A.* I cannot recall who; but some member of the family told me—they took it for granted, I presume—and I said I would not appear, and other members of the family said it was my duty, and I must, and when I said I would go out of the country to get rid of it, they said I would be brought back.

*Q.* Which member of the family told you it was your duty?

*A.* Two or three of them.

*Q.* Which ones?

*A.* I cannot say; I have been staying among several of them—well, Mrs. George Swords and Doctor Mathews, of Port Chester; he said I was at the house, and knew more than any one, probably, and it was my duty to attend.

*Q.* You told him you knew about it?

*A.* No; I have not alluded to it to anybody more than I could help; I have never spoken to a human being about it, and if anyone spoke to me about it, I gave them as little information about it as possible.

*Q.* Have you spoken to Mr. William Dumont?

*A.* No; I have not been to his house on that account.

*Q.* When did you see him last before to-day?

*A.* On Washington's birthday; he came to see me, and said I would be called upon soon; he did not tell me what I was to do, or anything about it; I asked him if I could not be waited upon at my house, and he said he would ask Mr. Curtis.

*Q.* He didn't say anything about the will?

*A.* No.

*Q.* When was the time before that that you had a conversation with Mr. William Dumont?

*A.* I have seen very little of him.

*Q.* When, before Washington's birthday?

*A.* The day after his mother's funeral; I saw him then, and he told me about the will; I was in New York, and I went out of town to Port Chester, and have been there until the last ten days.

*Q.* Those are the only two conversations you remember with him?

*A.* Yes, sir.

*Q.* When did you go to Mr. Dumont's house in Summit—at what time previous to Mr. Dumont's death; he died when?

*A.* He died on the 4th of January.

*Q.* And you went there when—to the house?

*A.* I went there about a week before his death.

*Q.* A week before his death?

*A.* Yes, sir.

*Q.* How did you come to go then?

*A.* They sent for me.

*Q.* Who did?

*A.* Mrs. Dumont sent for me.

*Q.* You got a letter from her?

*A.* That I cannot recall.

*Q.* Previous to that time, when were you there?

*A.* On Christmas; I spent Christmas day and night there.

*Q.* The year before?

*A.* No; the previous Christmas to his death.

*Q.* He died——[Interrupted.]

*A.* On the 4th of January.

*Q.* And you were there on the Christmas before?

*A.* Yes, sir.

*Q.* Previous to that, when were you there?

*A.* I cannot recall it; I always looked upon it as anchorage, and was there a great deal.

*Q.* When, before that, if you remember?

*A.* I cannot remember.

*Q.* You went there Christmas, and did you stay there until his death?

*A.* I only went on Christmas and staid over night, and went back to New York the next day; and then I went out there perhaps five or six days before his death.

*Q.* And remained how long, after his death?

*A.* Three weeks.

*Q.* That would be about the latter part of January?

*A.* Yes, sir.

*Q.* Then you went, where?

*A.* 117 East Seventeenth street, where I had my rooms.

*Q.* When again did you go back to Summit?

*A.* I went out in May and staid until the 11th of June.

*Q.* And then?

*A.* I did not go there again until the next November.

*Q.* Was Mr. Dumont sick in bed when you went there?

*A.* He was.

*Q.* Very sick?

*A.* Very sick.

*Q.* This conversation about William and Theodore, by Mr. Dumont, was with whom?

*A.* I know Theodore and Willie were both in the room.

*Q.* Were you in the room?

*A.* I was not; I was down-stairs in the library; they came down and repeated it themselves.

*Q.* You did not hear what was said?

*A.* No.

*Q.* All you know was what was said when they came to the library?

*A.* And what Mrs. Dumont said.

*Q.* Who else was in the library besides yourself when they came down-stairs?

*A.* I don't know—it is so long ago.

*Q.* Do you remember anybody else being there?

*A.* No; I do not.

*Q.* What brought about this conversation in the library where this matter was spoken about?

*A.* They came down and repeated it immediately.

*Q.* They merely came down and came in the library?

*A.* Yes, sir.

*Q.* The two together?

*A.* Yes, sir.

*Q.* Who commenced the conversation?

*A.* I think it was Theodore repeated it.

*Q.* Did William say anything?

*A.* No; nothing at all.

*Q.* What you have stated here is your recollection of what Theodore said when he came in the library?

*A.* Yes; that was all that was said.

*Q.* State exactly now, as you remember, what Theodore did say when he came into the library—the whole of it?

*A.* He said that father said that Willie—[Interrupted.]

*Q.* Who did he say this to?

*A.* I presume to me.

*Q.* Did you say anything to him?

*A.* I do not remember; they came in together; Theodore said, "Father said, 'Willie, in case anything happens to me, I leave your mother in your care.'"

*Q.* Said it to William?

*A.* Said it to me—repeated it to me.

*Q.* "Willie, in case anything happens to me, I leave your mother in your care?"

*Q.* Yes, sir.

*Q.* And that is all he did say?

*A.* That is all.

*Q.* Did you say anything at the time?

*A.* I do not remember making any remark.

*Q.* What did they do then?

*A.* I am not sure; I do not remember.

*Q.* Did they go out?

*A.* I did not.

*Q.* You don't remember anything else?

*A.* Nothing more.

*Q.* You don't remember anything more that was said?

*A.* Nothing more.

*Q.* Were they standing up when this conversation took place?

*A.* I believe they spoke of it as they came in the room.

*Q.* Were they talking together as they came in?

*A.* They were very pleasant and on good terms then.

*Q.* All you remember were those words, and then you remember nothing more about it?

*A.* That is all.

*Q.* Or what became of it?

*A.* No.

*Q.* When was the conversation about William allowing his mother something?

*A.* I think before his father was buried.

*Q.* Where?

*A.* In Summit.

*Q.* Where was the conversation held?

*A.* In the library.

*Q.* Who were present then?

*A.* I remember Theodore telling me, but I do not remember any one else being present.

*Q.* Were you present?

*A.* I was.

*Q.* And Theodore—was William present?

*A.* No.

*Q.* Theodore said at that time, didn't he, to you, that William had agreed to pay $1,800 to his mother?

*A.* $1,800.

*Q.* He said he agreed to pay $1,800 a year?

*A.* Yes, sir.

*Q.* That is as you remember it, isn't it?

*A.* Yes, sir.

*Q.* Subsequent to that did you have any conversation with Theodore about it?

*A.* No.

*Q.* Didn't you ever hear afterwards, at any time, that William had refused to pay the $1,800?

*A.* He consented, because Theodore spoke to him about it at the depot in the presence of some of the gentlemen, and, to quiet the thing, he agreed to it.

*Q.* Who did?

*A.* William.

*Q.* Who told you that?

*A.* William told me that.

*Q.* William told you that, because Theodore had spoken to him in relation to the matter down at the depot before some gentlemen, he had agreed to pay $1,800 a year to his mother?

*A.* He wanted to stop his talking about it.

*Q.* When did William tell you that?

*A.* That I cannot recall.

*Q.* It was after that?

*A.* After that.

*Q.* When did you hear that William refused to pay the $1,800?

*A.* He told me himself that he did not intend to pay it.

*Q.* When?

*A.* After this conversation with Theodore.

*Q.* He told you that he had agreed to pay it because it was spoken about in the depot?

*A.* Yes, sir.

*Q.* But he did not mean to do it, at the same time?

*A.* He said he did it because Theodore was very much excited, and he wanted to quiet him.

*Q.* But he did not intend to do it?

*A.* No; he said he would have agreed to anything at that time.

*Q.* Then it was from William that you afterwards heard that he would not pay the $1,800?

*A.* Yes, sir.

*Q.* Didn't you hear Theodore say anything about it subsequently?

*A.* Yes; I heard him allude to it two or three times.

*Q.* At that time he was considerably excited, wasn't he?

*A.* He was.

*Q.* He was very indignant about it—Theodore?

*A.* Very.

*Q.* Because he refused to pay the $1,800, as he had promised, to his mother, wasn't he?

*A.* Yes, sir.

*Q.* Did Mrs. Dumont know that William had made this promise to Theodore—did you ever hear her say anything about it?

*A.* She did.

*Q.* The estrangement, if any, that you have spoken about, between Theodore and William, commenced about that time?

*A.* Yes, sir.

*Q.* And did you understand that this trouble about the $1,800 was the cause of it?

*A.* It was.

*Q.* How long had William been connected with his father in business at that time?

*A.* At the time of his father's death?

*Q.* Yes?

*A.* I really cannot say; I do not remember.

*Q.* When William and Theodore met in Mrs. Dumont's room, as you have spoken about here several times, was that after Mr. Dumont's death?

*A.* During her sickness they met there.

*Q.* During her last sickness?

*A.* Yes, sir.

*Q.* Were you present in the room any of the times?

*A.* Several times.

*Q.* And at those times they did not speak?

*A.* No, sir.

*Q.* Theodore was the only man except—was there any other man about the house, except Theodore, at Summit?

*A.* Mr. Robbins.

*Q.* He lived in the house, too, did he?

*A.* Yes, sir.

*Q.* What were your relations while you were there with Mrs. Robbins and Theodore—were they pleasant?

*A.* I was on very good terms with Theodore.

*Q.* How about Mrs. Robbins?

*A.* We were not on very social terms.

*Q.* Have you visited the house since Mrs. Dumont's death?

*A.* No.

*Q.* What were the relations between Mrs. Robbins and her mother?

*A.* Well——[Interrupted.]

*Q.* Pleasant?

*A.* Pleasant.

*Q.* And between Mrs. Robbins and Theodore?

*A.* Always pleasant.

*Q.* Theodore, you say, spoke several times about his mother's income?

*A.* I do not remember of having made such allusion.

*Q.* Maybe so; I have gotten it so; was it either William or Theodore who spoke of their mother's income?

*A.* I do not remember speaking anything about it; I said I asked their mother once what her income was, and she said she did not know; I think that was the only allusion that was made to her income.

*Q.* Nothing else was spoken about by Theodore or William in relation to their mother's income?

*A.* No.

*Q.* When was it that you heard Theodore say that William was making $10,000 a year?

*A.* I heard him say it several times; I cannot recall the times.

*Q.* Do you remember the times?

*A.* No, but several times.

*Q.* Was it after you went back in June, do you think, to the place?

*A.* That I cannot say.

*Q.* Or in November?

*A.* Oh, after I went back in November.

*Q.* It was after you went back in November?

*A.* Yes, sir.

*Q.* Are you sure that Mr. Theodore Dumont said that William was making $10,000 a year, or that the business was worth $10,000 a year?

*A.* That I cannot say; I do not remember.

*Q.* Or was worth $10,000?

*A.* I do not know; it did not make such an impression upon me, only I thought he had a very erroneous idea.

*Q.* But you did not know, and cannot swear positively, as to whether he said the business was worth $10,000, or he was making $10,000 a year, or what it was exactly?

*A.* No.

*Q.* But it was something in relation to $10,000?

*A.* Yes, sir; and I think that gave his mother the impression, because she told me——[Interrupted.]

By Mr. Smith—[Objected to as not responsive.]

*Q.* Most of all these conversations that you have related here as taking place with Theodore were after you returned in November, were they?

*A.* Yes, sir.

*Q.* You then made a longer stay there, did you, than previous?

*A.* That was November—two years ago last November; then I came to New York—after the holidays.

*Q.* But the most of the conversations were during the last sickness of Mrs. Dumont, were they not?

*A.* Yes, sir.

*Q.* When you say that Mrs. Dumont relied upon Theodore more than anybody else, as I understand, you mean as between yourself and Mrs. Robbins and Mr. Robbins—the people that were in the house, don't you?

*A.* Yes.

*Q.* That was quite natural, wasn't it?

*A.* He attended to her business.

*Q.* I say it was quite natural?

*A.* No one made any objection to it.

*Q.* You didn't think anything very strange about it, did you?

*A.* No, but I thought she confided in him—Mrs. Robbins was her daughter; no; I don't think it was; nothing unnatural, he was her son.

*Q.* They were affectionate towards each other?

*A.* Always.

*Q.* And pleasant relations existed between them?

*A.* Between Theodore and his mother?

*Q.* Yes?

*A.* Always.

*Q.* She was a sweet and affectionate woman?

*A.* As lovely a woman as ever lived.

*Q.* What kind of a disposition has Mrs. Robbins?

*A.* Well, that is a rather peculiar question for you to put to me; I do not understand; she is my niece; I suppose she has a very good disposition.

*Q.* You did not get along very well with her?

*A.* No; we have not gotten along very well of late.

*Q.* What kind of a disposition have you yourself?

*A.* Well, I don't know; I leave that for others to judge.

*Q.* What do you think?

*A.* I never injured Mrs. Robbins —— [Interrupted.]

*Q.* I did not ask you that—I asked what you thought of your disposition?

*A.* You must call upon some one else to answer that.

*Q.* I ask what is your idea?

*A.* I do not think I am a termagant; my sister and I never had an unkind word together.

*Q.* You and Mrs. Dumont?

*A.* Yes, sir; and she was always sweet and affectionate with my mother, too.

*Q.* And you were always sweet and affectionate to her?

*A.* Yes, sir; always.

*Q.* That is towards Mrs. Dumont?

*A.* I do not think I ever —— [Interrupted.]

*Q.* Just answer my question, please, and I think we will get along better—that is towards Mrs. Dumont you were so?

*A.* Yes, sir.

*Q.* How was it towards Mrs. Robbins?

*A.* I never replied to Mrs. Robbins in any way; if anything was said that hurt my feelings I never made an answer, and her mother used to thank me for it.

*Q.* Did Mrs. Dumont ever say anything about any relations or intercourse with Mrs. Robbins—the way you should answer her back or talk to her?

*A.* No; she said that I should control my temper.

*Q.* Why was that?

*A.* Because she did not wish to have any trouble.

*Q.* Was there any occasion to lose your temper?

*A.* Sometimes my feelings were very much cut.

*Q.* By whom?

*A.* By Mrs. Robbins.

*Q.* And Mrs. Dumont knew about that?

*A.* Mrs. Dumont knew about that.

*Q.* You told her about it?

*A.* It was in Mrs. Dumont's presence; I was with Mrs. Dumont constantly.

*Q.* And Mrs. Dumont would thank you for having been so considerate towards Mrs. Robbins or towards Mrs. Dumont?

*A.* Towards Mrs. Robbins.

*Q.* In not answering her back?

*A.* I never answered her back or said an unkind word to her that I am aware of.

*Q.* But she said many things to you that you considered unkind?

*A.* Sometimes she hurt my feelings very much, but I don't know what that has to do with this affair.

*Q.* When Mrs. Dumont spoke about not—that she could not see her own friends in her own house—that was in relation to Mrs. Robbins, wasn't it?

*A.* Oh no; Well, I think that she felt that it would not be agreeable to Mrs. Robbins, and decidedly unpleasant to Theodore; but, when she spoke to Theodore, he had no objection, and he told me to write for his aunt to come.

*Q.* And she came?

*A.* She came and spent the day.

*Q.* Do not you remember that Theodore said, at the time, that it was his mother's house and she had a right to have whom she pleased?

*A.* He did; but she had that feeling that it would not be agreeable.

*Q.* Did he say at that time that he had had no quarrel with Mrs. Swords, or Aunt Mary; she was Aunt Mary, wasn't she?

*A.* Yes, sir.

*Q.* But he resented an insult of her daughter to his mother; do you remember that?

*A.* I remember something being said about the daughter, but I do not remember exactly what it was.

*Q.* But something was said about the daughter at the time?

*A.* I do not remember the insult of the daughter.

*Q.* No; but whether anything of that kind was said that you remember; if you don't, that is all there is about it?

*A.* No, I do not.

*Q.* You used to complain, didn't you, to Theodore about Mrs. Robbins' treatment of you?

*A.* His mother often used to speak to him about it, and then he would ask me about it; but I don't remember ever complaining.

*Q.* You used to talk with him about it?

*A.* I did.

*Q.* Do you remember, at such times, of Mr. Theodore Dumont telling you that it was his mother's house, and that you should stay there?

*A.* He did; I say that Theodore was always—we were on very pleasant terms.

*Q.* And didn't he say to you that she should have whom she pleased in the house, and you should remain?

*A.* He did.

*Q.* And urged you to stay, didn't he?

*A.* Yes.

*Q.* Mrs. Dumont died, in what month?

*A.* On the 9th of December.

*Q.* And it was in the month of June, previous to that time, that you had a talk with her about giving the house to Mrs. Robbins?

*A.* She introduced it herself.

*Q.* And she then said that she thought about giving the house—that place in Summit—to Mrs. Robbins?

*A.* She said that she—she said, "I do not know that I have done right not to give this house, out and out, to Nettie;" that was the time she was disturbed in her mind about something—I do not know what about, whether it was a will or what it was.

*Q.* You could not tell that?

*A.* No, she did not volunteer; but she told me that she wanted me to do some writing for her; her eyesight was not good, and she asked me to write.

*Q.* The conversation about the place there was in June?

*A.* Yes, sir; I think the early part of June.

*Q.* And her inclination then was to leave the house—the place where she lived, at Summit—to Mrs. Robbins?

*A.* She thought, I imagined —— [Interrupted.]

*Q.* I did not ask you what you imagined; I ask if she was speaking about the house in Summit?

*A.* For two or three nights in succession she laid awake at nights talking to me —— [Interrupted.]

*Q.* [Former question repeated.] And her inclination then was to leave the house—the place where she lived in Summit—to Mrs. Robbins?

*A.* She felt that she ought to.

*Q.* Was it after that that you had a conversation with Theodore about what Mrs. Dumont had said about leaving the house to Mrs. Robbins?

*A.* It was.

*Q.* Did you tell Theodore what Mrs. Dumont had said?

*A.* He asked me if I did not think Mrs. Robbins was trying to get her mother to give her that house, and I said I had no reason to think so, and then he said if she did he would make a row about it.

*Q.* That was afterwards, was it?

*A.* Yes, sir.

*Q.* You have heard Mr. Dumont—Theodore Dumont—you say, say to his mother that she should do as she pleased

with her property, and spend it as she wanted to, and not stint herself?

*A.* I have.

*Q.* What have you heard him say in relation to that—about spending all her money or doing as she pleased with her property?

*A.* I have heard him tell his mother that whatever she wanted, to get; that she had income enough to get anything that she wanted to, and whenever she would speak about getting anything that she might think was a little extravagant, she said, "I don't care, Theodore tells me to get anything that I want."

*Q.* Do you remember about Mrs. Dumont putting any money in the savings-bank for Mamie Dumont?

*A.* I do.

*Q.* Who was she?

*A.* William Dumont's oldest daughter.

*Q.* Do you remember when that was?

*A.* The first was, perhaps, a year before her death, for I went over with her.

*Q.* Were you present at a conversation between Mrs. Dumont and Theodore in relation to putting $500 in the bank?

*A.* She did not put in $500 at once; she put in $100 to begin with, and at different times gave me smaller sums to take to the city, and then she spoke to Theodore last summer about making up the $500—whether she could do it, and he said she could, and he attended to it.

*Q.* She wanted to make it $500?

*A.* Yes, sir.

*Q.* And Theodore acquiesced in it, did he?

*A.* Yes, sir; and she had over $300 then, and he sent the balance, making up the $500.

*Q.* To put in the savings-bank?

*A.* Yes, sir; of his mother's money.

*Q.* Was anything said at that time by Theodore in relation to the putting of this money in the bank?

*A.* Not a word; he was perfectly willing to do it.

*Q.* Who signed the checks for the money—Mrs. Dumont's money—that were drawn?

*A.* She signed her own name.

*Q.* She signed her own checks?

*A.* Yes, sir.

*Q.* She kept her own bank-book, did she, and signed checks?

*A.* Theodore used to draw the checks, and Mrs. Dumont would sign them; she very rarely took a pen in her hand, for her eyesight was not good, and she could not read very well on that account.

*Q.* Did Mrs. Dumont keep her securities in New York, do you know?

*A.* She did.

*Q.* Where at New York?

*A.* Some deposit company.

*Q.* Some safe deposit company?

*A.* Some safe deposit company.

*Q.* Do you know who had the key of it, and kept the key of it?

*A.* I believe Theodore; I do not know; I went with her once and met Theodore, and he took us there.

*Q.* Previous to Mr. Dumont's death, did I understand from your direct examination, that you mean to say that you had a conversation with Mr. Dumont, deceased, in relation to William's relation to the business, or in relation to his mother?

*A.* He spoke of Willie as being very attentive to the business, and that it was not necessary for him to be there at the office, for when he was there he did not do anything, and he said, "It is like having five wheels to a coach," and he said, "There is no use; I have given up everything to Willie, and he is a very good business man, and very attentive."

*Q.* When was that?

*A.* Before his death—the last time he came to see me.

*Q.* That was at your house?

*A.* Yes, sir.

By Mr. Cranstoun.

*Q.* You spoke about a conversation in the library, between Theodore and William, in regard to the care of his mother, after the death of the father; did I understand you, in your direct examination, that Mr. Dumont, deceased, told you that?

*A.* I was sitting in the library, and they came down together and repeated that.

*Q.* Who was "they"?

*A.* I think Theodore and William.

*Q.* Did Mr. Dumont, deceased, ever tell you that, that after his death he wanted Willie to take care of his mother?

*A.* The boys were both with him, and he said, "If anything happens to me, I leave your mother in your care."

*Q.* Who was that?

*A.* The father.

*Q.* Told it to you?

*A.* No; to them.

*Q.* I understood you to say that he told it to you?

*A.* I was in the library.

*Q.* I have it in my notes, on the direct examination, that Mr. Dumont told you?

*A.* No; he did not.

*Q.* Then it was Theodore told you that in the library?

*A.* Yes, sir.

Re-direct by Mr. Curtis.

*Q.* Where was the safe deposit, to which Mr. Theodore Dumont and Mrs. Dumont took you at the time you have referred to?

*A.* I cannot recall the street, but it is on the southeast corner of Broadway and Worth, or one of those streets; it is down in the basement.

*Q.* Do you know where Mr. Theodore Dumont's office is?

*A.* 391 Broadway, at that time, and it was just below, on the south side of the way.

*Q.* It was near his office?

*A.* Yes, sir.

*Q.* Did you go to that safe deposit at any other time with Mrs. Dumont?

*A.* No; I was only there once.

*Q.* In any of the questions that arose after Mr. Dumont's death, and prior to the death of Mrs. Dumont, do you know whether or not Mrs. Dumont referred the subjects to Mr. Robbins?

*A.* I do not think she ever consulted Mr. Robbins at all.

*Q.* Do you know what her regard was for Mr. Robbins?

*A.* I think she always respected Mr. Robbins.

*Q.* You have referred to a writing that you made at the request of Mrs. Dumont; what was that writing?

*A.* Well, the disposition of some furniture and silver, and some personal effects.

*Q.* When was that?

*A.* It was the early part of June—last summer.

*Q.* 1886?

*A.* 1886.

*Q.* What did you write?

*A.* She had written it down in pencil, but it was almost illegible, and I would refer it to her, and she would sometimes make suggestions and tell me what alterations she wanted made.

*Q.* Do you know whether or not she signed that instrument?

*A.* Yes, sir; I think it was signed.

*Q.* What did you do with it after it was signed?

*A.* I sealed it up and put it in her tin box.

*Q.* At whose request?

*A.* At her request, and put the original with it—the one that she had written out.

*Q.* Do you recall at any time whether or not Mrs. Du-

mont in her lifetime gave you anything to deliver to William?

*A.* Yes; in this memorandum there were several things to be given to William.

*Q.* I mean prior to that?

*A.* Prior to that she always spoke of her son's desk to be given —— [Interrupted.]

*Q.* I am not referring to any disposition of property after her death, but I mean did she, in her lifetime, intrust you with any articles to be delivered to William when he should call?

*A.* To be delivered after her death?

*Q.* No; whenever he should call at the house—any presents?

*A.* I remember my mother's photograph she wished to be given to him, but he did not get it; it was hanging in her bed-room.

*Q.* Do you recall of Mrs. Dumont entrusting you with any linen table-cloths, or napkins, or anything of that kind, to be delivered to William?

*A.* In her sickness she would speak of it to Mrs. Robbins—of things to be given to William's daughter.

*Q.* I ask you if, during her life and after her husband's death, she ever entrusted you with any articles, such as linen, napkins or table-cloths?

*A.* No.

*Q.* And requested you to deliver them to William when he called?

*A.* No; not to me, but I have heard her speak to Mrs. Robbins about things, but many things in the house disappeared that I think she wished to be given to his daughter.

*Q.* Do you remember delivering a camp-stool to William?

*A.* Yes, sir; that his mother requested me to send to him; I was sending him some furniture that belonged to him, and his mother told me to get this camp-stool and

put it in the drawer of the bureau and send it to him, and not to let any one know about it.

*Q.* Do you recall delivering to William, at the request of his mother, anything in the way of table-cloths, or linen, or anything of that kind?

*A.* No.

*Q.* Did she state why she requested you to put that in your drawer?

*A.* She did not; she told me to hurry down-stairs and get the camp-stool and get it and put it in the drawer and lock it up in the drawer of the bureau, and said, "Don't let any one know anything about it."

*Q.* Did she ever, in her conversations with you prior to her death, and after her husband's death, speak of going to the hospital?

*A.* Well, she did; she was feeling very low-spirited one day; she had her feelings somewhat hurt, or rather I had.

*Q.* By whom?

*A.* Well, it is not very pleasant for me to speak of it, but she begged of me not to leave her, and she said, "If I go to the hospital, will you go with me?" and I told her I would never leave her as long as she lived.

*Q.* Do you know what gave rise to that conversation?

*A.* At something unpleasant that was said to me, that hurt her feelings very much.

*Q.* By one of the occupants of the house?

*A.* Yes, sir.

*Q.* I understood you to testify, on your cross-examination, that you deposited money in the savings-bank, or bank for Mrs. Dumont, at Mrs. Dumont's request?

*A.* For Mrs. Dumont's granddaughter.

*Q.* At her request?

*A.* At her request.

*Q.* What did she say when she asked you to make that deposit?

*A.* I went over with her myself the first day—she told me of it on the way over there, and she said "This is

between ourselves, and don't you lisp a word to anybody; I don't want anybody to know anything about it, and you get the bank-book, and after my death I wish you to give it to Mamie;" after that she gave me different sums at different times to take over with me.

*Q.* Gave it to you in money or checks?

*A.* Gave it to me in money.

*Q.* Did you ever hear Mrs. Dumont, after the death of her husband, speak of her desire for a reconciliation between her sons William and Theodore?

*A.* Oh, often.

*Q.* What did she say?

*A.* She said she could die perfectly happy if she could see them reconciled. [Objected to.]

*Q.* When was the last time you spoke of this subject?

*A.* Not very long before her death; I cannot tell you exactly, but it was a short time; she was very unhappy about it, and spoke to me very often about it.

*Q.* Was the last time she spoke of it during her last sickness?

*A.* Well, she had been out of health, you know, for a year—you may say her illness was nearly of a year's duration—but she would have very bad attacks when she would be worse than at others.

*Q.* Were you present at any interview between Mrs. Dumont and her son William when she referred to the subject of reconciliation?

*A.* No.

*Q.* Were you present at any time, at any interview between Mr. Theodore Dumont and his mother, when she referred to the subject of reconciliation?

*A.* No; I never heard her speak particularly to Theodore about it.

*Q.* Did you ever hear Theodore speak to his mother on the subject? [Objected to.]

*A.* About a reconciliation?

*Q.* Yes?

*A.* No.

*Q.* Did you ever see Mrs. Dumont sign any checks tha were presented to her by Theodore?

*A.* Frequently when the bills came in he would make out checks and she would sign them.

*Q.* State any occasion, if you know, upon which she refused to sign a check that he presented to her?

*A.* She never refused to sign them.

*Q.* Do you know whether or not she examined the checks?

*A.* No.

*Q.* Do you know whether or not any conversation took place at those times, as to what the checks were to be used for?

*A.* She was always told what the checks were for.

*Q.* You say her eyesight was affected?

*A.* Very much so.

*Q.* How about her hearing?

*A.* Her hearing was very poor; she was very hard of hearing, and had been for, certainly, twelve years.

*Q.* Could she hear conversation carried on in an ordinary tone of voice in the room?

*A.* She could not.

*Q.* How was it necessary to address her to make her hear?

*A.* Talk loud to her; whenever I read to her I sat close to her and spoke very loud.

*Q.* Could she hear a whisper?

*A.* Not at all.

*Q.* And if a conversation was carried on in her presence so that she could hear it was it in so loud a tone that anybody present in the room could hear it?

*A.* Yes.

*Q.* And as to her tone of voice in conversation, what was it, an ordinary tone?

*A.* She did not speak particularly loud.

*Q.* Do you know whether this difficulty in her hearing increased or remained the same during her illness?

*A.* It was the same for some years, I suppose six or eight years; it came, I think, about twelve years ago.

*Q.* There was no change in it after six years?

*A.* No; I don't think there had been.

*Q.* In referring to her eyesight; did she use glasses?

*A.* Oh, yes; and the strongest glasses; I went two years ago this winter to Doctor Hunter's with her to get a pair of strong glasses, and the clerk, when she tried the glasses, remarked to me that they were very strong glasses, the strongest number.

By Mr. Smith—What the clerk said is objected to.

*Q.* Could she read an ordinary book, or not, without glasses?

*A.* Some days; some days there was a blur over her eyes so that she could not read at all, even with the aid of glasses; she could not read, and asked me to read to her other days she could read.

*Q.* Was she able to read without glasses—or did she read without glasses?

*A.* She never read without glasses.

*Q.* Could she read a lady's handwriting without glasses?

*A.* No; she did not read letters; she always got me to read her letters; when I was there I always read her letters.

*Q.* Even with her glasses?

*A.* She could, but she always called upon me.

*Q.* Rather than read with glasses, she handed her letters to you to read?

*A.* Yes, sir; while I was with her all the letters that came for her I used to read.

*Q.* Will you recall the conversation had by you, and testified to by you, between Mrs. Dumont and yourself, referring to the value of William's business, as stated to her, and tell me again what it was?

*A.* William's business?

*Q.* Yes? [Objected to.]

*A.* She told me that he had laid up money before his father's death, when I spoke about his not doing any business, and he was scarcely making expenses; "well," she said, "he laid up money before his father's death."

*Q.* I am referring to the subject wherein something was said about $10,000?

*A.* Yes; she had been told that.

*Q.* Told what?

*A.* That he was making—that he had $10,000 a year from his business.

*Q.* Do you recall that she said that she was told that he was making $10,000 a year out of this business?

*A.* She did not say that she was told, but he had laid up money before his father's death, and he has been making $10,000 a year.

*Q.* And that he was making $10,000?

*A.* I told her that he was not making his expenses; well, she said, he had laid up money, for he had been making $10,000 a year.

*Q.* Some questions were asked you in regard to when you were requested to come out and testify in regard to this matter, and by whom you were requested; did you not, at my request, come to my office before you were notified to come out here?

*A.* Yes, sir.

*Q.* And did you not in my office, and at my request, answer any questions I put to you in regard to this matter?

*A.* I did.

*Q.* That was prior to the time you were notified to come here to testify?

*A.* Yes, sir.

Re-cross by Mr. Cranstoun.

*Q.* You spoke something about this furniture and silverware, and about Mrs. Dumont making some change of disposition—when was that?

*A.* Last June.

*Q.* Did you have considerable conversation with her about it, at that time?

*A.* No; she merely told me that she wished me to do that writing for her, and then she would make suggestions and tell me she wanted alterations made.

*Q.* You say that she wrote it down herself, and the writing was illegible?

*A.* In the first place, yes.

*Q.* When you wrote it out, did you ask her any questions yourself about it—when you wrote it out again, was it in her presence?

*A.* Yes, sir.

*Q.* Did you ask her anything about it?

*A.* Not at all; only when I could not understand her writing; I did not make any alterations or suggestions.

*Q.* Was that at the time of the conversation about the property and house?

*A.* It was about the same time, but when she was talking to me about the house and about its disposition it was in the night; she could not sleep for three or four nights, and I knew there was some trouble on her mind, and when Theodore came home in the evening she asked me to leave the room, she wanted to see Theodore alone, three or four nights; I imagined there was something about the will; I did not ask her, and she did not volunteer.

*Q.* You spoke something about some unpleasant thing being said to you, and about a certain conversation you had with her, and about going to a hospital—who was it that said that to you?

*A.* Well, I don't know why that has anything to do with this at all.

*Q.* It only has a bearing upon Mrs. Dumont?

*A.* I am extremely sorry —— [Interrupted.]

*Q.* So am I, but it has been brought out on your direct examination, so we will have to cross-examine you upon it?

*A.* There were several unpleasant things said; Mrs. Robbins is rather excitable, and got excited one day and said

something to wound my feelings and her mother, and Mrs. Robbins went out, and her mother was in a flood of tears and felt very bad about it, and threw her arms around me and asked me to promise her never to leave her as long as she lived, and said, "If I go to a hospital will you go with me?"

*Q.* Did you threaten to leave the house?

*A.* No; I did not.

*Q.* Will you state what it was that was said by Mrs. Robbins?

*A.* Well, her mother—she was going to Madison, and her mother told her to leave the directions of her medicine with me, as she would be gone some time, and Mrs. Robbins never liked me to have charge of the medicine; she wanted to attend her mother altogether, and she got very excitable about it, and said she would give up the entire charge to me, and I must take the responsibility, and then Mrs. Dumont felt very badly about it, and Mrs. Robbins went off.

*Q.* Was that all that was said?

*A.* Yes.

*Q.* Nothing else?

*A.* No.

By Mr. Curtis.

*Q.* Were you present at that interview that you have just been describing?

*A.* Mrs. Robbins was present.

*Q.* And you were present?

*A.* Yes, sir.

Further cross by Mr. Smith.

*Q.* This was in Mrs. Dumont's room, was it?

*A.* It was.

*Q.* When was it that you gave this camp stool to William?

*A.* Well, it was after he had gone to Brooklyn; it must have been in October.

*Q.* Before she died?

*A.* Yes, sir; last October.

*Q.* You say you spoke to Mrs. Dumont about William's not making his expenses; how did you know that?

*A.* He had told me so; I was at his office one day, when everything seemed to be at a standstill, and I asked him what he was doing, and he said he was not making his expenses.

*Q.* That was when?

*A.* A year ago, I suppose; perhaps more.

*Q.* After his father's death?

*A.* Oh, yes, and I have heard him say so since.

*Q.* After his father's death, and you think about a year ago?

*A.* Yes, and I have heard him say so since.

*Q.* What was your object in visiting him at his office?

*A.* William attends to my affairs, and I went down town to see him on business.

*Q.* And you asked him then if he was making any money or not?

*A.* No; I said it looked very dull, and he said there was nothing doing, and he was not making his expenses.

*Q.* The reading of the letters by you to Mrs. Dumont was mostly during the last year of her life?

*A.* Yes, sir.

*Q.* And when you read to her, you say you had to read in a loud tone of voice—that is, loud for you?

*A.* Yes, sir.

*Q.* Your voice is not very loud anyway—you speak in a low tone?

*A.* I have trouble with my throat.

*Q.* So that a loud tone for you is not very loud for anybody else?

*A.* No; she always sat close by me.

*Q.* When was it that she got those extra strong glasses, do you remember?

*A.* Two years ago this winter.

*Q.* After Mr. Dumont's death?
*A.* Yes, sir.
*Q.* Were you with her at the time?
*A.* I was.
*Q.* Was it in June, or November?
*A.* It was in the winter.
*Q.* In the next winter after Mr. Dumont's death?
*A.* Yes; two years ago this winter.
*Q.* A year after Mr. Dumont's death?
*A.* Yes, sir.

Re-direct by Mr. Curtis.

*Q.* Do you mean that she got those glasses two years ago this winter, or a year after Mr. Dumont's death?

*A.* Well, he died three years ago this winter.

*Q.* When did he die?

*A.* He died on the 4th of January; three years ago last January, and it was two years this winter; just about two years, for I was living on Twenty-sixth street, and she came to me to go to Doctor Hunter's with her, just around the corner.

*Q.* Was it the winter of 1884 or 1885?

*A.* I guess it was 1885; just after the holidays.

*Q.* May I ask what is your age?

*A.* Sixty-six.

By Mr. Smith—Notice is given that on the hearing of the case, motion will be made to suppress all the testimony of Miss Swords relating to conversations with Mrs. Dumont and Theodore Dumont, or transactions between her and others, after the date of the making of the will, as incompetent and irrelevant.

*William H. Dumont*, the caveator, being duly sworn, testified as follows:

Direct examination by Mr. Curtis.

*Q.* You are a son of Robert and Mary B. Dumont, late of Summit?

*A.* I am.

*Q.* Where do you do business?

*A.* 16 and 18 Exchange Place, New York.

*Q.* What is the name of your house or firm?

*A.* William H. Dumont & Co.

*Q.* Prior to your father's death you were associated with him in business, were you not?

*A.* I was.

*Q.* For how long?

*A.* We were partners for ten years, and I was clerk two years; not quite two years.

*Q.* When did you first enter the employ of your father?

*A.* Before he died; I think it was in 1873.

*Q.* And from that time until his death you were employed by him or associated with him in business?

*A.* I was.

*Q.* And for two years were in his employ as clerk?

*A.* Yes, sir.

*Q.* And the remainder of the time as partner?

*A.* Yes, sir.

*Q.* What was your interest in the business?

*A.* First off I had twenty-five per cent.; when I was taken there my salary was $1,500, and at my brother's death I was taken in the concern and given twenty-five per cent. of the profits; and when I was married and left home —— [Interrupted.]

*Q.* When was that?

*A.* I was married in 1879, but in 1880 I had a half-interest, after that.

*Q.* You spoke of your brother's death—what brother?

*A.* Brother Robert.

*Q.* When did he die?

*A.* I think it was in December, 1873.

*Q.* Where were you in business prior to the time you entered the employ of your father?

*A.* Cincinnati.

*Q.* How did you come to go into business with your father or enter his employ?

*A.* Two or three wrote to me to come on and go in business with him; my father wrote for me; his health was bad and they were afraid the clerks would take the business out of his hands.

*Q.* During the last five years of your father's life, who did the bulk of the business of the firm?

*A.* I did it all.

*Q.* What was the designation of the firm when you were a partner with your father?

*A.* Robert Dumont & Son.

*Q.* You say that you did all of the business?

*A.* Yes, sir.

*Q.* You say that you did all the business during the last five years of your father's life?

*A.* Yes, sir.

*Q.* Didn't your father attend at the office?

*A.* No, sir; he was there some times, but did not attend to any business—he could not.

*Q.* What do you mean by "he could not"?

*A.* He could not sign bonds; the principal things for a custom-house broker is to sign bonds for the custom-house.

*Q.* Why not?

*A.* Because there was a judgment held by the government.

*Q.* In whose name was the bank account kept?

*A.* In my individual name.

*Q.* Who drew the checks?

*A.* I did.

*Q.* Of the firm?

*A.* I did.

*Q.* In your own name?

*A.* I signed them all in my own name; yes, sir.

*Q.* Do you know when that judgment was entered, or about what time?

*A.* No, sir; one of them was very old; it was a penalty incurred during the war; one of them was; and some of them were incurred afterwards; I know one was incurred the year after I went in the partnership; the year when my brother was in the concern; some were incurred by Schuyler & Dumont.

By Mr. Smith—It is understood that all this class of testimony is objected to, and instead of objections to each question, a general objection will be entered at the close of the witness' testimony.

*Q.* Do you know what those judgments were recovered for?

*A.* Surety on bonds.

*Q.* As a broker?

*A.* As a broker.

*Q.* It was not for any primary liability of his?

*A.* No, sir.

*Q.* Did your father, during the last five years of his life, attend to any business at the custom-house?

*A.* No, sir.

*Q.* Did he prepare and present papers relating to the business?

*A.* No, sir.

*Q.* To the custom-house?

*A.* No, sir.

*Q.* And in regard to obtaining goods from bonded warehouses and the payment of duties upon goods?

*A.* No, sir.

By Mr. Smith—I object to this, in addition, as leading

*Q.* State, if you can, what your father did in connection with the business of Robert Dumont & Son, during the last five years of his life?

*A.* He did nothing; he would come down there and look over the cash-book and ledger, and stay there and talk; he did not pretend to attend to any business.

*Q.* How much of the time was he there?

*A.* Sometimes every day, and then again he would not be there for weeks.

*Q.* What were the office hours—business hours—of your firm?

*A.* We were supposed to be there from 9 until 4.

*Q.* Please state what duties are necessary to be performed in connection with your business, generally?

*A.* Make entries, post entries, pay duties, and sign bonds.

*Q.* Did it require the personal attention of any member of the firm?

*A.* Yes, sir; nobody but a member of the firm could sign bonds—they will not permit it.

*Q.* So far as you know, during the last five years of your father's life did he sign any bonds in the custom-house?

*A.* He did not.

*Q.* In the performance of your business, is there any technical information in regard to the laws and rules of the custom-house necessary?

*A.* Yes, sir, a great deal; it is all technical information.

*Q.* State whether or not your father, so far as you know, kept informed in regard to the rules and laws?

*A.* No, sir; I know he did not.

*Q.* During the last five years of his life?

*A.* I know he did not; he did not pretend to; he referred everything to me, even if he was asked.

*Q.* In connection with your business—from whom did you derive your business?

*A.* Different importers in New York and everywhere.

*Q.* Merchants of the city of New York?

*A.* Yes, sir; and other places.

*Q.* Was there any capital required in the business?

*A.* No, sir.

*Q.* When duties were to be paid on imports, from whence came the money to pay them?

*A.* The importer.

*Q.* In connection with your business and prior to your

father's death, were there any other persons in the employ of the firm?

*A.* Yes, sir; several clerks, at different times; our bookkeeper has been there for twenty years, I guess.

*Q.* Did you, during your father's lifetime, have anything to do with the estate or property of your mother?

*A.* Yes, sir.

*Q.* What?

*A.* I had the entire control of it; it was in a safe deposit box, and my father never went in it; he never opened the box.

*Q.* How about cash money?

*A.* I had charge of everything; it was all in my name; it was deposited in my name.

*Q.* How were the profits of the concern entered upon the books?

*A.* Figured up at the end of the year and a balance-sheet taken off.

*Q.* And the proportion of profits to which you were entitled credited to you?

*A.* Yes, sir.

*Q.* How about the proportion of profits to which your father was entitled?

*A.* The same way.

*Q.* Was there an account with your mother upon the books?

*A.* Yes, sir.

*Q.* From what source was money paid to her?

*A.* All the dividends that came in were credited to her, and father's balance was very often transferred to her account.

*Q.* What do you mean by that?

*A.* So that in case this judgment was enforced and he was brought up under supplemental proceedings he would have nothing.

*Q.* So he was charged with a part of it and it was credited to your mother?

*A.* Yes, sir.

*Q.* How long was that practice in vogue?

*A.* Some years; I do not know exactly how many.

*Q.* What was done with money that stood to the credit of your mother?

*A.* It was invested.

*Q.* In stock or bonds?

*A.* Yes, sir.

*Q.* What was done with the income or dividends?

*A.* It was credited to her; when this money was credited to father, the living expenses would be charged to both of them; it made no difference—charged to either one.

*Q.* Where do you reside?

*A.* I reside at present in Brooklyn?

*Q.* How long have you been residing there?

*A.* Since last October.

*Q.* Prior to that where did you reside?

*A.* Madison.

*Q.* How long did you reside there?

*A.* Since I was married, that is in 1880—seven years.

*Q.* Until October last you resided in Madison?

*A.* Yes, sir, in 1879; I think it was in June, 1879.

*Q.* Married to your second wife?

*A.* Yes, sir.

*Q.* Prior to your father's death what were your relations to your mother?

*A.* Very pleasant.

*Q.* Prior to your father's death what were your relations to your brother Theodore?

*A.* We were very good friends.

*Q.* Were you on speaking terms?

*A.* Yes, sir.

*Q.* Do you recall an interview with your father just prior to his death, when your brother Theodore was present?

*A.* Yes, sir.

*Q.* In that interview was your mother referred to?

*A.* Yes, sir.

*Q.* State what took place?

*A.* Father took my hand and said, "If anything happened to him he put mother in my care;" mother was in the room with me at the time, and Theodore, and I think somebody else, but I don't remember who it was.

*Q.* How long was that prior to your father's death?

*A.* About forty-eight hours before he died, if I remember right.

*Q.* After his death did any conversation take place between you and Theodore relating to your mother?

*A.* Yes, sir.

*Q.* When was it?

*A.* The day—I think it was a few hours after father died—we went down together.

*Q.* Down where?

*A.* To the city—it was on the depot—and he demanded that I should give mother $1,800 a year, and I told him, "All right;" I did not want to make any fuss—father was not buried yet—and I knew if I had objected to it there would be trouble, probably.

*Q.* Was it in the presence of other people?

*A.* Yes, sir; there were several on the platform; they were not directly with us; they were on the other side.

*Q.* Did any conversation take place relating to that subject after this interview and before your father's funeral?

*A.* No, sir.

*Q.* When next did that question arise, or conversation, regarding that matter?

*A.* The next conversation we had must have been—— [Interrupted.]

*Q.* What was the next communication?

*A.* I think I wrote him a letter, if I recollect right, and told him I could not do it.

*Q.* When was that?

*A.* That was a week or so after my father's death.

*Q.* When next did any conversation or communication take place?

*A.* He met me one morning in the ferry-house as I got off the train and we walked on the ferry-boat together.

*Q.* What took place?

*A.* He made a demand that I should give mother $1,800; I told him I would not do it, and could not do it; I offered to take care of mother, and he said she should not be a pauper, and he said he would make me do it—he was Robert Dumont's son as much as I was—and he was as much entitled to the firm name as I was, and if I didn't do it he would send his lawyer after me and ruin me; he claimed that I had been drawing my substance and paying nothing for it, or I had been living on the old gentleman, rather, and my daughter, and paying nothing for it.

*Q.* What did you say to him?

*A.* I told him he had not paid anything, either; my father told me so, and mother told me so; there was not a thing came in the house she did not pay for; I think I told him that even the starch that was given to him he made her pay for; we left, generally discussing.

*Q.* What do you mean by "generally discussing"?

*A.* I was angry, and he was; he called me everything.

*Q.* What did he call you?

*A.* Scoundrel, and was robbing mother, and had no right to this thing, and that I should support her; I told him I did not propose to support him.

*Q.* Did he speak of the consequences that would flow?

*A.* No; only he said he had more money than I had and he would send his lawyer after me and ruin me.

*Q.* Have you had any conversation with him upon that subject since that day?

*A.* No, sir; I have not.

*Q.* At this interview was he profane?

*A.* I suppose so.

*Q.* No—was he or was he not?

*A.* Yes; he damned me.

*Q.* Have you, from that day to this, spoken to your brother?

*A.* No, sir.

*Q.* Or he to you?

*A.* No, sir.

*Q.* Have you had any communication?

*A.* No, sir.

*Q.* After this interview referred to as taking place on the morning of your father's death, and about a week later, on the ferry-boat, with your brother, did you have any communication with your mother upon the subject?

*A.* Yes, sir.

*Q.* When was that?

*A.* I think it was about a month after father died; mother spoke to me about it.

*Q.* Where was it?

*A.* In my sister's room or in her room; I don't know —one of the rooms in Summit.

*Q.* What took place in her presence?

*A.* Nobody was present but mother and myself.

*Q.* What took place?

*A.* She asked me if I was going to make her an allowance; I said I would do what father said—I would take care of her, and if her income did not support her I would make up the deficiency.

*Q.* What did she ask you to do?

*A.* I am not positive; I know she told me that would not do, that I must make it in writing and sign and seal it; she made me understand that she had received advice on that subject, and I must write it and seal it.

*Q.* Did she give you to understand who advised her?

*A.* She did not say.

*Q.* What did she ask you to provide or pay?

*A.* I do not remember whether she specified any sum or not.

*Q.* What is your best recollection on that subject?

*A.* I asked her if she meant the $1,800 that Theodore

spoke about, and she said "yes;" I am pretty sure she said that, but I would not be positive; but I am pretty positive in my own mind; it is very long ago.

*Q.* Did any conversation take place in regard to business at that time?

*A.* No, sir; not as I remember.

*Q.* Was anything said in regard to the amount of her estate at that time?

*A.* No, sir; I never referred to that at all.

*Q.* Was anything said in regard to her income as compared to yours?

*A.* No, sir; never mentioned it.

*Q.* Did you know of your mother making the will which is in question?

*A.* No, sir.

*Q.* Who were the residents of your mother's house after your father's death?

*A.* Mr. and Mrs. Robbins and Theodore; my aunt was there a great part of the time.

*Q.* Miss Swords?

*A.* Yes, sir; Miss Swords.

*Q.* And was the residence of Mr. Theodore Dumont and Mr. and Mrs. Robbins continuous from the death of your father to the death of your mother?

*A.* Yes, sir.

*Q.* And your mother's house was regarded as the home of Mr. Theodore Dumont and Mr. and Mrs. Robbins from that time up to the time of your mother's death?

*A.* Yes, sir.

*Q.* When was the first time you knew of the existence of the will in question?

*A.* The night—well, it was after it was read, after her death.

*Q.* When was it read?

*A.* The night of her funeral; I was not there, though.

*Q.* The will was read the night of her funeral?

*A.* Yes, sir.

*Q.* And it was after that you first learned of the existence of the alleged will in question?

*A.* Yes, sir.

*Q.* Do you know whether or not your father left a will?

*A.* He did not.

*Q.* Was any administrator appointed of his estate?

*A.* There was not.

*Q.* Did he leave any estate?

*A.* He did not.

*Q.* How was the business of Robert Dumont & Son closed?

*A.* Transferred everything to mother's account, previous to my father's death.

*Q.* What became of the securities and money of your mother's in your hands after your father's death?

*A.* I delivered them to her.

*Q.* Personally?

*A.* Personally; yes, sir.

*Q.* When?

*A.* Well, it was in the spring; I think it was in April —March or April, somewheres around there—April, I think, though.

*Q.* April, 1884?

*A.* Yes, sir.

*Q.* What became of the money that stood to her credit?

*A.* I transferred that to her personal account with Gold, Barber & Swords, bankers.

*Q.* At whose request, if any one's?

*A.* I think she told me that she would like to have her account there.

*Q.* State, if you can, how much was transferred from your father's account to your mother's account in the lifetime of your father?

*A.* I could not do it.

*Q.* Can you approximate it?

*A.* No, sir; I could not.

*Q.* Was it $100?

*A.* Oh, yes; it was up in the thousands, but I have no idea how many.

*Q.* When the books were closed—the books of Robert Dumont & Son were closed—do you know how much was transferred to your mother's account at that time?

*A.* No, sir.

*Q.* State about how much?

*A.* I think it was—the books will show that; I don't know; about $3,600, if I remember right; $3,000; I don't know, though. [Objected to.]

*Q.* Do the books contain a statement of the amount transferred from your father's account to your mother's account?

*A.* Yes, sir.

*Q.* From time to time?

*A.* Yes, sir.

*Q.* And when the books were closed?

*A.* Yes, sir.

*Q.* Who is your present partner?

*A.* Our old book-keeper.

*Q.* What is his name?

*A.* Albert I. Mann.

*Q.* The one whom you stated had been in the employ of the concern twenty years?

*A.* Yes, sir.

*Q.* What was your present partner's interest, and has it been, since the death of your father?

*A.* One-fourth of the profits.

*Q.* Do you know what the profits of the firm of Robert Dumont & Son have been in the past?

*A.* How do you mean?

*Q.* The profits?

*A.* While they were in business?

*Q.* Yes, sir?

*A.* For the whole time?

*Q.* Since you were connected with it?

*A.* The ten years I was in business with my father?

*Q.* Yes?

*A.* Less than $60,000.

*Q.* No; I mean annually?

*A.* They ran from $3,200 up; $3,200 one year; $3,400, I think, another.

By Mr. Smith—All evidence of this I object to, on the ground that the books is the best evidence of this.

*Q.* You were associated in business ten years?

*A.* Yes, sir.

*Q.* And you say the profits during that time aggregated $60,000?

*A.* About $60,000, if I remember aright.

*Q.* Do you know the lowest amount of profits made during any one year?

*A.* I think $3,200.

*Q.* Can you recall what the profits in the business were during the last four or five years of your father's life?

*A.* They were the best years that we ever had; I think they were, one year, about $6,000; one year about $8,000; and another year about $10,000; one year we made $10,000—over $10,000; I think that was the last year of my father's life.

*Q.* Is it not a fact that the profits of the business of 1883 was something like $11,589?

[Objected to as leading; and all evidence as to the profits is also objected to on the ground that it is not the best evidence.]

*A.* Yes, it was somewheres in that neighborhood; it was something like $11,000—somewheres along there.

*Q.* State, if you know, whether the profits since 1883 have been more or less than the profits of 1883? [Objected to, for the same reasons.]

*A.* Less.

*Q.* State what the profits have been since 1883?

*A.* About $6,000 a year.

*Q.* Were you a visitor at your mother's house after your father's death?

*A.* I was.

*Q.* Did you see your brother Theodore at any time while you were there?

*A.* I did.

*Q.* When, and where?

*A.* I saw him in a great many places; in mother's room; I saw him in the sitting-room; and I saw him on the piazza once or twice.

*Q.* Did you ever meet him in your mother's room?

*A.* Yes, sir.

*Q.* What was her condition of health at that time?

*A.* Very sick.

*Q.* What took place at that time?

*A.* I remember one time he was sitting on one side of the bed, and I was sitting on the bed, and she had hold of both of our hands, holding our hands, she had his in one hand and my hand in her other hand.

*Q.* Was there any communication between you and Mr. Theodore Dumont at that time?

*A.* No, sir.

*Q.* When was this occasion?

*A.* I think it was the last of February, when she was so low.

*Q.* Have you a family?

*A.* I have.

*Q.* How many children?

*A.* Six.

*Q.* A wife and six children?

*A.* Yes, sir.

*Q.* One of them born recently, since this contest began?

*A.* Yes, sir.

*Q.* Name them and give their ages?

*A.* There is Mary, she is twenty; Bessie, sixteen; Fanny, seven; Natalie, between three and four; Kitty, two, and the last one is about a month old.

*Q.* What family has Mrs. Robbins?

*A.* She has one child.

*Q.* What family has Mr. Theodore Dumont?
*A.* I could not say as to that, sir.
*Q.* As far as you know, has he any children?
*A.* Not from my personal knowledge.
*Q.* How many brothers and sisters did you have?
*A.* Two brothers and two sisters.
*Q.* What are their names?
*A.* Robert S. —— [Interrupted.]
*Q.* Is he living?
*A.* He is not.
*Q.* When did he die?
*A.* I think he died in 1872.
*Q.* Was he married or unmarried?
*A.* Unmarried.
*Q.* And the others?
*A.* My sister Mary S.
*Q.* Is she living?
*A.* No, sir; she is dead.
*Q.* When did she die?
*A.* About 1865, I think; somewheres along there.
*Q.* Was she married?
*A.* She was.
*Q.* At the time of her death?
*A.* Yes, sir.
*Q.* What was her marriage name?
*A.* Foot.
*Q.* Her husband living?
*A.* Yes, sir.
*Q.* What is his name?
*A.* John F. Foot.
*Q.* Did he leave any children surviving?
*A.* Yes, sir.
*Q.* What are their names?
*A.* Robert D. Foot.
*Q.* One child?
*A.* One child, sir; the others died before she died, I think.

*Q.* How old is Robert D. Foot?
*A.* Twenty-four, I think.
*Q.* Where does he now reside?
*A.* Morristown.
*Q.* Is he married?
*A.* He is.
*Q.* His wife and children living?
*A.* His wife is living.
*Q.* Any children?
*A.* Not that I know of.
*Q.* You have not completed the list?
*A.* There is my sister, Mrs. Robbins.
*Q.* She is now living in Summit?
*A.* Yes, sir.
*Q.* In the house formerly occupied by your mother?
*A.* Yes, sir.
*Q.* Has she any children?
*A.* One child.
*Q.* How old?
*A.* The child must be about three years old.
*Q.* She is the wife of Mr. Robbins, the administrator?
*A.* Yes, sir.
*Q.* Administrator of the will annexed of your mother?
*A.* Yes, sir.
*Q.* How much did you transfer to your mother at the time you have heretofore spoken about—in amount—of funds?
*A.* I think the stocks and bonds, face value of them, were about $37,000.
*Q.* How much in money?
*A.* I think I transferred about $3,800 to Gold, Barber & Swords.
*Q.* What was the value of those stocks and bonds at the time you delivered them—the market value?
*A.* I could not say.
*Q.* Was it in excess, or below par value?
*A.* Most of them were in excess.

*Q.* Is that copy in your handwriting? [Handing witness a paper.]

*A.* Yes, sir; I made this copy.

*Q.* From what did you make it?

*A.* It is taken from the books; it is a copy of the original, given to my mother.

*Q.* When did you make that copy from the books?

*A.* It was made from the original given to mother; I did not make the original; our book-keeper made the original; I never touch the books.

*Q.* When was that made?

*A.* This copy?

*Q.* Yes?

*A.* I do not know; I think it was made at the time I gave my mother the papers—about that time; I could not say.

*Q.* Did you retain this as a memorandum of the account rendered to her?

*A.* Yes, sir.

*Q.* As your copy of the memorandum rendered to her?

*A.* Yes, sir.

*Q.* Can you, by referring to it, refresh your recollection as to the exact amount paid to your mother at that time?

By Mr. Smith—I object to witness refreshing himself from that paper; the account was not made by him—the original—and he cannot testify from that, as to its correctness or accuracy in any way.

By Mr. Curtis—He is not testifying to that; he is testifying to the amount given to his mother.

*A.* You mean the money I paid over to the banker?

*Q.* Answer the question.

*A.* No, sir; not that way; transferred to father's account, do you mean?

*Q.* I ask you now, if by referring to the paper you have in your hand, you can refresh your recollection as to the exact amount paid to your mother after your father's death, at her request, in cash?

*A.* Yes; I can tell by referring to this?

*Q.* Now state what it was—what the amount was?

*A.* I deposited $4,050.24; I paid T. S. Dumont two amounts; one was $87.11, and another one of $143.36, and I paid some bills.

*Q.* Amounting to how much—or state the amounts?

*A.* I paid Elizabeth Dumont $100; funeral expenses, $11.65, $53, $203.75; paid for mourning bonnet, $20.50, and I paid for bond of the Houston and Texas Central Railroad, $1,056.25.

*Q.* And were each and all payments made at your mother's request?

*A.* Yes, sir; she did not say anything about paying for the funeral expenses.

By Mr. Smith—I object to all the testimony on the ground that it has all been read by the witness from a paper held by him in his hands, and it don't appear that it was his handwriting, or made by him at the time, and also as incompetent.

*Q.* As matter of fact, how much did you pay to your mother, in cash, exclusive of the Houston and Texas bond purchased for her?

*A.* $3,900.

*Q.* And in addition you purchased a Houston and Texas bond?

*A.* Yes, sir.

*Q.* Of the par value of what?

*A.* $1,056.

*Q.* No, the par value?

*A.* $1,000.

*Q.* And paid $1,056 for it?

*A.* Yes, sir.

*Q.* What did you do with that bond?

*A.* I gave it to her with her other papers.

*Q.* Do you know, during the existence of the firm of Robert Dumont & Son, what the aggregate amount was transferred from your father's account to your mother's—

did it amount to $2,500? [Objected to as leading and not the best evidence.]

*A.* Yes, sir; more than that.

*Q.* How much did it amount to, to your best recollection? [Same objection.]

*A.* I could not answer it.

*Q.* Did it amount to $25,000? [Same objection.]

*A.* No, sir.

*Q.* $20,000? [Same objection.]

*A.* No, sir.

*Q.* Would it amount to $18,000?

*A.* I really could not say.

*Q.* Can you ascertain?

*A.* Yes; I could find it out.

*Q.* When you purchased securities with moneys standing to the credit of your mother, on the books of the firm of Robert Dumont & Son, what did you do with those securities?

*A.* I took charge of them and put them in the safe deposit box.

*Q.* Did you personally deliver them to any one outside of yourself?

*A.* No, sir.

*Q.* You retained possession of them, did you?

*A.* Yes, sir.

*Q.* State whether or not, at any time during your father's life, investments were made of his funds in bonds or stocks which were not transferred on the books to the credit of Mary B. Dumont?

*A.* I could not say.

*Q.* Did your father, at any time during his life, deliver to you any securities or stocks or bonds that had been purchased by him?

*A.* I do not remember that he ever delivered me any.

*Q.* By whom were the investments made that were made with the profits of the firm?

*A.* I generally made them, but I always consulted with father before doing so.

*Q.* You say you generally made them?

*A.* Yes, sir.

*Q.* In whose name were they made?

*A.* In mother's name—Mary B. Dumont.

*Q.* Prior to the death of Robert Dumont did those securities, bonds and stocks go out of the possession of either yourself or Mr. Robert Dumont?

*A.* No, sir.

*Q.* Or out of the possession of the firm?

*A.* No, sir.

*Q.* Did not your mother inherit—was she not a legatee of her mother under a will?

*A.* Yes, sir.

*Q.* Do you know how much the amount of the legacy was?

*A.* About $7,500.

*Q.* Independently of this lagacy do you know from what source the amount which makes up your mother's estate was derived?

*A.* Yes; she received a legacy from my brother.

*Q.* How much?

*A.* Well, about $15,000; the place in Summit was bought out of it.

*Q.* When did she receive her legacy from her mother, if you know?

*A.* About twenty years ago grandma died; I do not remember, being so long ago.

*Q.* When did she receive the legacy from her son?

*A.* He died in 1872, I think it was, or 1873.

*Q.* Do you know what became of the money that she received from her mother's estate?

*A.* No; I was not here at the time it was used.

*Q.* You do not know?

*A.* No, sir.

*Q.* Do you know what was done with the amount she received from her son's estate?

*A.* Yes, sir.

*Q.* What?

*A.* As I say, part of it was invested in the place at Summit.

*Q.* How long did your father and mother reside in Summit?

*A.* Ten years.

*Q.* Where did they reside prior to your brother's death?

*A.* Forty-fifth street, New York.

*Q.* After that they moved to Summit?

*A.* Yes, sir.

*Q.* And with the funds, or part of the funds obtained from him, this place in Summit was purchased and built?

*A.* Yes, sir.

*Q.* Do you know what the cost was of the house which was built by your father and mother in Summit?

*A.* I think the contract, if I remember right, was $7,500, and there was some $300 or $400 paid for grading, and we afterwards bought a lot next door for $1,000.

*Q.* And was the barn built at the same time with the house?

*A.* Yes, sir; I think the house and barn cost $7,500.

*Q.* The lot upon which the house was built was not purchased out of this money?

*A.* No, sir.

*Q.* Prior to your father's death, what were your business relations with your mother?

*A.* In what respect; I don't understand you?

*Q.* Were you ever consulted by your mother in business matters prior to your father's death?

*A.* No; there was no business to consult with that I know of; she had no business; she very often used to ask me for money, but not outside of that.

*Q.* Who had custody of her property—of her bonds and stocks and money?

*A.* I had it.

*Q.* Did she know that fact?

*A.* Yes, sir.

*Q.* State whether or not your mother knew of the wish expressed by your father, in the presence of Mr. Theodore Dumont, that you should care for her in case anything happened to him?

*A.* Yes, sir.

*Q.* She did know of it?

*A.* Yes, sir; she knew of it.

*Q.* You say she was present?

*A.* Mother was standing right alongside of me, and Theodore was right alongside of her.

*Q.* Was the subject ever afterward referred to in conversation between you and your mother?

*A.* But once.

*Q.* Did you refer to it again?

*A.* I did.

*Q.* After the construction—the building of the house and barn—were any additions made to either the house or barn?

*A.* Yes, sir; not to amount to anything.

*Q.* Wasn't the barn enlarged so as to —— [Interrupted.]

*A.* Yes, sir; the barn was enlarged afterwards.

*Q.* When?

*A.* The winter before, I think, my father died.

*Q.* How was it enlarged—what were the circumstances connected with it?

*A.* There was an addition put on to hold the cows; they had been previously in with the horse, and this addition was made for the cows.

*Q.* Was there any expense?

*A.* Yes, sir; the expense, I think, was $175; my sister wrote me and asked me to pay for it, and said they did not

want father to know it, as my brother agreed to pay for it; it was done against my father's wishes; he said it should not be done, and he told me so—that it should not be done; that he supported my brother, and he did not intend to support his horse, but it was built, and I sent a check for it.

*Q.* Do you know whether or not your father knew of the improvement that was made to the barn?

*A.* He knew that it was made; yes, sir.

*Q.* Do you know whether or not it was made with his consent?

*A.* He said it was not with his consent.

*Q.* What conversation, if any, took place between you and him regarding that?

*A.* He simply spoke to me about it, and said that they wanted to build a barn to put the cows in it, and there was room enough in the other barn, and the true reason was that Theodore wanted a horse to keep there, and he objected to it.

*Q.* Did he afterwards consent?

*A.* No, sir; he told me afterwards that they were going to build the barn anyhow, and Theodore said he was going to pay for it, so, he said, he supposed they would build it.

*Q.* Did he afterwards learn that Theodore did not pay for it?

*A.* Not unless he saw it on the books; he saw a great many things he never said anything about.

*Q.* Did he know that you signed a check for it?

*A.* I do not know; if he went through the cash-book he saw it.

*Q.* Did your mother know of the payment by you of this check for this purpose?

*A.* I presume she did; my sister wrote that it was her request that I should pay it.

*Q.* Did she say anything about communicating the fact to your father, or not communicating it to him?

*A.* No; simply that they did not want anything said to him about it because he would make such a row.

*Q.* What were the relations existing between the separate members of your family—of your mother's family—were they harmonious or otherwise?

*A.* I suppose they would be called harmonious; yes, sir.

*Q.* Do you mean to call the relations that existed, since your father's death, between your brother and yourself, harmonious?

*A.* Not exactly; no sir.

*Q.* What have been the relations that have existed between Mrs. Robbins and yourself?

*A.* We are on very pleasant terms.

*Q.* What have been the relations existing, as far as you know, between Mr. Theodore Dumont and Mrs. Robbins?

*A.* I believe they are very pleasant.

Adjourned until Wednesday, March 9th, 1887, at 10 o'clock A. M.

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ELIZABETH, N. J, March 9th, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment last had.

Appearances as before.

*William H. Dumont.* Direct examination resumed by Mr. Curtis.

*Q.* State, if you can, the amount of money that has been transferred from or by your father, or father's firm, in his lifetime, to the credit of Mary H. Dumont?

By Mr. Smith—I object to that on the ground that the books are the best evidence.

*A.* In 1872 there were stocks bought for over $2,000,

and the last three or four years of his life there has been $9,000 in cash transferred.

*Q.* What became of the money that was credited to the account of Mary B. Dumont? [Objected to for the same reasons.]

*A.* It was invested in bonds, stocks and securities of different kinds.

*Q.* And the securities and the investments were, after the death of Mr. Dumont, your father, delivered to Mrs. Dumont? [Objected to as leading.]

*A.* They were.

*Q.* During the lifetime of Mr. Robert Dumont, did Mrs. Dumont make drafts upon her account, or was it merely a nominal account in her name?

*A.* It was merely a nominal account in her name; I opened the account myself.

*Q.* Were any payments made on account of Mr. Dumont, or for Mr. Dumont, through your checks?

*A.* Yes, sir.

*Q.* Your personal checks?

*A.* Yes, sir.

*Q.* State whether or not Mrs. Dumont knew of the existence of such an account, and of its condition from time to time?

*A.* She knew there was such an account, but she did not know anything about its condition; at least, I never told her.

*Q.* Did you render her statements of the condition of the account?

*A.* No, sir.

*Q.* Report a balance standing to her credit?

*A.* No, sir.

*Q.* Or have any communication with her upon the subject?

*A.* No, sir.

*Q.* Were payments or drafts made by Mr. Robert Du-

mont charged to the account of Mary B. Dumont, as well as to his own account?

*A.* Yes, sir.

*Q.* What was the practice in that respect?

By Mr. Smith—All this is objected to as irrelevant.

*A.* There was no practice; I charged it to either account.

*Q.* Was there any rule which controlled you?

*A.* No, sir.

*Q.* It was charged either way?

*A.* Yes, sir; I simply wanted to keep him about even.

*Q.* It was simply a question of balancing his account from time to time?

*A.* Yes, sir.

*Q.* Or keeping a little balance to his credit?

*A.* Yes, sir, or not keeping a balance to his credit.

*Q.* Do you know whether or not the living expenses of Mr. Dumont's household were paid indiscriminately from one account or the other?

*A.* It was; yes, sir.

*Q.* Either his own or Mrs. Mary B. Dumont's?

*A.* Either one.

*Q.* Did you ever make any statement to Mrs. Dumont, during the life of your father, of the investments claimed to have been made for her?

*A.* No, sir.

*Q.* Do you know whether or not she knew what investments were made for her account from the funds of the firm or the profits of Mr. Dumont during his lifetime?

*A.* I don't think she did, because father told me never to speak of it.

By Mr. Smith—I object to what his father told him, unless Mrs. Dumont was present.

*Q.* When purchases of stock were made, in whose name were the certificates made out?

*A.* Mary B. Dumont.

*Q.* Were some of those securities purchased with money

standing to the credit of Mary B. Dumont, and others purchased with the money standing to the credit of Robert Dumont—were they not? [Objected to as leading, and also as irrelevant.]

*A.* Yes, sir.

*Q.* Do you know whether or not your mother made a will prior to the time of the alleged will offered for probate?

*A.* Yes, sir.

*Q.* When.

*A.* I think it was in 1881.

*Q.* How do you know that fact?

*A.* I saw the will.

*Q.* Was it ever in your possession?

*A.* It was.

*Q.* Who delivered it to you?

*A.* My father.

*Q.* When?

*A.* At the office.

*Q.* What did you do with it?

*A.* I put it in the Safe Deposit Company?

*Q.* What Safe Deposit Company?

*A.* "The New York," I think it is called—the Mutual Life building.

*Q.* Among your papers?

*A.* Among her papers.

*Q.* Among her papers?

*A.* Among father's and mother's papers; yes, sir.

*Q.* In whose name was that box kept at the office—at the Safe Deposit Company?

*A.* The firm name.

*Q.* That was the box in which you kept the securities which you say were Mrs. Dumont's?

*A.* Yes, sir.

*Q.* And you put the will you have referred to in that, with them?

*A.* Yes, sir.

*Q.* When was this, that you put it there?

*A.* I think it was in 1881; I don't remember the time exactly.

*Q.* What became of that will?

*A.* I delivered it to Mr. Robbins.

*Q.* C. A. Robbins?

*A.* Yes, sir.

*Q.* When?

*A.* I think it was February, after my father's death.

*Q.* 1884?

*A.* 1884; yes, sir.

*Q.* At whose request?

*A.* My mother's.

*Q.* Was it an oral or written request?

*A.* Written.

*Q.* Have you it with you?

*A.* You have it—I gave it to you.

*Q.* [Handing witness a paper]—Look at the paper I now show you, and state whether or not that is the letter you refer to?

*A.* That is the paper; yes, sir.

*Q.* Whose handwriting is it, do you know?

*A.* My mother's.

*Q.* Whose signature is it?

*A.* It is her initials.

*Q.* In her handwriting?

*A.* Yes, sir.

[Said letter offered in evidence, and marked *Exhibit 1* for caveator, March 9th, 1887.]

*Q.* By whom was *Exhibit 1* for the caveator delivered to you?

*A.* By Mr. Robbins.

*Q.* And what did you do upon the receipt of *Exhibit 1* for caveator?

*A.* I delivered the papers to him.

*Q.* What papers did you deliver to him?

*A.* I delivered mother's will.

*Q.* Among others, your mother's will?

*A.* Yes, sir.

*Q.* The one that had been delivered to you by your father, as you have stated?

*Q.* Yes, sir.

By Mr. Curtis—Now, I call upon the proponents for the will referred to, in conformance with our request heretofore made.

By Mr. Smith—Inquiries have been made of Mr. Theodore Dumont, and no such will is now, or ever has been, in his possession; the administrator, *pendente lite*, who has charge of Mrs. Dumont's paper, is present in court and can answer for himself, and counsel, Mr. Wm. Cranstoun, who examined, with Mr. Robbins, the papers of Mrs. Dumont in the safe deposit company in New York, can also be called and examined as to the result of the examination; it is claimed on the part of the proponents that the will in question, if any such existed, is now in the possession of Mr. William H. Dumont, and not in that of the proponents, or either of them.

*Q.* Has the will, which you say you delivered to Mr. Robbins in 1884, been in your possession from that time to this?

*A.* It has not.

*Q.* And is it now in your possession?

*A.* It is not.

*Q.* Do you know where it is?

*A.* I do not.

*Q.* Do you know where it has been?

*A.* I do not.

By Mr. Curtis—We repeat our request, and I suppose the same statement is made.

By Mr. Smith—The same answer as before.

[The witness was directed to stand aside, for the purpose of examining Mr. Robbins on this subject.]

*Charles A. Robbins*, a witness called and sworn on behalf of the caveator, testified as follows:

Direct examination by Mr. Curtis.

*Q.* You are a resident of Summit?

*A.* I am.

*Q.* And you are a son-in-law of Mrs. Mary B. Dumont, late of Summit, deceased.

*A.* I am.

*Q.* The testatrix—she is the testatrix of the alleged will offered for probate in these proceedings?

*A.* Yes, sir.

*Q.* You have been appointed administrator, *pendente lite*, of her estate?

*A.* I have.

*Q.* And qualified?

*A.* Yes, sir.

*Q.* By giving the bond required by the surrogate?

*A.* I have.

*Q.* Are you now in possession of her personal property?

*A.* I am.

*Q.* Of her estate?

*A.* Yes, sir.

*Q.* Is there, among her papers or effects, a will made by her on or about 1881, or any other time, other than the date of the alleged will in question?

*A.* Not that I have been able to find.

*Q.* Have you made search?

*A.* I have.

*Q.* As far as you know, you have looked through her papers and effects?

*A.* As far as I know, I have looked through every place where I could think it might be.

*Q.* Could you find nothing that looked like a will?

*A.* I could find nothing that resembled a will.

*Q.* What search have you made?

*A.* I have examined, with Mr. Cranstoun, her effects in the safe deposit company—the Manhattan Safe Deposit

Company, in New York, and her desk in Summit; those are the only places where I thought likely they would be found.

*Q.* Did you find her other papers in the places where you have looked?

*A.* I did.

*Q.* Her securities and valuable papers were in the safe deposit company?

*A.* Yes, sir.

*Q.* And some of the other papers were in the house in Summit?

*A.* Yes, sir.

*Q.* Do you know of any other place where she would be likely to keep any papers?

*A.* I do not think of any, or I should have looked.

*Q.* Did you know something of her habits through life regarding those matters, after her husband's death?

*A.* I cannot say that I did, particularly.

*Q.* Do you remember presenting to Mr. William H. Dumont *Exhibit 1* for caveator which has been offered in evidence to-day—look at it and see? [handing witness said exhibit.]

*A.* I cannot say that I did; I do not recall it now; I suppose I delivered it as I frequently did deliver notes, but I do not have any recollection of it.

*Q.* Did you not receive some papers at the hands of Mr. William H. Dumont for Mrs. Mary B. Dumont in the spring of 1884?

*A.* I think very likely I did, but I do not recall anything in connection with a will; if the letter was given to me I went to the office, took what was given to me, and took it back to Mrs. Dumont; but I have no recollection of taking a will.

*Q.* You would not recollect the fact of the delivery to you?

*A.* No, sir.

*Q.* It might have been a will for all you know?

*A.* It might have been, for all I know; I frequently did go there and take notes and papers back, but I have no recollection of it.

*Q.* Did you deliver whatever you received from Mr. Dumont in the spring of 1884 to any other person than Mrs. Dumont?

*A.* I did not.

*Q.* Did you not take some securities, bonds or stocks from Mr. William H. Dumont and take them to a trust company or a safe deposit company?

*A.* I went with Mrs. Dumont, but I do not remember that I touched them.

*Q.* When was that?

*A.* That, I think, was in the last of February or the 1st of March, 1884.

*Q.* After she first took her securities?

*A.* When she first took her securities.

*Q.* And procured another box?

*A.* I did not go with her there; she went in herself; I did not go inside.

Cross-examination by Mr. Smith.

*Q.* When you delivered the paper, *Exhibit 1*, do you remember, if you did, as it is testified that you did by Mr. William H. Dumont, do you remember what papers you got of Mrs. Dumont's from him?

*A.* I do not remember the circumstance.

*Q.* You do not remember how many you got?

*A.* No; I do not.

*Q.* You don't know how they were done up, whether in one package or two papers?

*A.* No, sir.

*Q.* You remember going with Mrs. Dumont to the safe deposit company, you say?

*A.* Yes, sir; I do.

*Q.* Where did you go from—from Summit or——[Interrupted.]

*A.* I went on ahead and got a coupe, and she went in on the next train.

*Q.* Where did you go after getting the coupe?

*A.* I went directly to the Equitable building.

*Q.* Did she have her securities, or whatever she intended to put in the safe deposit company, with her at that time?

*A.* No, sir; Mr. William H. Dumont met her there and gave her the securities.

*Q.* At the Equitable building?

*A.* At the Equitable building.

*Q.* They were not delivered to you personally?

*A.* They were delivered to her.

*Q.* And she put them in the safe deposit company?

*A.* Yes, sir; and then we drove up Broadway.

*Q.* So that all the papers, if any, were delivered directly to Mrs. Dumont by Mr. William H. Dumont?

*A.* That is as I remember it; yes, sir.

*Q.* You say you went more than once to see Mr. William H. Dumont about papers and things?

*A.* I used to be in there quite frequently; yes, sir.

*Q.* And your memory is not very clear about what you got at any particular time?

*A.* No, sir; I cannot recall any particular occasion.

*Q.* Do you remember receiving a letter from Mr. William H. Dumont, in connection with any of Mrs. Dumont's securities or papers?

*A.* There is a schedule, I think, in his handwriting, in the box.

*Q.* There is a schedule in the box among the papers?

*A.* Yes, sir.

*Q.* Will you bring that with you the next time, please?

*A.* I will endeavor to; yes, sir.

Redirect.

*Q.* I understood you to say that whatever papers were

delivered to you at any time you do not know what they were?

*A.* No, sir.

*Q.* You merely took them, not knowing what they were, and delivered them to Mrs. Dumont?

*A.* Yes, sir.

*William H. Dumont.* Direct examination continued.

*Q.* State, if you know, what the contents were of the will delivered to you—the will of Mary B. Dumont, delivered to you by Robert Dumont, in the spring of 1881, which was afterwards delivered by you, at the request of Mrs. Dumont, contained in *Exhibit 1* for the caveator?

[By Mr. Smith—That is objected to, on the ground that the existence of such a paper, if any such existed, can only be proved by the subscribing witnesses, as the best evidence, and that if such a paper existed, and proof to that effect were introduced, the loss of the same has not been sufficiently proved and accounted for to entitle witness to testify as to its contents.]

*A.* The property was left to my father for life, and at his death the children were to have the benefit of the interest, and at their death the money went to the grandchildren —to the children's children. Theodore Dumont and myself were the executors, and I think my father, also, was executor.

*Q.* What do you mean by saying that the children were to have the benefit of the interest?

*A.* The principal was to go to the grandchildren, at the death of the children.

*Q.* What children?

*A.* Why, the three children—Theodore, Mrs. Robbins and myself.

*Q.* Who were the witnesses to the will?

*A.* C. C. Cambrelling and C. A. Simonson.

*Q.* Where do they reside?

New Jersey State Library

*A.* I believe that Cambrelling lives in New York and Simonson lives in Brooklyn.

*Q.* At the present time?

*A.* I believe so.

*Q.* Do you know by whom the will was drawn?

*A.* I do not; no, sir.

*Q.* Did you have any talk with Mr. Theodore Dumont at any time prior to your mother's death, regarding the contents of her will made in 1881?

*A.* Yes, sir.

*Q.* When and where?

*A.* I talked with him before my father's death; he spoke to me about it two or three times.

*Q.* What was said by you or him regarding it? [Objected to as irrelevant and immaterial.]

*A.* He said the will was made that way so that in case my sister died without children her husband should not get any of it—didn't want him to have any of it, and he said it would be a great deal better for me, as he had no children and I had.

*Q.* When did this conversation take place?

*A.* Two or three talks—I could not tell when it was.

*Q.* Do you know how the property was to be divided among the grandchildren after the children of Mrs. Dumont?

*A.* No, sir; I have forgotten that; I think it read that the children took their father's or mother's portion; in case one of them died without children, the property was divided up between the other two.

*Q.* Was the will executed by Mrs. Dumont?

*A.* It was; yes, sir. [Objected to as not the best evidence.]

*Q.* How was it signed?

*A.* Mary B. Dumont. [Same objection.]

*Q.* Signatures of the witnesses attached to the will?

*A.* They were; yes, sir. [Same objection.]

*Q.* At the end?

*A.* At the end of the will; yes, sir. [Same objection.]
*Q.* Do you remember what day it bore date, if any?
*A.* I do not remember; no, sir.

Adjourned until Thursday, March 24th, 1887, at 10 o'clock A. M.

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ELIZABETH, N. J., March 24th, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment.

Appearances as before.

*William H. Dumont*, resumed.
Cross-examination by Mr. Smith.
By Mr. Smith—All the testimony of William H. Dumont, and each question and answer, are objected to as incompetent and irrelevant, and all testimony of William H. Dumont in relation to the business of Robert Dumont & Son, and the profits of the business, and the account of Mrs. Mary B. Dumont, are objected to for the additional reason that the evidence in relation to the same is not the best evidence, and said objections are taken as having been made at the time the questions were asked and the answers given. Application will be made on the hearing to suppress the said testimony for these reasons. The testimony on cross-examination is taken, subject to general and specific objections at the next hearing.
*Q.* What is your age, Mr. Dumont?
*A.* I am forty-seven—will be in May.
*Q.* Previous to going to Cincinnati, where did you reside?
*A.* I boarded in New York—my wife did; I was in the navy.
*Q.* When did you leave the navy?

*A.* I resigned right after Lee surrendered.

*Q.* What year was that?

*A.* I don't remember what year; I heard Lee surrendered in Potomac bay, and I sent my resignation the next day.

*Q.* Then you did what—returned here?

*A.* No, sir; I went out in the country; I was boarding in New Jersey when I went west.

*Q.* Where?

*A.* I think it was back of Somerville; Farmingdale, I think it was.

*Q.* With whom?

*A.* With a cousin.

*Q.* What was his name?

*A.* Williamson.

*Q.* How long did you board there?

*A.* I was only there about two or three weeks, I think, when I went west.

*Q.* You had a family, had you?

*A.* Yes, sir; a wife and one child.

*Q.* Then where did you go?

*A.* I went to Cincinnati.

*Q.* What year was it that you went to Cincinnati?

*A.* I don't remember.

*Q.* And you went directly from New Jersey from the place where you were boarding to Cincinnati.

*A.* Yes, sir.

*Q.* From Williamson's?

*A.* Yes, sir; I think it was Williamson's.

*Q.* How did you come to go to Cincinnati?

*A.* My brother Theodore—I wrote him and told him I wanted to get something to do, and he found me a situation there.

*Q.* Your brother Theodore was living in Cincinnati?

*A.* Yes, sir.

*Q.* And you wrote to him and he found you a situation there?

*A.* Yes, sir.

*Q.* What compensation did you receive for your services in Cincinnati?

*A.* $60 a month.

*Q.* What did you do there?

*A.* I was clerk in a grocery store.

*Q.* How long did you continue as such?

*A.* I was with that concern, I believe, about a year.

*Q.* And then?

*A.* Then I went with Collins & Hodsin.

*Q.* For the same compensation?

*A.* No, sir; for $1,000 a year.

*Q.* And you stayed there until when?

*A.* I was with them about two years, when the concern smashed.

*Q.* Then what did you do?

*A.* I went from that to Welshire & H——, at a compensation of $1,200 a year.

*Q.* You stayed there how long?

*A.* Until they went out of business.

*Q.* Then you went where?

*A.* I went in the merchandise brokerage business.

*Q.* In the same place?

*A.* In Cincinnati; yes, sir.

*Q.* And you were engaged in that how long?

*A.* I don't know; I think it was about a year altogether.

*Q.* And from there you went where?

*A.* I came on and went in business with my father.

*Q.* In New York?

*A.* Yes, sir.

*Q.* What family did you have when you went to Cincinnati?

*A.* One child.

*Q.* Where did you reside when you went there?

*A.* I lived in half-a-dozen places; I boarded in Cincinnati first off, and then I took a small house on Eighth

street, and kept house a little while, and then went to Newport and lived there principally.

*Q.* Are not you mistaken about going from Mr. Williamson's directly to Cincinnati?

*A.* No, sir.

*Q.* Didn't you board with a man by the name of Dumont after you left Williamson's?

*A.* No, sir; I don't think I did; I think I left my wife at Mr. Williamson's when I went away.

*Q.* Did you ever board with him?

*A.* Yes, sir; about that time when I first went up there, and then I went to Williamson's, if I remember right.

*Q.* You did not leave your wife and child at Dumont's?

*A.* No, sir; I left them at Williamson's.

*Q.* Then, as you stated, you came to New York?

*A.* Yes, sir.

*Q.* How long had your father been engaged in business in New York, do you know?

*A.* I think the firm started about 1850, as Schuyler & Dumont?

*Q.* In the same business that was afterwards carried on?

*A.* Yes, sir.

*Q.* Your father succeeded to that business, did he, when Mr. Schuyler died?

*A.* Yes, sir.

*Q.* And it so continued until your brother went in?

*A.* Yes, sir; my brother went in when Mr. Schuyler died.

*Q.* And you came in the business?

*A.* Yes, sir.

*Q.* What induced you to come from Cincinnati to New York?

*A.* Well, they wrote for me to come on.

*Q.* Who?

*A.* My father wrote for me, and one or two others; Theodore wrote to me for one.

*Q.* And who else?

*A.* Father wrote.

*Q.* Wrote you to come on?

*A.* Yes, sir.

*Q.* For what reason; did they say?

*A.* Wanted me to come on and go in business; father was getting old and brother's health was not very good.

*Q.* And they desired you to come on and go in business with him?

*A.* Yes, sir.

*Q.* And that was the reason you did so?

*A.* That was one reason; my wife's health was bad, that was another reason; I would not have come on if it had not been on account of her health.

*Q.* What compensation did you receive when you first went into your father's firm?

*A.* $1,500 a year.

*Q.* That was considerable more than you had been receiving in Cincinnati?

*A.* Yes, sir; I had a great deal more responsibility.

*Q.* Was your father, at that time, a man in good health?

*A.* Yes, sir.

*Q.* Able to transact business?

*A.* Yes, sir.

*Q.* And did transact business?

*A.* Yes, sir.

*Q.* The business connected with the firm?

*A.* Yes, sir.

*Q.* That you say was custom-house brokerage?

*A.* Yes, sir.

*Q.* What did you do when you came there—to New York?

*A.* I took charge of the public store work, and I took charge of the cash in my brother's absence.

*Q.* The public store work was doing what?

*A.* Attending to having the goods pass through the

public store, that was one branch of our business, and a very difficult branch.

*Q.* What was the other branch?

*A.* I paid the duties and collected the money.

*Q.* What did your father do?

*A.* He staid in the office most of the time and received customers, and attended to the general routine work.

*Q.* Such as what?

*A.* Customers coming into the office, he talked to them, and I believe he made out some entries, but gave it up shortly afterwards.

*Q.* The work your father did as partner in connection with the business, then, was not as great as what you did as clerk during that time?

*A.* Oh, yes; but it was a different branch altogether; at that time I was not acquainted with the custom laws, and father was.

*Q.* You had no knowledge of custom-house business when you came there?

*A.* No, sir.

*Q.* And it took you some time to acquire it?

*A.* Yes, sir; I had to study it.

*Q.* How long before you became familiar with all the branches of custom-house business?

*A.* A long time; I am not acquainted with them now thoroughly; I don't think anybody is.

*Q.* It takes the experience of some years to become a custom-house broker in the fullest sense?

*A.* Yes, sir; I don't think anybody understands it at all, no matter how long he is at it.

*Q.* Was your father well posted?

*A.* Yes, sir.

*Q.* In the requirements of the business?

*A.* Yes, sir.

*Q.* That he got from an experience of very many years?

*A.* Yes, sir; and he had a partner there that had been brought up in the business; Mr. Schuyler started the

business and succeeded his uncle; the old firm of Schuyler & Beakman was one of the oldest firms in New York.

*Q.* Did Mr. Schuyler die?

*A.* Yes, sir.

*Q.* Previous to the time that your brother went into business with him?

*A.* Yes, sir; my brother took his place as soon as Mr. Schuyler died.

*Q.* Mr. Schuyler did not go into a new firm?

*A.* No, sir; he died.

*Q.* Or a new business?

*A.* No, sir; he died.

*Q.* Afterwards, you went in, you say, as partner?

*A.* Yes, sir.

*Q.* What year was that?

*A.* I think it was in 1874, if I remember right, the 1st of January; brother died just before that.

*Q.* That was upon what share of the profits to you?

*A.* I was to have one-quarter of the profits.

*Q.* Was that arrangement in writing?

*A.* No, sir; just verbal.

*Q.* Between you and your father?

*A.* Yes, sir.

*Q.* Where was it made?

*A.* In the dining-room at Forty-fifth street; he told me that he thought that twenty-five per cent. ought to be enough, and I told him I was satisfied.

*Q.* The dining-room——[Interrupted.]

*A.* At Forty-fifth street, New York.

*Q.* Did your father live there at that time?

*A.* Yes, sir; at Forty-fifth street.

*Q.* A house?

*A.* Yes, sir.

*Q.* Whose house was it that he lived in?

*A.* His house; at least mother had a life interest in the house.

*Q.* Acquired through whom?

*A.* Mr. Foot or my sister, I don't know which.

*Q.* That is, Mr. Foot whom you have spoken of already?

*A.* Yes, sir; my brother-in-law.

*Q.* Father of——[Interrupted.]

*A.* Robert Foot.

*Q.* What became of that life interest of your mother's?

*A.* It was sold during her lifetime.

*Q.* The property?

*A.* Yes, sir; and the money was deposited in the trust company.

*Q.* Which trust company?

*A.* I think it was the New York—no, that is not it.

*Q.* The Central Trust Company?

*A.* One of the trust companies in Wall street, right opposite our office.

*Q.* What was done with the interest or income from the fund?

*A.* Mother drew it.

*Q* It was paid to her?

*A.* Yes, sir.

*Q.* When was this property in New York sold, after they removed to Summit or before?

*A.* After they moved to Summit.

*Q.* That would be about what year?

*A.* I think along about 1880.

*Q.* And then the money was deposited with the trust company?

*A.* Yes, sir; I believe so, at least she collected the dividends.

*Q.* Did they move in 1880 to Summit?

*A.* No, sir; they moved there some years before that.

*Q.* Then, previous to the sale of the property, and after they had moved to Summit, what was done with the New York property?

*A.* The house was rented.

*Q.* What became of the rents that were received?

*A.* Paid to mother's account—that is, what we got; we did not get very much.

*Q.* How much did you get?

*A.* I do not remember; the tenants "hung us up."

*Q.* The tenants did not pay?

*A.* The tenants did not pay.

*Q.* It was rented to one tenant, wasn't it?

*A.* No, to two or three.

*Q.* It was not tenement-house property, was it?

*A.* No, sir; one man had it for over two years, I think it was; he paid his rent one or two years; he paid promptly; then they rented it to another woman; she was there a year with her family, and they smashed the furniture——[Interrupted.]

*Q.* How much did it rent for a year?

*A.* I think it was $1,300.

*Q.* Who paid the taxes on the property?

*A.* Mr. Foot.

*Q.* So that $1,300 was net to her?

*A.* Yes, sir; clear money.

*Q.* All the rents, whatever they were, that were received by your mother then, or for her, and up to the time the property was sold, and after that the revenue from it—derived from it—was put in the trust company for her?

*A.* Yes, sir.

*Q.* Who transacted your mother's business during this period?

*A.* I did, sir.

*Q.* Did you collect the rents from the house?

*A.* I did.

*Q.* And collected the amounts paid by the trust company?

*A.* I did.

*Q.* What was your father's reputation in the business that was carried on by the concern—good or bad?

*A.* None better; he was liked and respected by everybody.

*Q.* So that when you went into the concern you went into a business of a firm of good reputation?

*A.* Yes, sir.

*Q.* Is that worth anything in the transaction of custom-house brokerage business?

*A.* Not unless there is somebody to take it.

*Q.* Is a good reputation any advantage in the transaction of custom-house brokerage business?

*A.* Yes, sir; of course it is.

*Q.* It is of the same advantage that it is in all business?

*A.* Yes, sir; in all business; nobody would want to put $30,000 or $40,000 in a concern of no reputation.

*Q.* The course and procedure in the transaction of the business is what; in case a person wants to take goods out from the custom-house, what would you do; suppose A wanted to take goods out from the custom-house how would he do it through your concern?

*A.* You mean direct import?

*Q.* Yes.

*A.* You bring your invoice and bill of lading and I make entry, make rates of duty, calculate the amount of duty, and you give me a check for the money; I then pay the freight, pass the entry to the custom-house, sign the bond, pay the duty and get a permit, which I send on board the steamer; one case out of every ten goes to the public store for examination; I see that is transferred to the public store, and the other goods delivered to the importer; I then have the public goods examined, that is, delivered; if correct it is returned, if not I have the entry liquidated, and if there is a refund I collect it for the importer, and if there is additional duty to pay I pay it and charge the same to him.

*Q.* That requires a knowledge of custom-house customs and laws relating to the entry of goods, don't it?

*A.* Yes, sir.

*Q.* To a certain extent?

*A.* Yes, sir; you have to understand it thoroughly.

*Q.* Which is acquired by practice?

*A.* Yes, sir; and by study.

*Q.* The bond that is given, if the transaction is through the firm of Robert Dumont & Son, is given by whom?

*A.* Whichever one of the firm signs it.

*Q.* Individually?

*A.* Individual bond.

*Q.* Not in the name of the firm?

*A.* No, sir.

*Q.* And he signs his individual name?

*A.* Yes, sir.

*Q.* Usually?

*A.* Always; they will not accept surety by attorney.

*Q.* Was your mother an extravagant woman in her expenses of the house?

*A.* While she was in the house she kept a good table; I did not consider my mother an extravagant woman.

*Q.* In the conduct of the house I mean?

*A.* She set a very liberal table; I did not consider her extravagant.

*Q.* How many servants did she keep?

*A.* Two only, and a man servant.

*Q.* Did your father keep the same during his lifetime?

*A.* Yes, sir.

*Q.* Outside of the family expenses, was your mother extravagant as to her dress?

*A.* No, sir.

*Q.* What expenditures did she make out of her money?

*A.* I have no idea, sir.

*Q.* You had charge of it?

*A.* Yes, sir.

*Q.* And she took the money that was taken through you?

*A.* Yes, sir.

*Q.* Don't you know of any—generally, what the money was taken out for, for what purpose?

*A.* No, sir; I used to send her money when she asked

for it, and father took money for her, and bills would come in for her, and she would say "correct," and I would pay them.

*Q.* Bills for necessaries for the house?

*A.* Everything; dry goods' bills and all kinds of bills; general household bills.

*Q.* Most of the bills that you paid then were bills in connection with the household expenditures?

*A.* Yes, sir; I suppose so; yes, sir; of course the money she took I do not know what she did with it.

*Q.* She did not take very much?

*A.* Yes; I think she used to get—some months, I know, father would take up as much $300.

*Q.* That he took out himself?

*A.* He would take it out; he would say, "Your mother wants $50 to-day;" he generally took $50 or $100 at a time.

*Q.* He would say your mother wanted so much money, and take it out of the account?

*A.* Yes, sir.

*Q.* What would your father's expenses annually average, would you say?

*A.* I could not say; I have no idea; I never figured them up.

*Q.* What did the amount that he took out of the account average per year?

*A.* I could not tell you that, sir.

*Q.* The books show it, don't they?

*A.* Yes; I don't remember it; I never looked into it; as long as there was enough there, neither of us were worried much about it.

*Q.* How many bank accounts did you keep?

*A.* One.

*Q.* In whose name was that kept?

*A.* For the last few years it was kept in my name.

*Q.* For how many years?

*A.* For the last five years, anyhow.

*Q.* In what bank was that?

*A.* The Galliton.

*Q.* Five years previous to your father's death?

*A.* Yes, sir.

*Q.* And previous to that time, in whose name was it kept?

*A.* Robert Dumont & Son.

*Q.* Was there a bank account in your mother's name?

*A.* No, sir.

*Q.* Was there a bank account in your father's name?

*A.* No, sir.

*Q.* Was there a bank account in your name?

*A.* No, sir; except the one I have mentioned.

*Q.* There was no bank account in the name of Robert Dumont & Son?

*A.* Yes, sir.

*Q.* Then there were two bank accounts?

*A.* No, sir; only one.

*Q.* Only one?

*A.* Yes, sir.

*Q.* That was the one in the name of Robert Dumont & Son?

*A.* And then William H. Dumont; yes, sir.

*Q.* What went into the bank account of Robert Dumont & Son?

*A.* Everything went in.

*Q.* Everything that came into the concern?

*A.* Everything that came into the concern, or father's hands, either one.

*Q.* And the money that was received from the trust company?

*A.* Yes, sir.

*Q.* All went into the firm account?

*A.* Yes, sir.

*Q.* The money that was received for rent from the house up town, belonging to your mother, that went into the firm account?

*A.* Yes, sir.

*Q.* The dividends and interest received on account of your mother's stock, that went into the same account?

*A.* Yes, sir.

*Q.* Of Robert Dumont & Son?

*A.* Yes, sir.

*Q.* Everything that was received, then, whether it belonged to your mother, or your father, or the firm, or yourself, went into this bank account of Robert Dumont & Son?

*A.* Yes, sir.

*Q.* Who drew checks on this account?

*A.* Which checks?

*Q.* All the checks that were drawn on this bank account?

*A.* Robert Dumont & Son; father used to draw them very often.

*Q.* Was he the only one who drew them?

*A.* No, I drew them; either father or myself had to sign them.

*Q.* All the time, up to his death?

*A.* Father did not sign them the last few years of his life.

*Q.* Then you drew them yourself during the last few years?

*A.* Yes, sir.

*Q.* That is, checks on this bank account?

*A.* Yes, sir.

*Q.* When was the account in your mother's name opened upon the books?

*A.* I think I opened it about 1876; somewheres along there.

*Q.* Was there an account in your father's name on the books?

*A.* Yes, sir.

*Q.* And an account also in your individual name?

*A.* Yes, sir.

*Q.* What was carried to your father's account?

*A.* In what respect?

*Q.* In respect to—in any respect?

*A.* There was nothing credited to him except the interest in the business.

*Q.* What do you mean by that?

*A.* His portion of the profits; that is the only credit.

*Q.* Those were arrived at how often during the year?

*A.* At the end of the year.

*Q.* Each year?

*A.* Yes, sir.

*Q.* Which would be about what month?

*A.* Well, we would draw a balance on the 1st of January of each year.

*Q.* And then the proportion of the profits that belonged to your father were carried to his account, were they?

*A.* Yes, sir.

*Q.* And the portion that belonged to you was carried to your account?

*A.* Yes, sir.

*Q.* What was carried to your mother's account?

*A.* All dividends, all rents; everything collected outside.

*Q.* Previous to your opening the account in your mother's name, what became of the amounts that were received on her account?

*A.* They were all credited to father.

*Q.* In the name of the firm?

*A.* No, sir; carried directly to my father's credit.

*Q.* As between your brother and your father?

*A.* Always.

*Q.* As between your brother and father when they composed the firm?

*A.* Yes, sir.

*Q.* And afterwards, when you became a member, and previous to 1876, they were carried to your father's account, were they?

*A.* Yes, sir.

*Q.* Why was it, as you say, you opened this account in your mother's name in 1876?

*Q.* Because they were beginning to stir up those old bonds.

*Q.* Who?

*A.* The district attorney.

*Q.* Did your father suggest this?

*A.* No, sir; I think I suggested it, and he approved of it.

*Q.* Did you suggest that instead of carrying everything to his account, as it had been previously, that your mother should have an account of her own?

*A.* Yes, sir; and that all outside matters should go into that account.

*Q.* Now, from this account of your mother's, that was opened in 1876, what was paid?

*A.* Everything, I was going to say; bills, as they came in were charged to either account; it made no difference.

*Q.* Your father's account or her account?

*A.* Yes, sir; along about 1877 I transferred $2,000 cash from father's account to her account.

*Q.* Why did you transfer $2,000?

*A.* Because I thought he had $2,000 to his credit that ought not to be there.

*Q.* That belonged to her?

*A.* No, sir; that belonged to my father.

*Q.* Did you transfer it from his account to her account?

*A.* Yes, sir.

*Q.* Why?

*A.* So that the district attorney could not get it if he proceeded on this bond.

*Q.* Did you figure up at that time the condition of your mother's account with your father?

*A.* No, sir.

*Q.* How did you know how much your father had in his account which belonged to your mother?

*A.* I didn't know that he had anything that belonged to my mother.

*Q.* What became of your mother's dividends and rents?

*A.* Invested them?

*Q.* Were they put in his account?

*A.* No, sir; the dividends did not all belong to her; they were in her name, but it was his property invested in her name.

*Q.* What property?

*A.* The Delaware and Lackawanna Railroad was his money?

*Q.* How do you know?

*A.* He told me so.

*Q.* Was your mother present when he told you?

*A.* She only had $7,500 —— [Interrupted.]

*Q.* Was your mother present when he told you? [Objected to.]

*A.* I don't remember.

*Q.* That was the $7,500 she got from her grandmother?

*A.* From her mother.

*Q.* Afterward your mother got $15,000 from your brother—about that—didn't she?

*A.* After the place in Summit was taken she got that in cash; the place in Summit was paid out of it.

*Q.* She got about $15,000?

*A.* Yes, sir.

*Q.* That was your mother's money?

*A.* Yes, sir.

*Q.* And the $7,500 was your mother's money?

*A.* Yes, sir.

*Q.* What became of the interest and dividends on your mother's money previous to 1876?

*A.* I could not tell you; I do not know.

*Q.* Who collected it?

*A.* I suppose I collected it, and father collected some of it; it all went into the concern.

*Q.* Went into the firm account?

*A.* Yes, sir.

*Q.* And when you transferred $2,000 to your mother's account, as you say you did, did you then make any computation to see how much money was in your father's hands belonging to your mother?

*A.* No, sir.

*Q.* What became of the dividends and interest and rents up to the time the house was sold in New York, and after that, the money received from the trust company, what became of that?

*A.* Credited to my mother's account.

*Q.* Did you collect all those dividends and interest?

*A.* Some of them.

*Q.* Who collected the rest of them?

*A.* Others of them were mailed to the office.

*Q.* They came to your hands?

*A.* Yes, sir, or my father's; they did not always come to my hands.

*Q.* When they came to your father's hands, what was done with them?

*A.* Credited to her account, and deposited in the firm account.

*Q.* Did you buy the bonds that were bought from your mother's account, usually?

*A.* Well, I could not answer; I don't remember.

*Q.* Don't you remember whether you bought any or not?

*A.* Yes; I bought some; I paid from either account; I paid some from father's, and charged some to others.

*Q.* I ask you whether you bought bonds that were bought on your mother's account?

*A.* Yes, sir; I bought some of them.

*Q.* Which ones did you buy?

*A.* I could not remember.

*Q.* How many did you buy?

*A.* I could not remember; whenever there was a balance father would tell me to invest it.

*Q.* You do not know what bonds you bought?

*A.* I bought some Houston and Texas Central, some Indiana and Indianapolis, some West Shore, and some Rock Island railroad.

*Q.* When did you buy that?

*A.* I think about the time my brother died, or shortly afterwards.

*Q.* From whom did you buy it?

*A.* I think Brown & Anderson bought it.

*Q.* Did you give the order for buying it?

*A.* Yes, sir; I believe so; it was either Brown & Anderson or Vincent & King, I don't know which.

*Q.* That was about 1874?

*A.* I think somewheres around there.

*Q.* Did your father tell you to buy it?

*A.* Yes, sir.

*Q.* What other stock did you buy?

*A.* Some New York Central; we sold that afterwards.

*Q.* Your father told you to buy that, did he?

*A.* Yes, sir.

*Q.* What did you do with the money you got from it?

*A.* Bought something then with it; I think he bought Wilkesbarre and Lehigh bonds with it.

*Q.* When were those bought?

*A.* I could not tell you; I don't remember.

*Q.* Did you buy them?

*A.* Yes, sir; I think he told me to buy them, and sent me over to the New Jersey Central office to inquire about them.

*Q.* Did you buy them there?

*A.* No, sir; I bought them down Broadway somewheres.

*Q.* You don't know where?

*A.* No, sir; I think we paid down ten per cent. and had the privilege of paying the rest sometime afterwards; father thought, as we had the money, we had better pay for them.

*Q.* Then you bought the Lehigh and Wilkesbarre Coal Company, to what extent, do you know?

*A.* $5,000.

*Q.* And you bought Rock Island stock to what extent?

*A.* Bought forty shares.

*Q.* How much was that?

*A.* I think that cost about $3,800—in the neighborhood of $3,800.

*Q.* And you bought Houston and Texas bonds, how many of them?

*A.* Two of them, at different times; I gave an order for one just before father died; the last time I saw him we were talking about it, and I think I got it the day after his death.

*Q.* You got others besides that?

*A.* I think there was only two bonds.

*Q.* And you bought Delaware, Lackawanna and Western stock?

*A.* No, sir; it belonged to my father.

*Q.* Didn't you buy it?

*A.* No, sir.

*Q.* That was there then?

*A.* Yes, sir.

*Q.* Where was it?

*A.* I don't know; it was in a tin box at the office.

*Q.* That tin box contained everything—your mother's, father's, and the firm's papers?

*A.* Yes, sir.

*Q.* And what other stock did you buy, do you know?

*A.* No; I don't remember.

*Q.* And those things were all bought out of your father's account?

*A.* Father's and mother's.

*Q.* Out of your father's previous to 1876?

*A.* Yes, sir.

*Q.* And after 1876 bought out of your mother's account?

*A.* Out of either account.

*Q.* Which account were they bought out of?

*A.* Both and either; sometimes charged to one and sometimes to the other.

*Q.* Which of them were bought out of your father's account?

*A.* I could not tell without looking at the books.

*Q.* Just look at the books, and tell us the next time you come, and bring with you a statement of which were bought out of your father's account, of the bonds and stock in 1876, and which were bought out of your mother's account, will you?

*A.* Yes, sir.

*Q.* When was the first judgment that you remember got against your father, do you know?

*A.* No; I do not; long about 1876, when District Attorney Tremain commenced to stir them up.

*Q.* Was judgment got at that time against him?

*A.* I don't remember; I know they got a judgment against Bibby at that time, and put in an execution, and father heard of it and told me about it, and he transferred the office property to me there and then, and we changed the bank account right along there—about that date sometime; we had a great deal of money belonging to our customers; we sometimes carried $8,000 or $10,000 belonging to other parties.

*Q.* And it was your suggestion, you think, that this account of your mothers was opened, so as to protect this money from this judgment?

*A.* I spoke to him about it, and he thought it would be a good idea.

*Q.* How would that have protected the money on supplementary proceedings? [Objected to.]

*A.* That I don't know; whether it would or not; we were not lawyers, but that was our opinion, if it was in her possession they could not touch it.

*Q.* You didn't take any advice on it?

*A.* No, sir; we didn't want to stir the thing up any more than we could help, and asked no questions.

*Q.* Your mother, as I understand you, never talked about the account--her account?

*A.* No, sir.

*Q.* And no statements were ever sent to her of the condition of her account?

*A.* No, sir; she knew why the account was opened.

*Q.* I mean of her own account?

*A.* No, sir.

*Q.* You never sent any statement of the amount on hand that belonged to her, and of the investments that were made, did you?

*A.* No, sir; my father was there.

*Q.* Your father knew the amount?

*A.* Yes, sir; he was the one that had the entire charge of it.

*Q.* And he looked after her business—her matters—himself?

*A.* Yes, sir; I never assumed anything without his order.

*Q.* He looked after your mother's business and took care of her interests, I suppose?

*A.* Yes, sir.

*Q.* After your father's death, you transferred to your mother $37,000 in securities and cash, as I understand?

*A.* I transferred whatever there was.

*Q.* Well, was it $37,000, do you remember?

*A.* Somewheres about that, I believe, in cash.

*Q.* Cash and securities?

*A.* The cash was an entirely different thing.

*Q.* Then, what did you transfer, do you remember?

*A.* About $3,700 in cash I transferred to her, if I remember right; somewhere around there; and all the securities there were.

*Q.* About how much were they?

*A.* There were $35,000 or $36,000, if I remember right.

*Q.* That amount of cash was arrived at by balancing your mother's account, was it?

*A.* No, sir; by balancing my father's account.

*Q.* How much was in his account at that time?

*A.* That was the whole of it; that cleaned it up clean.

*Q.* Then the whole of this was in your father's account, was it?

*A.* Whatever it was, was transferred to her account.

*Q.* Was transferred from his account?

*A.* Yes, sir.

*Q.* Not from your mother's account?

*A.* I transferred whatever it was.

*Q.* What you transferred, was it transferred from your father's account to your mother's account?

*A.* I said that I transferred all that was due on my father's account to my mother's.

*Q.* And $3,700 was what was due on your father's account, was it?

*A.* Whatever—I don't remember what it was.

*Q.* Whatever it was?

*A.* Yes, sir.

*Q.* About $3,700?

*A.* I think so.

*Q.* What was done with the money, if any, that was in your mother's account to her credit?

*A.* It was transferred to her.

*Q.* What was that?

*A.* That $1,000 bond, that constituted a part of it.

*Q.* How much cash was there?

*A.* That I could not say.

*Q.* How much would you say?

*A.* I could not say; I have no idea; I told our bookkeeper to close it up, after my father's death, and transfer everything, under date of December 31st, to mother.

*Q.* Under that arrangement, there was $3,700 transferred from your father's account to her, and this bond from her account, and some cash from her account?

*A.* I don't remember what it was; I gave her a statement of it.

*Q.* So that you transferred to her, then, the balance from two accounts at that time?

*A.* Yes, sir.

*Q.* From her account and from your father's account?

*A.* Yes, sir; I think about the 1st of January of that year I transferred $5,000 from father's account to her.

*Q.* That was the balance in his account?

*A.* That was to close his account; there was another stir in the district attorney's office, and every time I would hear of it I would make the transfer.

*Q.* That was after your father's death?

*A.* I think the January before he died.

*Q.* After his death you transferred the $3,700?

*A.* To close out his account, whatever it was; I don't remember; the book-keeper closed it, and gave me the statement, which I gave her.

*Q.* You don't mean that there were two balances transferred after your father's death—one of $3,700, and one of a different amount, do you?

*A.* No, sir.

*Q.* It was all included in the $3,700?

*A.* No, sir; I think all of mother's money had been invested that year.

*Q.* I did not ask you what you thought—I ask you about the balance transferred?

*A.* My mother was indebted to my father for money invested during that year.

*Q.* Will you please bring your mother's account—a copy of your mother's account—the next time?

*A.* For how long?

*Q.* From 1876 down, and a copy of your father's account from 1876 down?

*A.* I cannot do that; I had better bring the books; I will see if I can do it.

*Q.* What was the average amount received by your

mother in 1876 and 1877, from the stock and bonds in her name?

*A.* I could not tell you, sir; I have no idea.

*Q.* You collected it?

*A.* Yes, sir.

*Q.* Don't you know how much you received about every six months?

*A.* No, sir; I did have the figures, but I have forgotten what they were; I would not like to state, because I have forgotten what paid dividends at that time, and what did not.

*Q.* At what time do you remember, as to the amount received from dividends and stock on account of your mother—do you remember any time, any amount received?

*A.* Yes; I think that the time, 1883, that I figured it up once, I think about $3,600 for that year.

*Q.* That was received from stock, dividends and from the trust company?

*A.* Everything; yes, sir.

*Q.* You don't know how much it was in 1880, do you?

*A.* No, sir; I do not.

*Q.* And for any other year except 1883?

*A.* No; I happened to make it up that year, to see what it was after my father's death—to see what income she would have.

*Q.* And it appeared then that she was having an income of about $3,400 a year?

*A.* $3,600.

*Q.* $3,600 from the securities and the trust company?

*A.* Yes, sir; everything.

*Q.* What were the profits of your concern in 1880?

*A.* I don't remember; I think it was—I would not like to say.

*Q.* In 1878?

*A.* The first year I was there, that was in 1874—no, I cannot say.

*Q.* Well, 1876, can you remember?

*A.* About $3,200; I think it was.

*Q.* And out of that you received how much?

*A.* I got $1000.

*Q.* You got one-quarter?

*A.* Well, I drew $1000.

*Q.* How was that?

*A.* I overdrew my account.

*Q.* When—what years did you overdraw?

*A.* For the first four or five years.

*Q.* Because the share of profits—your profits, or share of the profits—was not sufficient for you to get along with?

*A.* No, sir; did not amount to as much as my salary as clerk, and I told my father that I would quit and go back as clerk.

*Q.* And he consented to your overdrawing your account?

*A.* He told me to draw what I needed.

*Q.* And you continued to do that up to what time?

*A.* I think 1878; and I think I overdrew it in 1882.

*Q.* You did it from 1874 to 1878, and then again in 1882?

*A.* Yes, sir.

*Q.* At that time, from 1874 to 1876, in whose name was the bank account?

*A.* Father's—Robert Dumont & Son.

*Q.* It was kept in the name of Robert Dumont & Son?

*A.* Yes, sir.

*Q.* Was there a bank account in your mother's name?

*A.* No, sir.

*Q.* The moneys that were received that belonged to your mother went into the bank account of Robert Dumont & Son, did it, at that time?

*A.* Yes, sir; all she had——[Interrupted.]

*Q.* That was all that was received on her account went into the account of Robert Dumont & Son?

*A.* Yes, sir; went to my father's account, and he deposited it with the concern.

*Q.* It went into the bank account of the concern?

*A.* Yes, sir; it went into the bank account; yes, sir.

*Q.* How did you come to overdraw your account in 1882?

*A.* Well, I spent more money than was coming to me; I was disappointed in the profits.

*Q.* What were the profits that year?

*A.* I think about some $8,000 or $9,000; somewheres along there.

*Q.* And you overdrew your account to what extent?

*A.* $500 or $600.

*Q.* So that it cost you, for expenses, to live, about $5,000?

*A.* It did that year; yes, sir.

*Q.* How was it in 1881?

*A.* It cost me then about $3,000, if I remember right.

*Q.* And in 1880 how was it?

*A.* I don't know; I didn't overdraw my account; I was inside of my account; had a little balance both of those years.

*Q.* What were your profits those years?

*A.* I don't remember; I think they were about $6,000 or $8,000.

*Q.* In 1881?

*A.* I think so.

*Q.* How was it in 1879?

*A.* The profits were less that year; the profits were about $6,000 or $7,000, I suppose.

*Q.* What did it cost you to live, then, that year—1879?

*A.* About $1,700.

*Q.* What did the total of your overdrafts in the concern amount to in 1878?

*A.* About $300.

*Q.* Altogether?

*A.* I think so.

*Q.* That is, for the years from 1874——[Interrupted.]

*A.* Oh, no; you asked me for the whole time?

*Q.* Yes.

*A.* It must have amounted to $1,700 or $1,800, I should think; I don't remember exactly.

*Q.* $1,700 or $1,800?

*A.* Yes, sir; up to what time is that?

*Q.* 1878?

*A.* Well, I don't remember; I should think it would be more than that; I know I was about $2,000 short of my salary as clerk at that time; I would have done better as clerk at $1,500.

*Q.* Was your shortage about $2,000?

*A.* Yes, sir; of what my salary would have been as clerk.

*Q.* And your overdrafts?

*A.* That was including my overdrafts.

*Q.* And that was your shortage at that time?

*A.* Yes, sir; that was from my salary as clerk; it would have paid me better as clerk.

*Q.* What was your actual shortage?

*A.* About $1,700.

*Q.* It was based on what you would have got as clerk?

*A.* No, not at all, because one year I drew $1,000, and I was $200 in debt, but I never claimed it.

*Q.* So, after 1878 it was about $1,700 you were behind?

*A.* Yes, sir; I was behind—no, I was not behind, because father told me to charge it to him and balance my account.

*Q.* But you had overdrawn your account to that extent?

*A.* Yes, sir.

*Q.* This money drawn out of the bank that the account of the firm was kept in, wasn't it drawn out of the firm's account?

*A.* Yes, sir; I suppose it was taken out of the money of the firm.

*Q.* Taken out of the firm's account?

*A.* Yes, sir.

*Q.* Was that kept in your name at that time?

*A.* 1878?

*Q.* Yes.

*A.* I think it was.

*Q.* That account also included your mother's money?

*A.* All moneys—father's money and everybody's.

*Q.* That bank account I mean?

*A.* Yes, sir.

*Q.* When did you balance that $1,700 with your father?

*A.* I never balanced it; my father gave it to me.

*Q.* When?

*A.* At the end of each year; when I showed him the indebtedness, he said to charge it to him and balance my account; I offered to go back as clerk at $1,500.

*Q.* Then what you overdrew was cleared up at the end of each year by your father's presenting it to you, was it?

*A.* Yes, sir.

*Q.* How does that appear upon the books of the concern—these transactions?

*A.* It is charged, "Credit to account of Willian H. Dumont, overdrawn."

*Q.* Did your father ever find fault with you for overdrawing your account?

*A.* No, sir.

*Q.* There was no talk with him as to how much you could overdraw your account?

*A.* No, sir.

*Q.* You had, as I understand you, authority from him to overdraw it to any extent you pleased?

*A.* He told me to take what I needed.

*Q.* And that was done by you out of the bank account of the concern?

*A.* Yes, sir.

*Q.* Was your father an excitable man?

*A.* No, I don't think he was the last few years of his life.

*Q.* Within the last two years of his life was he?

*A.* Well, I have seen him excited, but I don't know as I would call him an excitable man.

*Q.* He was apt to blow out and tear around if things did not suit him?

*A.* Blow out; yes, but I never saw him tear around.

*Q.* Was he a profane man at all?

*A.* No, sir.

*Q.* What did he do when he made "a time" about anything?

*A.* Well, scold.

*Q.* Well, how scold?

*A.* Well, scold about it; I could not tell you; I don't know; I could not say what he would do; he would find fault about it—would not like it.

*Q.* And he never scolded or found fault with your overdrawing your account at any time?

*A.* No, sir; we never had words in the office but once, and that was when he bought New Jersey Central stock, and I said I did not want anything to do with it.

*Q.* But about overdrawing you account there was no scolding?

*A.* No, sir; I went to him in 1882 and told him I was not extravagant, and all the family were living on him, and I thought he might let me off this year, but if he insisted I would pay it back; I told him I had cut the expenses down that year $1,200, and got rid of one clerk and also one boy, and I was doing their work; I don't suppose father ever spoke about it; he was very pleasant to me about it.

*Q.* You had charge of the box in the safe deposit company?

*A.* I had.

*Q.* What was kept in that box?

*A.* All of mother's securities and my aunt's.

*Q.* Miss Swords?

*A.* Yes, sir.

*Q.* You had charge of her securities?

*A.* Yes, sir.

*Q.* When was that box got?

*A.* I think it was sometime long about 1875; I told father I thought it risky for us to keep them in that tin box and leaving it in the safe at the bank, and he told me I had better rent a box.

*Q.* And then the securities were transferred to that box?

*A.* Yes, sir.

*Q.* And remained there afterwards?

*A.* Yes, sir.

*Q.* And you had sole charge?

*A.* They were never removed from there.

*Q.* You had charge of them?

*A.* Yes, sir.

*Q.* How do you account for the business amounting to nearly $12,000 in 1883?

*A.* Well, sir, because I had Mr. ———; one concern we had went out of business; his business failed; he paid us enormous amounts of money that year, for him; he threw a great many outside things in my way.

*Q.* Who?

*A.* Mr. Ludwig.

*Q.* Do you remember ever having a conversation with your brother Theodore about overdrawing your account in the concern?

*A.* No; I do not remember.

*Q.* Didn't you tell your brother Theodore, on one occasion, that whenever you were short you overdrew your account and charged it upon the books to profit and loss?

*A.* No, sir; I never said such a thing.

*Q.* Didn't you tell him then, or about that same time didn't your brother Theodore ask you, what your father said about it?

*A.* No, sir.

*Q.* And didn't you reply that he did not say anything about it—that he did not know anything about it?

*A.* No, sir.

*Q.* Or words to that effect?

*A.* No, sir; there was nothing ever charged on those books that my father did not see and investigate.——[Interrupted.]

*Q.* I asked you whether you said this thing or not?

*A.* No, sir; I did not.

*Q.* The horse that was used at Summit was whose horse?

*A.* My father's or mother's; I don't know which.

*Q.* Don't you know it was your brother's horse?

*A.* Which horse?

*Q.* How many horses were there?

*A.* There were two there one time; the first horse there was my horse.

*Q.* When was that?

*A.* When I first moved up there.

*Q.* What year was that?

*A.* It was 1874 or 1875.

*Q.* How long did you keep a horse there?

*A.* I kept him there for about two years, I think it was.

*Q.* Then what became of him?

*A.* He was given away.

*Q.* Well?

*A.* Then Mr. Foot gave my father or mother, I don't know which, a horse.

*Q.* Do you remember when that was?

*A.* That was along 1876 or 1877—somewheres along there.

*Q.* After they moved to Summit?

*A.* Yes, sir; it was the second year we were up there.

*Q.* When did your brother buy his horse?

*A.* I think it was the winter before my father died, 1883.

*Q.* Was that the first that that your brother had any horse there?

*A.* The first I remember of it; yes, sir.

*Q.* When was the addition put on the barn that you were talking about in your direct examination?

*A.* I think that was in the fall of 1883.

*Q.* Where did you get the figures from that you gave here that it cost $175?

*A.* It was in the bill.

*Q.* Where is the bill?

*A.* My mother had it; it is in her papers; I have the check.

*Q.* What account did you pay that check out of?

*A.* I don't know whether it was my father's or mother's.

*Q.* You were in the habit of paying bills as they came in, at your own option, out of either account, weren't you?

*A.* Yes, sir.

*Q.* The horse that your brother had there was kept for the use of the family, wasn't it?

*A.* That I could not say; they had one horse there for the use of the family.

*Q.* You don't know whether the horse was kept for the use of the family?

*A.* No, sir; I understood it was kept for his use.

*Q.* You don't know exactly what amount your mother got from your brother, do you?

*A.* Yes, sir; about $15,000.

*Q.* About; can you give us the figures?

*A.* No, I could not give it here; I have the figures at the office—a statement of his estate; there was $20,000, and he owed $5,000 and some interest, and the State Mutual Insurance Company of Massachusetts, they paid a surplus over and above his $5,000 policy there; I think he netted about $15,000.

*Q.* Who did he owe $5,000 to, do you know?

*A.* Yes, sir; Mr. Foot.

*Q.* Which Mr. Foot?

*A.* Mr. John F. Foot.

*Q.* Was that paid to Mr. Foot?

*A.* Yes, sir; my father paid it.

*Q.* You were there, then, were you?

*A.* Yes, sir; I think so.

*Q.* Do you know of your own knowledge that he paid it?

*A.* I know he charged it upon the books; I think that was the amount.

*Q.* Charged up against your brother's account?

*A.* No, sir; I think he charged it to himself.

*Q.* How do you mean?

*A.* Charged it, "Paid, note, R. S. D."

*Q.* Your father charged his own account with having paid $5,000 to Mr. Foot, did he?

*A.* Yes, sir; I believe so.

*Q.* Why didn't he charge it to your brother's account?

*A.* I think he had my brother's account closed before he did it; I don't remember, but I think that was the way of it.

*Q.* About $20,000 appears to be the amount of his estate?

*A.* Yes, sir.

*Q.* Then you think $5,000 was charged to your father's account as having been paid to Mr. Foot?

*A.* Yes, sir; I think that is it; I think he had four policies of insurance: one in the State Mutual for $5,000, two in the Charter Oak for $5,000 each, and one in the Massachusetts Benefit for $5,000.

*Q.* So that in that way you arrive at the $15,000?

*A.* Yes, sir; I have got a copy of the statement that my father made, showing the exact amount.

*Q.* Didn't your mother own any real estate at that time?

*A.* No, sir; he left a piece of property in Madison.

*Q.* Did your brother own that?

*A.* Yes, sir.

*Q.* What became of that Morristown property?

*A.* They exchanged it for that property in Summit.

*Q.* Then they did not buy the Summit property out of the money of your grandmother?

*A.* Did not buy the real estate.

*Q.* But they got it by exchange for the Morristown property?

*A.* Yes, sir.

*Q.* Are you sure that $5,000 were paid to Mr. Foot?

*A.* I won't be sure, but that is the best of my recollection; I have not looked at the thing for years; I have not seen it.

*Q.* So that, whatever was paid, the $20,000 was reduced to that sum?

*A.* Yes, sir.

*Q.* And you calculated $5,000, and therefore you say about $15,000?

*A.* I know father said it was about $15,000 that the estate netted; where it went, I could not say.

*Q.* What did your brother's estate consist of at that time?

*A.* In those policies of insurance.

*Q.* All of them?

*A.* Yes, sir.

*Q.* And the property in Morristown?

*A.* Yes, sir.

*Q.* Your brother left no will, did he?

*A.* Yes, sir.

*Q.* Who was the executor?

*A.* My father.

*Q.* He received, then, all the money from your brother's estate?

*A.* Yes, sir.

*Q.* Did he make those investments that were made for your mother?

*A.* Yes, sir; they were made under his directions.

*Q.* Out of this money that he held on hand on account of your brother's estate?

*A.* Yes, sir; and other moneys.

*Q.* You suppose that he invested all of it?

*A.* Yes, sir; and I know he invested more, too.

*Q.* But he invested all of it, whatever there was?

*A.* Yes, sir; I think so; well, with that $15,000, you know, the house at Summit was built out of it.

*Q.* But there was $7,500 from your grandmother?

*A.* Yes, sir.

*Q.* Was that invested?

*A.* Yes, sir; I presume it was.

*Q.* At the time of your brother's death?

*A.* I presume it was; I could not say anything about it; I was not here; all I knew was what there was in the tin box.

*Q.* Were there securities in the tin box?

*A.* Yes, sir; I think one hundred shares of Delaware, Lackawanna and Western, $10,000 net value of New Jersey Central, and there was some Morris and Essex.

*Q.* When was that?

*A.* That was when I went in there?

*Q.* That was in 1874?

*A.* Yes, sir.

*Q.* And you mean by the net value, the par value, the face value?

*A.* Yes, sir.

*Q.* Not face value, but par value?

*A.* Yes, sir; par value.

*Q.* How long did that Delaware, Lackawanna and Western stock remain there?

*A.* I am not aware——[Interrupted.]

*Q.* In the box?

*A.* It remained there until it went around to the safe deposit.

*Q.* There was $10,000 of Delaware, Lackawanna and Western stock?

*A.* Yes, sir; he got a $1,000 a year from that; he figured $1,000 from the Delaware, Lackawanna and Western, and $1,000 from the New Jersey Central.

*Q.* That was the revenue from it?

*A.* Yes, sir.

*Q.* That was 1873 and 1874?

*A.* Yes, sir.

*Q.* Was Delaware, Lackawanna and Western stock bought afterwards?

*A.* I don't know; I think about ten shares he bought to make up the even fifty.

*Q.* When was this?

*A.* I don't know.

*Q.* That was all the Delaware, Lackawanna and Western stock you bought?

*A.* I think so.

*Q.* Ten shares?

*A.* I think so.

*Q.* And the rest was there when you went there?

*A.* Yes; he bought that from the sale of Delaware and Hudson Canal.

*Q.* And you remember your father saying that he was getting $1,000 from the Delaware, Lackawanna and Western, and $1,000 from the New Jersey Central?

*A.* Yes, sir.

*Q.* At that time?

*A.* Yes, sir.

*Q.* Annually, I suppose?

*A.* Yes, sir; that is, to the best of my recollection.

*Q.* This box was kept in the firm name or your mother's name?

*A.* Which?

*Q.* The box the securities were kept in?

*A.* When?

*Q.* In New York?

*A.* I know—but when, at the safe deposit?

*Q.* Yes?

*A.* No; the safe deposit was in the firm name, William H. Dumont and Robert Dumont.

*Q.* That is the safe deposit box in which all these securities were kept?

*A.* Yes, sir.

*Q.* And in which your aunt's securities were kept?

*A.* Yes, sir.

*Q.* Previous to 1879, and after you returned from Cincinnati, where did you reside?

*A.* I resided at Madison most of the time previous to 1879—no, hold on, I am wrong about that; I lived at my father's after my wife's death?

*Q.* When did she die?

*A.* She died, I think it was, in May, 1872.

*Q.* How many children did she leave?

*A.* Two.

*Q.* What were their names?

*A.* Mary and Bessie.

*Q.* Then, was it in 1872 that you went to live with your father?

*A.* Yes, sir; I think the fall of 1872.

*Q.* And did you take the children with you?

*A.* I took one.

*Q.* Which one?

*A.* Bessie.

*Q.* The other one——[Interrupted.]

*A.* Went to boarding-school.

*Q.* Your father was then living in New York?

*A.* Yes, sir.

*Q.* And you and your daughter continued to live with him how long?

*A.* Until I was married again.

*Q.* That was when?

*A.* That was in 1879.

*Q.* Did your daughter then continue living there?

*A.* Yes, sir.

*Q.* Until when?

*A.* Until, I think it was, 1882.

*Q.* Did you pay board during that time?

*A.* I did not.

*Q.* Neither for yourself or daughter?

*A.* No, sir.

*Q.* Then, from 1873 to 1878, when you were overdraw-

ing your account, you were living in your father's house, you and your daughter?

*A.* Yes, sir.

*Q.* And not paying any board?

*A.* No, sir.

*Q.* Where were you living at the time of your father's death?

*A.* At Madison.

*Q.* And the time when you stated a conversation took place at your father's bedside, did you come from Madison to see him?

*A.* I drove down; yes, sir.

*Q.* How long were you in the room with him at that time?

*A.* I could not say.

*Q.* How much of a conversation did you have with him at that time?

*A.* That was about all; I asked him how he was, and he said —— [Interrupted.]

*Q.* Was he in a very weak conditiou?

*A.* Not particularly so; no, I don't know that he was.

*Q.* How long had he then been sick?

*A.* Three or four days.

*Q.* Was that the first you visited him?

*A.* Oh, no.

*Q.* He had been sick three or four days?

*A.* Yes, sir.

*Q.* State, now, the conversation that you had there with him at that time?

*A.* I do not remember it exactly; I simply asked him how he was; he told me he felt very feeble or poorly, and told me to remember, if he died, he left mother in my care.

*Q.* Was that all that was said?

*A.* That is all I remember; we talked about some other things; I don't know what they were.

*Q.* About business?

*A.* No, sir.

*Q.* Anything about the concern?

*A.* No, sir.

*Q.* What other things did you talk about?

*A.* I do not remember anything else.

*Q.* What did you understand him to mean by that "leaving mother in your care?"

*A.* That I was to take care of her.

*Q.* In what way?

*A.* He told me several times, at the time my brother came down to borrow some bonds, that in case of his death, I must take care of her property, and that I was to let no one have them as long as she lived; that she understood it, and there would be no trouble about it; he said my brother was a speculator and would use the bonds; he borrowed some at that time.

*Q.* When was this?

*A.* Along about 1881.

*Q.* What bonds did he borrow?

*A.* Lehigh and Wilkesbarre.

*Q.* From whom?

*A.* From my father.

*Q.* Were they returned?

*A.* They were; yes, sir; some time afterwards.

*Q.* This that you have stated was all the conversation you remember at that time?

*A.* That is all I remember; yes, sir.

*Q.* Who else did you say was in the room beside yourself?

*A.* My mother was there, and I think there was somebody else, but I won't be sure.

*Q.* Your brother Theodore was there?

*A.* Yes, sir; he sat alongside of my mother.

*Q.* What reply did you make to your father when he told you that?

*A.* I told him that was all right, I would take care of her.

*Q.* How long was that before your father's death?

*A.* I think, about forty-eight hours.

*Q.* Then he died the next day?

*A.* No, I think the second day after. I think that was a Sunday and he died on a Tuesday.

*Q.* Did you return to Madison then?

*A.* Yes, sir; that night.

*Q.* And you came back to Summit and was there at the time of his death?

*A.* No, sir.

*Q.* When did come back again to Summit?

*A.* I was there the next day, I don't know what time; I was nursing him before he died.

*Q.* You remained over night?

*A.* No, sir; I drove over home and came back the next day; I think that Sunday night I came back again and spent the night, and spent every night until the nurse came, and I think he was with him only one night.

*Q.* The conversation with your brother at the depot, was that the next day after your father died?

*A.* I think it was the day father died.

*Q.* Did he die early in the morning?

*A.* Yes, sir; I think I drove there at seven o'clock and he was dead then.

*Q.* What depot was it that you had the conversation with your brother?

*A.* The Summit depot.

*Q.* Did you go to the depot together, you and your brother?

*A.* Yes, sir.

*Q.* In what?

*A.* In a carriage, I suppose.

*Q.* Do you remember whether you did or not?

*A.* I do not.

*Q.* Or whether you walked there?

*A.* No, I presume we rode there.

*Q.* Was there anything said in the carriage about this.

about your father's death or your mother's circumstances, or anything of that kind?

*A.* Not that I remember.

*Q.* What did you talk about on the way there in the carriage?

*A.* I could not tell you.

*Q.* There was nothing said about your father's business that you remember?

*A.* No, sir; about the only thing I remember was about my going to the cemetery to make arrangements to have the grave opened.

*Q.* When did you next have a conversation, then, about allowing your mother something from the business?

*A.* I did not commence it.

*Q.* When was it commenced?

*A.* My brother commenced it, he made a demand.

*Q.* When was it?

*A.* After the carriage had left the depot.

*Q.* How long where you there before the train arrived?

*A.* I don't know, some minutes.

*Q.* And after the carriage left and you were standing there on the platform, what did your brother say to you?

*A.* He made a demand.

*Q.* What did he say?

*A.* I don't know exactly.

*Q.* What were his words as nearly as you remember it?

*A.* He said, "You must make mother an allowance of $1,800 a year, and then things will go on exactly as they have been going on;" that is to the best of my recollection.

*Q.* Did he fix the sum $1,800?

*A.* Yes, sir.

*Q.* Didn't you fix it?

*A.* No, sir.

*Q.* Didn't he ask you what you were going to do for your mother?

*A.* No, sir.

*Q.* He merely started the thing by using the words you have stated here—abruptly?

*A.* Yes, sir; he spoke about father putting mother in my care, and that was the allowance I must make her.

*Q.* Your father having put your mother in your care and what you were going to do for her, didn't he?

*A.* No, sir; he said I must make her an allowance of $1,800, and then things would go on as they had gone on; I suppose he meant that all hands would live there on free quarters.

*Q.* He didn't say anything about the concern?

*A.* No, sir; because the concern had nothing to do with it.

*Q.* How do you know that?

*A.* Because I never heard of a dead broker's concern bringing anything.

*Q.* Did you know that at the time?

*A.* Of course I knew it; I have seen a great many brokers die, and his business go as soon as the broker died; others run off with his customers.

*Q.* The first one that gets it takes it?

*A.* Yes, sir.

*Q.* That was the principle you went on?

*A.* No, sir; because it belonged to me; customers told me if I left three years before they would go with me; Mr. Levi Goldberg said he would; I asked him what I ought to do.

*Q.* Didn't you tell your brother that you would give the $1,800?

*A.* I did.

*Q.* Why?

*A.* Because I didn't want a row; but it came eventually.

*Q.* You didn't object then?

*A.* No, sir; I knew better; I wanted my father under the ground first, before there was a quarrel in the family.

*Q.* You knew that there would be a quarrel?

*A.* I knew there would.

*Q.* You said you would give the $1,800, but you did not mean to give it?

*A.* No, sir.

*Q.* You knew the thing was yours and you were going to claim it?

*A.* Yes, sir.

*Q.* And still you said you would give your mother $1,800?

*A.* I did.

*Q.* Didn't you say to your brother at that, or ask him what he would be satisfied with?

*A.* No, sir; I did not.

*Q.* And didn't he answer you by saying, "I do not know what your business is worth; you know best what best what you can afford," or words to that effect?

*A.* No, sir.

*Q.* And didn't you say, "Will you be satisfied with $1,800 a year?"

*A.* No, sir.

*Q.* And didn't your brother say, "perfectly?"

*A.* No, sir.

*Q.* And "Nettie and I will sign off any claim we may have against the concern?"

*A.* No, sir; nothing of the kind was said.

*Q.* Was there anybody present during this talk with you and your brother?

*A.* No, sir.

*Q.* Did you carry on the conversation when you got on the train down to New York?

*A.* I don't think we did; I think we were talking on the way down about father's death.

*Q.* Then your brother asked you and you assented, and then the matter stopped?

*A.* Yes, sir.

*Q.* And he went away with the impression that you were going to pay $1,800 a year to your mother?

*A.* I presume he did.

*Q.* And then you went and took advice, didn't you?

*A.* Yes, sir.

*Q.* With whom?

*A.* I asked Mr. Levi Goldenburg, for one, whether there was any claim or justice in the demand they made on me, and he said, "No;" I told him I was willing to take care of mother.

*Q.* Did you tell him about the circumstances of the affair?

*A.* Yes, sir.

*Q.* The concern and everything?

*A.* Yes, sir.

*Q.* And he said he did not think you ought to do anything towards taking care of your mother?

*A.* No, sir; he said if I wanted to make up the deficiency that was all they could claim.

*Q.* And after you consulted with this gentleman, you wrote a letter to your brother saying that you would not do it?

*A.* Yes, sir.

*Q.* You said—do you remember what you said in the letter?

*A.* No, sir; not exactly.

*Q.* You talked to nobody else about it, did you?

*A.* I don't remember that I did.

*Q.* Do you remember what the purport of your letter was to your brother?

*A.* No, sir; simply that I could not do it, and that there was no justice in it.

*Q.* You told him, didn't you, or wrote to him, that you did not recognize his right to speak for your mother?

*A.* I believe so I did.

*Q.* And you told him, or wrote to him, that when she was well enough you would talk to her yourself about it?

*A.* I did.

*Q.* Then, after you had written this letter, it was that you met your brother on the ferry-boat, was it?

*A.* Yes, sir; I believe so.

*Q.* What was the conversation then with your brother?

*A.* He made a demand for the money.

*Q.* Another demand?

*A.* And I refused to acknowledge it at all, and I told him —— [Interrupted.]

*Q.* Didn't he refer to a letter he got from you?

*A.* Not that I remember.

*Q.* That was the first you had seen him after writing the letter?

*A.* Yes, sir; I do not know that he referred to it.

*Q.* Didn't he say that he got your letter, and that it was perfectly satisfactory to him, provided you let the business remain just as it was?

*A.* No, sir; he did not.

*Q.* And didn't you reply to him, "I will do nothing of the kind; I have made all my arrangements to have the new sign go up next Monday?"

*A.* No, sir; for at that time I had made no arrangements for changing the firm name; my father requested me to keep up the firm name, which I intended to do, until my brother said it was worth $10,000, and that he was as much entitled to the firm name as I was, and I told him if it was worth $10,000 he could have it, and I had new blanks printed right away.

*Q.* When was that?

*A.* Directly after that conversation.

*Q.* Another conversation?

*A.* No, sir; that one on the ferry-boat, crossing the ferry. I had no intention of changing the firm name up to that time.

*Q.* Didn't you say at that time that you would put up a new sign the next week or on Monday?

*A.* I may have said that; I told him he could have the firm name and I could take my own name; it was good enough for me; I would not give any value for the name of Robert Dumont & Son.

*Q.* Your father's reputation in the the business, as you have already testified to, which was very important, and the number of years he had conducted the business, was of no importance at all?

*A.* No, sir.

*Q.* It didn't amount to anything?

*A.* Not a dollar.

*Q.* That is rather different from what you have stated previously on this cross-examination, isn't it?

*A.* Not that I know of; I said when I went into the concern my father's reputation was good, none better; my reputation is as good as my father's was.

*Q.* Did not you say people would not trust their money in a concern unless they knew that it was a reputable concern?

*A.* Yes, sir.

*Q.* Then reputation has something to do with the concern?

*A.* Well, I have the same customers as well as new ones.

*Q.* What would the reputation of William H. Dumont have been worth in 1873?

*A.* I don't know.

*Q.* Did you own any property of your own?

*A.* No, sir.

*Q.* Have any money of your own?

*A.* No, sir.

*Q.* Had no capital, had you?

*A.* No, sir.

*Q.* And put none in the concern?

*A.* We had no capital in the concern.

*Q.* Do you mean to say that if you had been in that business in 1873, in your own name, that your position would have been as good as if you went into the concern with your father?

*A.* No, sir; I do not say so.

*Q.* When you said that you would put up a new sign

next week, or on Monday, didn't your brother Theodore say to you that he was worth ten dollars to your one, and that you knew it, and that he would spend every dollar on earth to see that his mother's rights were taken care of?

*A.* No, sir; he said he would spend every dollar on earth to ruin me.

*Q.* What would be the occasion to do that when his mother was to be in your charge?

*A.* I don't know; that is his disposition.

*Q.* What would be the object?

*A.* I don't know.

*Q.* Knowing that his mother was put by your father in your charge, what would be the object of ruining you?

*A.* I don't know that.

*Q.* It would be rather singular, wouldn't it?

*A.* Not for him; no, sir.

*Q.* Didn't you say then to him that he could go ahead, that your mother had plenty without anything from you?

*A.* I don't remember that.

*Q.* Don't you remember that?

*A.* I may have said that.

*Q.* You don't remember your brother saying, "Do you think I am going to leave my mother at your mercy?" and didn't you say, "By God, she has got to be," or words to that effect?

*A.* No, sir.

*Q.* You swear once in a while, don't you?

*A.* Yes, sir.

*Q.* Profane at times?

*A.* Yes, sir.

*Q.* When you get mad, you are?

*A.* Yes, sir.

*Q.* And didn't your brother reply to that, "Not as long as I am above ground?"

*A.* Not that I know of.

*Q.* Or words to that effect?

*A.* No, sir.

*Q.* And didn't you say, "You had your way about the will, and now is my turn?"

*A.* No, sir; I did not say anything of the kind.

*Q.* You don't remember any of that conversation at all?

*A.* No, sir; no such conversation was held.

*Q.* How long were you talking?

*A.* Half way across the ferry.

*Q.* What exactly do you remember was said in words—give us his words?

*A.* I cannot do that.

*Q.* If you cannot give any words, state what you remember he said to you, or that you remember you said to him?

*A.* I can remember something of what he said to me.

*Q.* Well?

*A.* He made a demand for $1,800.

*Q.* What did he say?

*A.* I do not remember how the conversation started.

*Q.* What did you say in reply—the words?

*A.* No; I don't know.

*Q.* You don't remember any words?

*A.* No, sir; I don't remember the conversation.

*Q.* What you have given here is the purport of it as you have remembered it?

*A.* Yes, sir; as I remember it.

*Q.* You swore on the boat, too, didn't you; you were profane there yourself, weren't you?

*A.* I expect so.

*Q.* Both of you were pretty mad, weren't you?

*A.* Yes, sir.

*Q.* Now, after that, you did not have any further talk with your brother about the subject?

*A.* No, sir.

*Q.* But you did have a talk with your mother?

*A.* Yes, sir.

*Q.* How long afterwards?

*A.* I think about a month.

*Q.* How often did you see your mother?

*A.* Pretty nearly every day.

*Q.* Did you go there that same day?

*A.* I don't remember; I think likely.

*Q.* You went there the next day?

*A.* I expect so.

*Q.* And nearly every day?

*A.* I think so.

*Q.* You were indignant about this thing—about what your brother said?

*A.* I did not say so.

*Q.* But you were?

*A.* Yes, naturally.

*Q.* And you went over every day after that to see your mother?

*A.* Yes, sir.

*Q.* Did you speak to her about this conversation with Theodore on the boat?

*A.* No, sir.

*Q.* Or at the depot?

*A.* No, sir.

*Q.* You never said anything to her about that?

*A.* She was in no condition to be spoken to; she was very sick.

*Q.* When did you speak to her about it?

*A.* I don't know as I ever spoke to her about it.

*Q.* When did you speak to her about the business?

*A.* I think about a month after.

*Q.* How did you come to speak to her then about it?

*A.* She spoke to me.

*Q.* What did she say?

*A.* She wanted to know what I was going to do in regard to taking care of her; I told her I was going to do what father said, I was going to take care of her; if her income was not enough to pay her expenses, I would make the deficiency good.

*Q.* What did she say to that?

*A.* She said, no, she would not have that; that she wanted me to make some stated allowance, and sign and seal it.

*Q.* What did you say?

*A.* I told her I could not do that, I did not know what the business would be; some years it only amounted to a little over $3,000 a year.

*Q.* For the last five years it amounted from $6,000 to $12,000 a year?

*A.* Yes, sir.

*Q.* You had a pretty good average before you, then?

*A.* No, sir; there is no average in our business.

*A.* Well, it averaged $5,000 or $6,000?

*A.* It slumped down to $6,000; I would not bind myself to pay $1,000 a year; you lose one good customer, and the whole thing is gone.

*Q.* There was no probability of your losing good customers, was there?

*A.* I lost the best one I had that very year.

*Q.* That your father died?

*A.* Yes, sir.

*Q.* With your reputation, how do you account for that?

*A.* He failed—lost everything he had.

*Q.* Were the others the same way?

*A.* No, sir; I have not lost any others.

*Q.* That is the only one you lost?

*A.* That is the only one.

*Q.* You told your mother you could not do that?

*A.* Yes, sir.

*Q.* Tell her you would not?

*A.* I told her I could not; I could not bind myself to pay any stated sum; she said she must have it in writing, to give her a stated sum; she gave me to understand $1,800, the amount Theodore stated—$1,800; and I must put it in writing, and sign and seal it.

*Q.* Did she say she expected to have $1,800?

*A.* I could not say what it was; that I do not remember.

*Q.* She felt as if she ought to have that sum, and you told her you could not give it?

*A.* That is about the size of it.

*Q.* And that is about all there was of it?

*A.* That is about it.

*Q.* And that is the way you left the matter?

*A.* Yes, sir; I volunteered to give it to her if I was sure of having it; if she needed it she could have it.

*Q.* You volunteered that afterwards?

*A.* I told her that at the time; I expected to have charge of her affairs, but she was not satisfied with that; she wanted it signed and sealed.

*Q.* Was nothing said at that time about business?

*A.* No, sir; nothing more than that.

*Q.* About the profits of the business?

*A.* No, sir; nothing was said about business; I didn't know at that time that she knew anything about the business.

*Q.* Did you tell your mother, when you were talking to her at this time, that you had taken advice, and talked with people, and that she was not entitled to anything out of the business?

*A.* No, sir.

*Q.* Didn't she say to you, "William, I am entitled to something out of this business, I think," or words to that effect?

*A.* Not that I remember—yes, she said she had been told that she was entitled to an income from the business.

*Q.* Didn't she say she was entitled to something out of the business?

*A.* Yes, sir; I think something of the kind was said.

*Q.* And you told her then that she was not?

*A.* I told her there was no claim on the business, it all went to me; and I referred to Mr. Schuyler, and she said Mr. Schuyler was in debt; I said, yes, he owed $1,700.

*Q.* Did what?

*A.* He owed more than $1,700 when he died.

*Q.* And so her idea was different from yours at that time?

*A.* Yes, sir.

*Q.* Did you tell her who told you she was not entitled to anything?

*A.* No, sir; for I thought she knew it; my father always told me the business would be mine at his death, and I presumed my mother knew that.

*Q.* Did you tell her that at the time?

*A.* I don't know whether I did or not; I think it is likely.

*Q.* The will that is offered for probate here was read when; do you know when it was first read?

*A.* I believe it was read the night of her funeral.

*Q.* You knew it was going to be read?

*A.* Yes, sir.

*Q.* Why didn't you go there?

*A.* Because it was not pleasant for me to go there; I did not care to come into contact with my brother more than necessary.

*Q.* Your daughters went?

*A.* Yes, sir; they promised to go back and they went.

*Q.* When did you first see this alleged will of 1881?

*A.* When my father gave it to me.

*Q.* Where did he bring it from?

*A.* He brought it from my brother's office, corner of Broadway and Barclay streets, to our office.

*Q.* Which brother?

*A.* Theodore; the only brother living now.

*Q.* It was drawn there, was it?

*A.* I presume so from what he told me.

*Q.* What shape was it in when he brought it down?

*A.* In a sealed envelope.

*Q.* Sealed up, wasn't it?

*A.* Yes, sir.

*Q.* How many seals were on it?

*A.* One, I believe; I don't remember.

*Q.* Sealing wax?

*A.* I believe so.

*Q.* Sealed on the outside?

*A.* Yes, sir.

*Q.* What did your father do with it?

*A.* He gave it to me and told me what it was.

*Q.* Did you open the seals?

*A.* No, sir.

*Q.* What did you do with it?

*A.* I told him that I thought I ought to see it, and he told me I could, so I opened it before him.

*Q.* It was marked your mother's will on the outside?

*A.* Yes, sir.

*Q.* And you opened this envelope that was sealed up with your mother's will in, and looked at it at that time?

*A.* Yes, sir; for him and in his presence.

*Q.* For him; he knew what was in it?

*A.* Yes, sir; but he told me to look over it and see if I was satisfied with it.

*Q.* What did he have to do with it; it was your mother's will?

*A.* Yes, sir; but he considered the most of the property his.

*Q.* The money your mother got from her son was her own money?

*A.* Yes, sir.

*Q.* And the $7,500 was her own money?

*A.* Yes, sir.

*Q.* What business was it then of his or your own?

*A.* I don't know; he thought it was his business.

*Q.* You broke the seal?

*A.* No, sir; I did not break the seal.

*Q.* Who did?

*A.* Nobody did; he opened the end of it.

*Q.* Cut it open?

*A.* Yes, sir.

*Q.* You took it out, did you?

*A.* Yes, sir; I don't know whether I did or he did; one of us took it out.

*Q.* Did you read it or did he read it?

*A.* I don't remember, I know he spoke about the household furniture.

*Q.* Do you remember whether he read the will or whether you read it?

*A.* I do not remember, I know he spoke about the household furniture going to my sister, and about some things that would probably come to me.

*Q.* He spoke about it?

*A.* Yes, sir; about some books; I believe he said part of the library I would get.

*Q.* You remember that, do you?

*A.* Yes, sir; father talked about it for over an hour.

*Q.* What did you do with the will then?

*A.* Put it back in the envelope and sealed it up and took it to the safe deposit company.

*Q.* Where did you seal it?

*A.* Sealed it on the side where we had opened it.

*Q.* How could you seal it if it was opened on the end?

*A.* Gummed it.

*Q.* Did you gum it?

*A.* I suppose I did; I don't remember.

*Q.* What was the reason for taking so much pains to gum up an envelope that you and your father opened, and your father said you had a right to open?

*A.* He said my brother sealed it up, and he did not want it to be sealed up, and he said that I was as much entitled to look at it as my brother was, and he urged him to bring this will, and my brother sealed it up, and he said it was on that account, so that I could not see it, and father told me to open it, and I could see it.

*Q.* Then after you—you looked it over once?

*A.* Yes, sir.

*Q.* That was the only time?

*A.* That was the only time.

*Q.* That was in 1881?

*A.* Whenever he brought it down.

*Q.* And you put it back in the envelope, and then what did you do with it?

*A.* Took it up to the safe deposit company, and put it in the box with the other papers.

*Q.* When did you last see it there?

*A.* The last time was when I handed it to Mr. Robbins.

*Q.* Did you see it very often?

*A.* Where?

*Q.* The will—in the box?

*A.* I took it out of the box.

*Q.* Are you sure of that?

*A.* Yes, sir.

*Q.* It was not tied up with the securities and other papers, together?

*A.* No, sir; it was in the bottom of the box.

*Q.* Was it sealed then, or unsealed?

*A.* Just the same way; just the same as it had been; that and my aunt's were there together, in the bottom of the box.

*Q.* How do you remember who the witnesses to the will were?

*A.* I did not remember; I remembered one of the witnesses, and I asked him if he was —— [Interrupted.]

*Q.* You asked one of the witnesses lately if he was a witness?

*A.* Yes, sir.

*Q.* And you asked him who the other witness was?

*A.* Yes, sir.

*Q.* And that is the way you remembered, so as to testify who the witnesses were?

*A.* Yes, sir.

*Q.* Was there a seal on the will—inside of it?

*A.* That I don't remember.

*Q.* What words were used in giving the property away; do you remember any words that were used?

*A.* No, sir; I do not.

*Q.* How many paragraphs were there in the will, that you remember?

*A.* I do not remember.

*Q.* One, or two, or three?

*A.* I do not remember; I could not say.

*Q.* As you do remember, how many?

*A.* I remember it left the property to father for his life.

*Q.* Well, what words were used, do you remember?

*A.* No, I do not; I don't remember anything about it; just the general run of the will, as I stated before.

*Q.* You don't remember the date of it?

*A.* No, sir.

*Q.* You didn't remember who the witnesses were until you inquired of one of the witnesses?

*A.* Yes, sir; I had an idea I knew who one of them was.

*Q.* But you did not know who both of them were until you asked one of the witnesses?

*A.* No, sir.

*Q.* Still, you remember the contents of the will?

*A.* Yes, sir; that is, the general lay of it, because father spoke to me several times about it.

*Q.* How did you come to talk to your brother about that will?

*A.* He spoke to me about it; I never brought the subject up first.

*Q.* Where did you talk to him about it?

*A.* I remember his speaking to me about it once in his office, and another time on the train, or coming up from the ferry; those are the only two times I remember.

*Q.* Was that the only will that your mother made—that you know of?

*A.* No, sir; one was made previous to that.

*Q.* When was that?

*A.* Just after she received my grandmother's legacy.

*Q.* Did you ask the witness that you went to see if he remembered what the contents of the will were?

*A.* No, sir.

*Q.* Didn't you talk to him about that?

*A.* No; I simply asked him if he remembered the date of it, and if he knew who drew it.

*Q.* What did you mean, in your direct examination, when you said that the account of your mother, Mrs. Dumont, was only a nominal account in her name?

*A.* Because it always had been in my father's name; his money and hers was always kept in his name; I considered it one account between the two of them—that it was really father's, but in another name.

*Q.* What do you mean by a nominal account; is that what you mean, in her name?

*A.* Yes, sir.

*Q.* She received about $3,600 a year income, didn't she?

*A.* Yes, sir.

*Q.* That went into that account?

*A.* Yes, sir.

*Q.* Didn't that make it something more than a nominal account?

*A.* Yes, sir; but part of those things belonged to my father, really; all his savings is included in that $36,000.

*Q.* What savings?

*A.* All he made in the business and gathered up.

*Q.* What did he make, do you know?

*A.* I do not know how much it was.

*Q.* How much was in his account in 1873?

*A.* That I could not say; I do not know.

*Q.* How much was in his account in 1876?

*A.* I could not say that either.

*Q.* Was the business in 1872 and 1873, when you went in there, any larger than $3,200 or $3,400?

*A.* No, sir.

*Q.* Your mother's income at that time was more than the profits of the business from the securities and rents?

*A.* No; I don't remember how that was; I don't know as the money was invested at that time.

*Q.* Some was invested?

*A.* Yes, sir; I don't remember; they got an income from the railroads; I know at that time they had been getting them; about $2,500 a year.

*Q.* Previous to the time your father lived in New York, where did he live?

*A.* He lived in Jersey.

*Q.* And how did he come to have this house in New York, do you know?

*A.* No; I believe my sister gave it to my mother for life—made her a present of it.

*Q.* Wasn't that to help your father and mother that that was done?

*A.* I suppose so; yes, sir.

*Q.* Your father's income was not sufficient, was it?

*A.* That nobody knew.

*Q.* Well, don't you know that to be a fact?

*A.* No; I don't know anything of the kind.

*Q.* You never heard it, eh?

*A.* Yes; I have heard it, but nobody knew anything about my father's affairs.

*Q.* It was supposed to be so?

*A.* Yes, sir.

*Q.* That was the reputation at that time?

*A.* Yes, sir.

*Q.* And that was the reason this house was given in New York?

*A.* Yes, sir.

*Q.* Furnished by your sister, wasn't it?

*A.* Yes, sir.

*Q.* You don't know of your father receiving or inheriting any property, do you, outside of the business?

*A.* No, sir; I know he made $16,000 one year.

*Q.* When did the business commence to increase; it was about, you say, $3,200 to $3,400 for how many years?

*A.* Three or four years.

*Q.* Until about 1879 or 1880?

*A.* Yes, sir.

*Q.* Then it commenced to increase?

*A.* Yes, sir.

*Q.* Then it increased to what?

*A.* About $11,000, I think it was.

*Q.* Gradually?

*A.* Yes, sir.

*Q.* It was about $6,000 in 1880?

*A.* Yes, sir; it jumped the last year; we had a very heavy year in 1883.

*Q.* What was your mother's income from stocks, rents, &c., in 1882, do you know?

*A.* No, sir; I do not.

*Q.* In 1879, do you know?

*A.* I could not say; no, sir; I could not give it to you for any year.

*Q.* All you know is that your father said that he calculated on $2,000 from those two stocks, that is all?

*A.* Yes, sir.

*Q.* What would you estimate it to be those years?

*A.* I have no means of estimating it.

*Q.* Might be $2,500, or less?

*A.* There are no means of telling, sir; I could tell, but I have no way of remembering it though.

*Q.* Do your accounts show how much your mother spent individually?

*A.* No, sir.

*Q.* On account of her own income?

*A.* No, sir; there is no way of telling that at all.

*Q.* When was it that the house in New York commenced to pay rent?

*A.* I think we first rented it about 1875 or 1876; they paid rent that year; I think it was vacant then, or people

living in there moved out without paying rent; and I think we took the furniture out and rented it unfurnished.

*Q.* And that continued down to the time it was sold?

*A.* Yes, sir; I think so.

*Q.* And that was about 1880, do you say?

*A.* I think somewheres about there; Doctor Clay had it for three or four years, I think.

*Q.* And that rental was received by you, you say?

*A.* Yes, sir.

*Q.* As well as the money from the trust company?

*A.* Yes, sir.

*Q.* How much, in addition to that, would you say was received by your mother—account of her stocks and bonds?

*A.* I could not form an estimate.

*Q.* You collected them, didn't you?

*A.* Yes, sir; part of the time; some of them did not pay any dividends; I could not form any idea of it at all; I never figured it until after father's death.

*Q.* Where would that appear?

*A.* It would appear in our books, I suppose.

*Q.* How would it appear in your books?

*A.* Credited to the dividends on such and such stock, or upon bond, or whatever it was.

*Q.* In the firm account?

*A.* In her account.

*Q.* I say in the firm account?

*A.* No; in her account.

*Q.* But it would appear as deposited in the firm account?

*A.* Yes, sir.

*Q.* And all the management of this collection of the dividends, rents and the carrying on of the firm business, and keeping the account in your name, and carrying on your father's account, and keeping the bank account in the firm name was under your supervision, wasn't it?

*A.* In a great measure; my father supervised it.

*Q.* He was not there much for the last four or five years?

*A.* When he went there it was his duty to go through the bank account and cash account.

*Q.* That was what he did for the last four or five years?

*A.* Yes, sir; that was his amusement when he was in the office—looking over the books.

*Q.* He entertained customers, too, didn't he?

*A.* Yes, sir.

*Q.* Was your father a bookkeeper—a practical bookkeeper?

*A.* No, sir; there is no necessity for being a practical bookkeeper in our office; a child ten years could keep the books in our office, I think.

*Q.* He never talked to you about the condition of your mother's account, or anything of that kind, did he?

*A.* No, sir.

*Q.* Outside of clothing, your mother did not spend much money, did she?

*A.* No, sir; I don't think so.

*Q.* She didn't spend much for that, did she?

*A.* No, sir; not that I know of; I don't know what she did spend.

*Q.* During your father's lifetime, while you were living in the house?

*A.* I never knew what she spent her money for.

*Q.* She did not spend very much, did she?

*A.* No, sir; not a great deal.

*Q.* Have you Miss Sword's securities yet?

*A.* Yes, sir.

*Q.* They are in the same box in the safe deposit?

*A.* No, they are in another box; I changed my box.

*Q.* How much interest did you collect on the bonds of the Lehigh and Wilkesbarre Coal Company?

*A.* I could not say.

*Q.* Those were mortgages?

*A.* Yes, sir.

*Q.* Seven per cent. mortgages?

*A.* Yes, sir.

*Q.* Was there any time that they defaulted in the interest?

*A.* Yes, sir; for some interest they gave us income bonds for the defaulted coupons.

*Q.* Well, then you had how many bonds originally?

*A.* Five, I think it was.

*Q.* And they gave you a new bond?

*A.* No, sir; just cut off the coupons.

*Q.* And gave you a new bond instead of the coupons?

*A.* Yes, sir.

*Q.* Where are they?

*A.* They were turned over to my mother.

*Q.* How many; what was the amount of the bond you got, the income bond?

*A.* I don't remember.

*Q.* That covered the past due coupons?

*A.* Yes, sir.

*Q.* Outside of that you received the interest, didn't you, on the bonds?

*A.* Yes, sir; when they paid interest we got interest?

*Q.* And during the time that they did not pay them they gave an income bond in the place of it?

*A.* Yes, sir; cut off the coupons and gave this bond.

*Q.* You received the interest regularly on the Ohio, Indiana, Columbus and Central, didn't you?

*A.* Yes, sir.

*Q.* That was a seven per cent. bond, too?

*A.* Yes, sir.

*Q.* How was it with the Burlington, Cedar Rapids and Western Railway Company?

*A.* They always paid their dividends.

*Q.* Those were five per cent. bonds, weren't they?

*A.* Yes, sir.

*Q.* How was it with the Houston and Texas Central?

*A.* They paid up to about a year ago, or eighteen months ago?

*Q.* When they defaulted?

*A.* Yes, sir.

*Q.* That has not been paid since, has it?

*A.* No, sir; but the bonds are worth 114, though.

*Q.* How was it with the adjustment bonds of the Central Railroad of New Jersey?

*A.* I think they always paid their coupons.

*Q.* How was it with the Chicago and Rock Island Pacific stock?

*A.* They always paid.

*Q.* What did they pay on their shares?

*A.* I think it was eight per cent.; they doubled that stock after we bought it; we bought forty shares.

*Q.* When was that bought?

*A.* I don't remember exactly when it was bought; I don't know, but about 1874 or 1875, I think it was, we bought forty shares, and they doubled the stocks themselves.

*Q.* Why do you say, "We bought?"

*A.* Well, father bought it, then.

*Q.* You did not have any interest in it, did you?

*A.* Not at all.

*Q.* Then, afterwards, there was an extra dividend declared on the stock?

*A.* Yes, sir; doubled.

*Q.* To the amount of the stock?

*A.* Yes, sir.

*Q.* And upon that the dividends were paid, weren't they?

*A.* Yes, sir.

*Q.* Regularly?

*A.* Yes, sir.

*Q.* Was there any default in the stock of the Delaware, Lackawanna and Western?

*A.* Yes, sir.

*Q.* When?

*A.* I don't remember when it was; they defaulted there for some time.

*Q.* But paid it all up afterwards, didn't they?

*A.* No, sir; they never paid it up that I know of?

*Q.* Is it in default still?

*A.* No, sir; it is paid now.

*Q.* But they never paid the interest that they defaulted?

*A.* No, sir.

*Q.* Outside of that, they have paid?

*A.* I think so.

*Q.* Was that seven or eight per cent. stock?

*A.* I think it was seven per cent.

*Q.* You got ten per cent for a while?

*A.* Yes, for a long time, and I think they put it down to seven, after they defaulted; I think after they commenced paying again they commenced at seven.

*Q.* So that most of these securities were pretty good securities, weren't they?

*A.* Gilt-edge; yes, sir.

*Q.* And dividends and interest were received pretty regularly from them?

*A.* Yes, sir; never better.

*Q.* Now, all of this income of these dividends, as I understand, was deposited in the bank account of the firm, and was credited in your mother's account?

*A.* Yes, sir.

*Q.* Collected by you?

*A.* Yes, sir; collected by me or my father; a good many of them were mailed to the office.

*Q.* Do you know Mrs. Sophie Dumont?

*A.* Yes, sir.

*Q.* Where does she live?

*A.* In New Haven.

*Q.* Have you seen her lately?

*A.* Yes, sir.

*Q.* When?

*A.* About three weeks ago.

*Q.* What did you go to see her for?

*A.* To find out whether she was divorced or not.

*Q.* What difference did that make to you?

*A.* I only wanted to know out of curiosity.

*Q.* Was that the only reason?

*A.* That was the only reason.

*Q.* Merely for curiosity?

*A.* I wanted to find out whether it was true or not.

*Q.* Have you ever been there before to see her?

*A.* Never.

*Q.* What curiosity did you have in knowing whether it was true or not, that your brother was divorced from her?

*A.* I heard that he was married to another woman, and I wanted to find out whether it was true or not.

*Q.* What difference did that make?

*A.* Because I denied it, and I wanted to find out whether it was true or not.

*Q.* Denied what?

*A.* That he would bring in such a woman in the family as he married.

*Q.* You didn't know her?

*A.* No, but I knew her mother.

*Q.* Did your wife call on her mother?

*A.* No, sir; not this wife; my other wife called on her mother.

*Q.* When you saw Mrs. Sophie Dumont, didn't you say to her that the reason you came to see her was to know whether she was divorced from your brother, and if she was not you were going to make it hot for him?

*A.* No, sir.

*Q.* Didn't you say that to her?

*A.* No, sir; I did not; I told her I wanted to know whether she was divorced, and would tell her the reason, and I told her what it was, that he was married and had a child.

*Q.* That was done for curiosity?

*A.* I wanted to know.

*Q.* You didn't tell her any such thing, that you were going to make it hot for your brother?

*A.* No, sir; I told her the reason I wanted to know was that he was married and had a child; that surprised her, and she said that she saw him in September, and he was suffering so, and if the case was as he stated, it was impossible for him to have a child.

*Q.* Didn't you say, then, that you were going to make it hot for him if he was not divorced?

*A.* No, sir; I didn't say anything of the kind.

*Q.* How long have you resided in New York?

*A.* Since last October.

*Q.* Previous to that, when did you last live there?

*A.* I lived in Brooklyn, I think, for about a year; 1881, I think it was; I was out in the country part of the year and down there part of the year.

*Q.* Then did you move away?

*A.* We moved back to Madison; we kept our home there.

*Q.* Where?

*A.* Madison.

*Q.* Were you a resident of New Jersey or New York?

*A.* I was a resident of New Jersey.

*Q.* Were you a notary public of the State of New York?

*A.* Yes, sir.

*Q.* When?

*A.* I was notary public for some time.

*Q.* When were you appointed?

*A.* Along about 1873 or 1874; 1872.

*Q.* You resided in Summit then, didn't you?

*A.* No; we resided in New York two winters.

*Q.* Where did you vote?

*A.* I think I voted the last year up in Summit.

*Q.* 1874?

*A.* I think so.

*Q.* Was that the year you were appointed notary in New York?

*A.* No; I think I was appointed the year before; I don't remember what the date of my appointment was; I didn't make much use of it because we had another notary in the office.

*Q.* That was in connection with the business that you were appointed?

*A.* Yes, sir; but we had another notary in the office though, for Kings county; I did not use it a great deal.

*Q.* Are you a notary now of New York?

*A.* No, sir.

*Q.* When did your notary office run out?

*A.* I resigned three years ago.

*Q.* That was in 1883?

*A.* Somewheres around there, 1882 or 1883.

*Q.* They are appointed for two years in New York?

*A.* Yes, sir; mine did not run out; I transferred it to one of the clerks in the office.

*Q.* In 1879 and 1880 you were a notary in New York, weren't you?

*A.* I don't know; I think I was.

*Q.* And 1877 and 1878?

*A.* I don't know what years; I was a notary for some time, but I could not tell you what dates; I don't believe I used it half a dozen times a year.

*Q.* Didn't your father's notaryship expire and a notaryship got for you through Mr. Henderson, of New York?

*A.* I don't know; I think not; I think father wrote up and got it transferred, the same as I did, to one of the clerks in the office.

*Q.* You don't know whether you were a notary in 1879 and 1880, 1877 and 1878?

*A.* No, sir; I do not.

*Q.* But during that period you were a resident of the State of New Jersey, weren't you?

*A.* Part of the time; yes.

*Q.* And voted here?

*A.* I never voted but once, that I remember.

*Q.* Where was your residence?

*A.* I voted in Summit one year; I don't remember voting any other time.

By Mr. Cranstoun.

*Q.* What year were you elected for town committee in Summit?

*A.* That was the year I voted up there, whatever year that was; I don't remember.

*Q.* 1879, wasn't it?

*A.* I don't remember.

*Q.* There was a map made of Summit, wasn't there, that year?

*A.* I think it was 1878.

*Q.* You signed the map of the township of Summit as one of the town committee?

*A.* That was 1878.

*Q.* How long did you serve?

*A.* I served that year.

*Q.* How long were you elected for?

*A.* For that year.

*Q.* One year?

*A.* That is all; I was elected again in 1879; I was elected in 1878 and 1879.

*Q.* Did you not, in April, 1879, make application for the appointment of notary in the State of New York?

*A.* I could not tell you when I made application; I am pretty sure father transferred it to me.

*Q.* Did you not, in 1881, make another application for appointment?

*A.* I could not tell you—no, I don't remember; you are way beyond me; in 1881 I was living in New York; I was living in Brooklyn.

*Q.* This time you were a resident of the State of New Jersey, and was a member of the town committee in 1879?

*A.* I went to New York, I think, in the winter of 1879.

*Q.* In 1879 did you not make application as notary?

*A.* I do not remember; very likely.

*Q.* While a resident of New Jersey?

*A.* I do not remember.

*Q.* Where did you give your residence the first time you were appointed notary in New York?

*A.* 26 Forty-fifth street.

*Q.* Where did you give it afterwards?

*A.* The same place, I presume.

*Q.* In 1879 where did you give it?

*A.* Same place—26 Forty-fifth street.

*Q.* When you were a resident of New Jersey?

*A.* I suppose so.

*Q.* Did you make an affidavit at the time where your residence was, when you made the application?

*A.* No, sir; I did not make any.

*Q.* They did not require that of you?

*A.* No, sir; you simply make application on a blank.

*Q.* Did you at any time give your residence as 97 Wall street?

*A.* No, sir.

*Q.* Or 36 Wall street?

*A.* The place of business, 36 Wall street?

*Q.* Did you ever give that as your residence in your application?

*A.* I could not say; I do not know.

*Q.* Did you make application in 1884 for the appointment of notary?

*A.* I could not say.

*Q.* If you did, did you give your residence as 16 and 18 Exchange Place?

*A.* In 1884? no, sir, I was not a notary in 1884; no, sir; I have not been a notary since 1882; previous to 1882 I transferred it to one of our clerks.

*Q.* The books show so?

*A.* Our books?

*Q.* No, not yours?

*A.* Well, I don't remember; it might have been, but I would not swear to it, because I know nothing about it; I made very little use of it; I got it so that if I went back to the city I would have it again.

*Q.* Was there anything paid towards the support of your daughter Mary, towards her clothing, by your mother?

*A.* No, sir.

*Q.* While she was in boarding-school?

*A.* No, sir; I supported her myself, entirely.

*Q.* Did you pay anything at all for the support of your daughter Bessie?

*A.* Not that I know of; no, sir; my mother asked me to let her have her; I was willing to do so; my mother asked me to let her have her; it was her request, otherwise she should not have staid there.

Redirect by Mr. Riker.

*Q.* The house of which you have spoken, in New York, and which was sold, was sold for how much money?

*A.* $20,000, I think it was.

*Q.* And, as I understand, your mother had a life interest in that?

*A.* Yes, sir.

*Q.* And the remainder belonged to your father?

*A.* No, sir.

*Q.* To whom did it belong?

*A.* It reverted to my nephew, or went back to Mr. Foot's estate; I don't know how that was.

*Q.* In addition to that interest in that estate, your mother also had some $7,500, which she had inherited, is that so?

*A.* Yes, sir.

*Q.* And at your brother's death she obtained in addition about $15,000?

*A.* Yes, sir.

*Q.* And that $15,000 and $7,500 was invested in the house in Summit, which was built upon land which was

exchanged for the land owned by your brother at the date of his death?

*A.* Yes, sir.

*Q.* So far as you know, those were all the funds which ever came to your mother, except such as were transferred from your father's account to her?

*A.* That is all she ever received.

*Q.* At the death of your brother you were not here?

*A.* Yes, sir; I was here at the death of my brother.

*Q.* How long had you been in the office of your father at that time?

*A.* Nearly two years.

*Q.* Prior to the death of your brother, what securities were held, either by your father or your mother, that you can now remember?

*A.* New Jersey Central.

*Q.* $10,000 worth?

*A.* Yes, sir.

*Q.* Delaware and Lackawanna?

*A.* I think we had a little more than that.

*Q.* More than $10,000?

*A.* Yes, sir; and I think there was $5,000 of Morris and Essex.

*Q.* So you think there was in stock a par value of $25,000?

*A.* At least that.

*Q.* It was paying ten per cent. on that valuation?

*A.* No, sir; two of them were paying ten per cent., and the other was paying seven; New Jersey Central and Delaware, Lackawanna and Western were paying ten per cent., and the Morris and Essex was paying seven.

*Q.* Do you know of any other securities?

*A.* No, I do not.

*Q.* So that crediting your mother with $7,500, which she had received by legacy at that time, there would be on that amount—$18,500 must have come from your father's estate?

*A.* Yes, sir.

*Q.* And, so far as you are able to recall, quite a large sum, running above $10,000, was transferred between that time and the time of your father's death to your mother's account?

*A.* Yes, sir.

*Q.* On the cross-examination, they have asked you to relate what took place in a conversation in New Haven between you and the divorced wife of Theodore Dumont?

*A.* Yes, sir.

*Q.* Will you tell us now what Mrs. Dumont at that time told you in regard to obtaining the divorce, and how it was obtained, and why?

*A.* Well, I came in and spoke to her, and told her that I came up to see her to ask her if she was divorced, and she wanted to know the reason why; I said, when she answered the question I would tell her; she said, "No, I want to know first;" I said, "I understand Theodore is married and has a child;" she said, "I am very much surprised;" she thought a few minutes, and said, "Well, I will tell you the truth, I am divorced; he insisted upon my getting a divorce, and got the testimony to get the divorce, and gave me the testimony, and I saw him last September, and he was very polite to me, and told me he was not married and would not marry as long as his mother lived, and told me he was suffering from a trouble, and the doctor was operating on him, and from what he told me, if he told me the truth, it was impossible for him to have a child; I am surprised to hear it;" I told her I heard so and did not believe it; I didn't think he would marry after all that had passed; she knew the woman as well as I did, knew who her mother was.

*Q.* Who was the mother of this person?

*A.* Well, Theodore kept her twenty-five years ago.

*Q.* What was her name?

*A.* Her name was Bowers.

*Q.* What was her business at that time?

*A.* She was his mistress; she was afterwards in a house of prostitution on Fourth avenue.

*Q.* At this conversation with Mrs. Dumont, did she state who had supplied the evidence, and how it was supplied, on which the divorce was granted?

*A.* Theodore furnished the testimony; she said nothing more, except that "Fatty" Allen was a dirty dog.

*Q.* Did she state who the witness was?

*A.* No, sir; that is all she said.

*Q.* How did she happen to mention Mr. Allen's name?

*A.* I don't know; we were talking about the divorce; that Theodore furnished the evidence to get the divorce, and insisted upon her getting one, but said "Fatty" Allen was a dirty dog; she led me to believe that Allen furnished the evidence; I don't know anything about it.

*Q.* [Showing witness a paper]--Mr. Dumont, can you, by refreshing your memory from that memorandum, give the amount of your overdrafts in each year that there was an overdraft, and the amount of your income of that year?

[Objected to.]

*Q.* Was that memorandum made by yourself?

*A.* Yes, sir.

*Q.* Can you give us the amount of your overdrafts in each year?

*A.* Yes, sir; the whole thing.

*Q.* And the amount of your income in those years?

*A.* Yes, sir.

*Q.* What was the amount of your overdraft in the year 1874?

*A.* $182.74.

*Q.* What was the amount of your share of the profits of the business?

*A.* $1,317.26.

*Q.* Making a total of what?

*A.* $1,500.

*Q.* What was your overdraft in 1875?

*A.* $251.

*Q.* What was your share of the profits?
*A.* $1,048.99.
*Q.* Making a total of what?
*A.* $1,299.99.
*Q.* What was your overdraft in 1876?
*A.* $302.62.
*Q.* What was your share of the profits?
*A.* $914.44.
*Q.* Making a total of what?
*A.* $1,217.06.
*Q.* What was your overdraft in the next year?
*A.* $356.05.
*Q.* What was the share of the profits?
*A.* $1,813.86.
*Q.* Making a total of what?
*A.* $1,169.91.
*Q.* What was the amount of your profits in 1878?
*A.* $814 90.
*Q.* What was the amount of your overdraft?
*A.* $256.91.
*Q.* Making a total of what?
*A.* $1,071.81.
*Q.* What were your profits in 1879?
*A.* $1,246.32.
*Q.* What was your overdraft?
*A.* $546.79.
*Q.* Making a total of what?
*A.* $1,793.11.
*Q.* When was the next overdraft?
*A.* 1882.
*Q.* What was the amount of it?
*A.* $853.30.
*Q.* Are those all the overdrafts?
*A.* Yes, sir; all there were.
*Q.* They were charged against your father's account under his instructions?
*A.* Yes, sir.

*Q.* You have spoken of a gentleman named Levi Goldenburg?

*A.* Yes, sir.

*Q.* Who was he?

*A.* He was an importer.

*Q.* Whereabouts?

*A.* In New York.

*Q.* What number; what street?

*A.* I think it is 470 Broome street.

*Q.* One of your customers, was he?

*A.* Yes, sir.

*Q.* Will you name your most profitable customers prior to your father's death, and also subsequent to it?

*A.* Prior to my father's death, E. Ludwig was the most profitable; A. Pearsam, Haring & Co., William De Forest, Goldenburg Bros. & Co., Baltman & Co., Rice & Frank, and J. K. Steefland & Co., I think, were the principal ones.

*Q.* Were those customers of your father before you went into the business with him?

*A.* Some of them were.

*Q.* Which ones?

*A.* Pearsam, Haring & Co. were, and Goldenburg was; those were the only two when I went into the business with father; I don't remember who the others were.

*Q.* In regard to those other customers, who secured them?

*A.* Well, they came there; I don't know; some of them I secured; Mr. Ludwig, I secured; Mr. Altman, I think a friend of mine, Mr. Measley, sent him to me; I really do not remember how they did come drifting in.

*Q.* All the profitable customers who were with you at the time of your father's death, do I understand that all remained after his death?

*A.* All that staid in business.

*Q.* When did you change the firm name—can you give it?

*A.* No; I cannot.

*Q.* How long was it after your father's death?

*A.* I think about two weeks.

*Q.* You changed your letter-heads at the same time?

*A.* Yes, sir.

*Q.* All the places where the name appeared was changed?

*A.* Yes, sir; I stamped it.

*Q.* In regard to the will which has been spoken of, which was prior to the last will of your mother, you say that you thought the will was signed by your mother?

*A.* Yes, sir.

*Q.* And witnessed by two witnesses?

*A.* Yes, sir.

*Q.* You remember reading the will or hearing it read?

*A.* Yes, sir; if I remember right, father read it to me, and I read it over myself afterwards.

*Q.* So that you, at that time, became, from the will itself, acquainted with its contents?

*A.* Yes, sir.

Re-cross by Mr. Smith.

[By Mr. Smith—The questions and answers of Mr. Dumont in relation to Mrs. Sophie Dumont, outside of the cross-examination of the conversation held between Mr. Dumont and Mrs. Sophie Dumont, is objected to as irrelevant and incompetent, and not proper cross-examination, and a motion will be made to suppress it on the hearing.]

*Q.* The paper that has been handed to you here, and that you have read from, read your testimony from as refreshing your momory, was made when?

*A.* Made only a short time ago.

*Q.* When?

*A.* About a month ago, I think it was.

*Q.* By whom?

*A.* By me.

*Q.* Is it in your handwriting?

*A.* Yes, sir.

*Q.* Where did you take the figures from?

*A.* The books.

*Q.* How did you—are those all the figures that appear on the books?

*A.* Those are all the figures that appear in relation to them.

*Q.* Well, those are not all the items that appear on the books in relation to your account, are they?

*A.* Oh, no; it was just simply the amount of the overdrafts.

*Q.* You figured it up from the books?

*A.* No; I found the amounts that I was charged and credited with, as it is shown there; balance of father's account so much, and my account is credited with it.

*Q.* Just in those figures?

*A.* Yes, sir.

*Q.* Your father's account is not there, is it?

*A.* No, sir; it is simply my account; "credit by R. D., so much money," or "on account of R. D.;" something of that kind.

*Q.* How did you enter it in the book when you overdrew your account from the bank?

*A.* We never overdrew our account in the bank.

*Q.* When you overdrew your account from the moneys in the bank?

*A.* I don't know; I would overdraw on each end of the year; charged cash with whatever I took.

*Q.* Then at the end of the year you would balance that up and find out what the profits were, and how much you had overdrawn?

*A.* Yes, sir; the book-keeper would figure that up.

*Q.* How was it entered on the books?

*A.* It is not entered in the books, except when the account is closed.

*Q.* And your father's account, then, what was done with that?

*A.* He was charged with the amount and I was credited with the balance, account of W. H. D.

*Q.* Those all appear in the books, don't they?

*A.* Yes, sir.

*Q.* As well as your mother's account?

*A.* Yes, sir.

*Q.* Where are those books?

*A.* In our office.

*Q.* Where are the books of Robert Dumont & Son?

*A.* They are in the office.

[It was agreed that counsel could examine the books in question in New York, either at Mr. Dumont's office or at the office of Mr. Curtis.]

*Q.* The customers that came to the concern, you do not mean to say that those you mentioned were brought by you?

*A.* Not all of them.

*Q.* Your father brought some, didn't he?

*A.* Yes, sir; certainly.

*Q.* New customers are coming all the time—coming and going?

*A.* No; I am sorry to say they are very scarce.

*Q.* There were, during your father's lifetime, customers going and coming?

*A.* No, sir; we never had very many customers.

*Q.* Those customers came during that time?

*A.* Yes, sir; Pearsam & Haring they were customers of Schuyler & Dumont, and of Schuyler & Bluxum before that.

*Q.* How did Mr. De Forest come there?

*A.* We had Escher & Co.; Mr. Escher failed and went out of business and Mr. DeForest took this account—— [Interrupted.]

*Q.* Mr. Escher was a customer of Schuyler & Dumont?

*A.* Yes, sir.

*Q.* What book-keeper kept those accounts?

*A.* The same one who is my partner now.

*Q.* He kept them during your father's lifetime?

*A.* Yes, sir; he kept them in Schuyler and Dumont's time.

*Q.* Did you have more than one book-keeper?

*A.* No, sir.

*Q.* How many books are there in the concern?

*A.* I don't know, sir; all we keep is an entry book and a ledger.

*Q.* Showing the accounts of your mother, the firm's account and your father's account?

*A.* The ledger shows that; it don't show the different charges; I think there are only two of them—two large ledgers contain it for those ten years.

*Q.* You are not using them now, are you?

*A.* We refer to them once in a while.

*Q.* Is there any reason why those books cannot be produced here and left with the surrogate for examination?

*A.* Only that I never let a book go out of the office that is not sure to be needed.

*Q.* They might and might not?

*A.* Yes, sir.

*Q.* I understood you to say, on redirect, that there was $7,500 that composed the money that your mother got from her mother, and $15,000 that was left from your brother's account?

*A.* Yes, sir.

*Q.* That the house in Summit was built with the $15,000?

*A.* Yes, sir.

*Q.* And that the balance, making up $33,000, was paid in from your father's account?

*A.* I did not say that; I said that was all she had herself.

*Q.* But the balance, you said, was paid in from your father's account?

*A.* I do not think I said that; I do not know where it

came from; it came from his account and the accumulations of her money.

*Q.* You do not know how much was accumulated of her money and how much came from him?

*A.* No, sir.

*Q.* Her income was accumulated during this period?

*A.* Yes, sir.

*Q.* On this amount?

*A.* Certainly.

*Q.* Have you any positive knowledge that your mother got $7,500 from her mother?

*A.* They told me so; she told me so and my aunt told me so, that is all the information I have; I did have the papers down there of my grandfather's estate but I don't know what I did with them.

*Q.* How did your mother come to tell you that?

*A.* I don't know; we were talking about it one day and I understood her to say that.

*Q.* Did you ask her how much she got?

*A.* No, we were talking, I think, in connection with Will Evans.

*Q.* When was that?

*A.* Some years ago; he got $1,000 more than the others, and mother was speaking about it.

*Q.* Your grandmother died before you remember?

*A.* No; I remember when she died.

*Q.* When did she die?

*A.* I remember it very well; I think it must have been along 1865, 1866 or 1867; I don't know exactly when it was she died, but I was in Cincinnati, if I remember right.

*Q.* The disposition that was made of this fund, and the income, &c., was made by your father, wasn't it—he directed it, didn't he?

*A.* Yes, sir.

*Q.* Your instructions in the matter came from him?

*A.* Yes, sir.

By Mr. Smith—Those are all the questions we have, unless after an inspection of the books some other questions may arise from those, and it may be necessary for us to examine upon them.

Adjourned until Wednesday, March 30th, 1887, ten o'clock A. M.

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ELIZABETH, N. J., March 30th, 1887.

Examination of witnesses in the above matter continued, pursuant to adjournment last had.

Appearances as before.

*Frederick J. Treat*, a witness called and sworn on behalf of the caveator, testified as follows:

Direct examination by Mr. Curtis.

*Q.* Where do you reside?

*A.* South Orange, New Jersey.

*Q.* How long have you resided there?

*A.* A year ago last September—1st of last September—about a year and nine months.

*Q.* Prior to that where did you live?

*A.* Summit.

*Q.* How long did you live in Summit, prior to that?

*A.* About three years.

*Q.* Covering what period?

*A.* I went there in the fall of 1883.

*Q.* Where you there in 1884?

*A.* Yes, sir.

*Q.* 1885?

*A.* Yes, sir.

*Q.* What is your business?

*A.* Bank clerk.

*Q.* What bank?

*A.* The Merchants Exchange of New York.

*Q.* How long have you been in the employ of the bank?

*A.* About fifteen years; fifteen years this fall, I think; I went there in 1877.

*Q.* Were you acquainted with Theodore Dumont in the spring of 1884?

*A.* Yes, sir.

*Q.* How well were you acquainted with him?

*A.* Well, I was very intimate with him.

*Q.* How frequently did you see him?

*A.* Every day; went up and down on the train with him every day; played with him in the whist set every morning in the cars.

*Q.* Did you see him in the afternoons?

*A.* Yes, sir.

*Q.* How frequently?

*A.* Well, in the summer time almost every evening he would—frequently, almost every night, if we did not have a whist set around at different houses, he would come around to my house with his buggy, and I would go out riding with him generally.

*Q.* Did you see him on Sundays?

*A.* Yes, sir; almost every Sunday I was with him in the afternoon.

*Q.* Were you ever present in his house with him?

*A.* Yes, sir.

*Q.* Did you ever observe his attitude towards his mother and sister?

*A.* Well, to his mother I have; yes, sir. [Objected to as incompetent, irrelevant, and immaterial.]

By the witness—To his mother, but not to his sister.

*Q.* What were Mr. Dumont's habits as to profanity? [Objected to for the same reasons.]

*A.* He was a profane man—very profane.

*Q.* What were his habits as to drinking during the year 1884—in the spring of 1884? [Objected to for the same reasons.]

*A.* Well, there were certain times that he drank and then sometimes he did not.

*Q.* Did you know him to drink to excess so as to be influenced by liquor? [Objected to for same reasons.]

*A.* Very excitable; yes, sir; I never knew him to stagger.

*Q.* Did you ever know him to be in such a condition in the presence of his mother? [Objected to for same reasons.]

*A.* Well, the times that he generally was under the influence of liquor at all was when he came home at night from the city.

*Q.* I mean did you ever see him in the presence of his mother when he was under the influence of liquor? [Objected to for same reasons.]

*A.* I have come up on the train with him and been to his house the same night; he was never what I really call intoxicated, so that he did not know what he was about, but was very excitable.

*Q.* Did you attribute his excitability to the influence of liquor? [Objected to for same reasons.]

*A.* Yes, sir.

*Q.* Did you ever hear him use profanity in the presence of his mother? [Objected to for the same reasons.]

*A.* Yes, sir.

*Q.* More than once? [Objected to for same reasons.]

*A.* Not that I can remember; no, sir; I remember one instance.

*Q.* Do you know what his mother's attitude was toward him? [Objected to for same reasons.]

*A.* By her actions?

*Q.* Yes, sir?

*A.* Very affectionate; seemed to think—always acted to me as if she was afraid he would do or say something he ought not to do; always seemed to think a very good deal of him, but yet seemed to have some fear of him.

*Q.* So far as you were able to judge from your observation of Mrs. Dumont, in the presence of her son Theodore,

state whether or not, in your opinion, she seemed to be under his influence and control? [Objected to for same reasons, and on the further ground that it is not competent for the witness to testify.]

*A.* Yes, sir; I think she was.

*Q.* Do you know the relations that existed in the spring of 1884, and after the death of Robert Dumont, between Theodore and his brother William? [Objected to for same reasons.]

*A.* Yes, sir.

*Q.* State what they were. [Objected to for same reasons.]

*A.* He told me that he had made a demand on William to give his mother an allowance of $5,000 a year, during her lifetime, of the business—of the firm's business, and he refused to do it.

*Q.* In speaking of William did he use any epithets or profanity in relation to this conversation? [Objected to for same reasons.]

*A.* Yes, sir.

*Q.* What did he say?

*A.* He said he was "a God-damned cur," and refused to do it, and had gone and taken another man in partnership with him, who was no relation to him, in preference to his mother.

*Q.* Did you hear him speak of his brother William more than once? [Objected to for same reasons.]

*A.* A great many times.

*Q.* In speaking of him, was his reference respectful or otherwise? [Objected to for same reasons.]

*A.* No, sir.

*Q.* How was it? [Objected to for same reasons.]

*A.* He always spoke of him as if he detested him.

*Q.* Did he use profanity or epithets in referring to him? [Objected to for same reasons.]

*A.* Almost always; yes, sir.

*Q.* Did he ever, on any of your interviews prior to his

mother's death, speak of his influence over his mother? [Objected to.]

*A.* Yes, sir.

*Q.* What did he say?

*A.* He said since his father died his mother looked up to him in all things, and that she did nothing without she consulted him.

*Q.* And as to whether or not she would follow his advice, or anything about that? [Objected to for same reasons, and also as leading.]

*A.* Yes, sir.

*Q.* What did he say?

*A.* He said everything he said his mother did.

*Q.* Did he illustrate in any manner his influence over his mother; ever speak to you about going after bonds? [Same objection.]

*A.* No; not going for bonds; no, sir; he told me at one time when he was under—well, I don't know whether it was nervous prostration, but he was very excited; his mother noticed his actions, and she, I suppose, from what he told me, thought he was in financial difficulty, and she said that if it was financial trouble he knew that he had her affairs, and knew how much balance there was, and if he wanted it he could use it; that all she was living for was for him, and she wanted to see him happy, and if he was unhappy she wanted to make him happy.

*Q.* Did he ever state to you anything about the value of William's business? [Objected to.]

*A.* Yes, sir.

*Q.* What?

*A.* He told me it was worth $12,000 to $15,000 a year.

*Q.* Did Theodore ever make any remark about his father referring to his influence over his mother? [Objected to.]

*A.* Yes, sir.

*Q.* What was it?

*A.* He said that his father always said that his mother

would put her head under the block for him to save him, or some such remark as that; he always believed that his mother would put her head under the block for him.

*Q.* What did he say about that?

*A.* He said he believed she would.

*Q.* Did Theodore ever say anything to you about how William would feel after his mother's death? [Objected to.]

*A.* Yes, sir.

*Q.* What did he say about that? [Objected to.]

*A.* He said he would be very much disappointed.

*Q.* Do you know why—did he state any reason why he would be disappointed? [Objected to.]

*A.* Yes, sir.

*Q.* What was it?

*A.* He told me that he was talking to his mother about William about the time he had taken this partner in, and at the time he refused to make an allowance, and his mother had told him "never to mind;" it seemed to me as though he must have been angry at the time—must have been raving, and she told him, I suppose——[Interrupted.]

By Mr. Smith—I object to what he supposed.

[By the witness, continuing]—To appease him, she said, "never mind;" that if William had done this, as he had done it, and taken the business, that she considered he had his share of the property.

*Q.* What did he say?

*A.* And that she would make her will to that extent.

*Q.* What did he say?

*A.* He said he could not talk to her; she was in a very precarious condition; she was sick after the death of Mr. Dumont, and he could not talk to her as it excited her very much.

*Q.* Did he say anything about anything he was going to do? [Objected to.]

*A.* He said that he would see that it was done, that is, by that, as I took it, he would see that the will was made out.

*Q.* Did he ever speak to you after that about accomplishing that intention? [Objected to.]

*A.* Yes, sir.

*Q.* What?

*A.* He said about that time that it was made out; that his mother had made a will, and that there would be no "luny" business about it; that they had Doctor Risk as one of the witnesses—the doctor that attended her most of the time while in Summit and during her last sickness.

*Q.* Did he ever speak to you about the contents of the will as to how it affected William?

*A.* No, sir.

*Q.* Did he say anything about his own will? [Objected to.]

*A.* Yes, sir; he told me that, in the following fall, coming down from Morristown one evening, we met William going up with his family, and he told me at that time that he wished to see William's wife face to face, to see if she would bow to him or not; she did not, and he said he would know how to treat her; he said, "See what a damn fool that fellow has made of himself;" he said, "I don't believe his mother can live over two or three years, anyhow she cannot live very long, and if he had given her what was demanded, probably when his mother died he would get it back, anyhow;" but, he said he had altered his own will, and that he had made provision, I cannot remember whether it was his children or his child; I think it was Bessie, but one of Mr. Dumont's daughters, I don't know whether it was her singly or both of them; but that he had changed his will, cutting them off; he said, "he would lose the whole thing, not only himself, but his children."

*Q.* State, if you know, what Mr. Dumont's character was as to his affections or hatreds? [Objected to.]

*A.* Well, I will use his own words; he told me, I suppose a hundred times, that he was a fast friend but a damn bitter foe, and that at all times his principles were Jack-

son's principles, "Millions for defence, but not one cent for tribute."

*Q.* As to his regard for his brother William, was that in keeping with his sentiment as expressed to you, so far as you could judge from any expressions of his opinion? [Objected to.]

*A.* Yes, sir.

*Q.* Were his feelings bitter toward his brother or otherwise? [Objected to.]

*A.* Very bitter, as they were to everybody that he had anything against whatever.

*Q.* Do you know whether or not he communicated his feelings to anybody with regard to his mother? [Objected to.]

*A.* Yes, sir; at the time that remark was made—the remark that his mother made—he told me he told his mother that she ought to be proud of such a son.

*Q.* Was that all he said in that connection—did he use any epithets in referring to William?

*A.* At that time?

*Q.* Yes?

*A.* To his mother?

*Q.* Yes, sir?

*A.* No, sir.

*Q.* And in his conversation with you on the subject did he use any epithets in referring to William? [Objected to.]

*A.* He called him "a God-damned cur."

*Q.* State what conversation took place between you and Theodore in regard to William's right to the business? [Objected to.]

*A.* He told me—after his telling me what he had done—taken the business—I asked him if that was legal, he said "it was in New York, where there was no capital in the business, when one partner died, the remaining partner took the business;" he said he did not want any interest in it himself, all he wanted it for was his mother.

*Q.* Did you know Theodore Dumont's wife at that time? [Objected to.]

*A.* No, sir; not at that time.

*Q.* Do you know what his relations were to his then wife? [Objected to.]

*A.* Well, he did not live with her at that time; I think she used to come to the Summit House in the summer time; I think she spent the winter in the south—the 1884 winter.

*Q.* Were their relations pleasant or otherwise? [Objected to.]

*A.* They were in my presence always.

*Q.* But he did not live with her?

*A.* No, sir.

*Q.* Do you know whether or not his relations to his wife had any effect upon his habits or temperament? [Objected to.]

*A.* Well, there were times he was very much excited; yes, sir; she seemed to have given him a great deal of trouble and annoyance.

*Q.* Do you know anything about the divorce from his first wife? [Same objection.]

*A.* Yes, sir, I know; I was intimate with him when he was procuring the divorce.

*Q.* Did he tell you about it? [Objected to.]

*A.* Yes, sir.

*Q.* What did he say to you? [Objected to.]

*A.* He had two divorces.

*Q.* What did he say to you? [Objected to.]

*A.* He had an Indiana divorce that, I believe, one of his lawyers said was not legal in the State of New York, and then he got his wife to get a divorce from him under the laws of Connecticut.

*Q.* Did he state that he got his wife to get the divorce from him? [Objected to.]

*A.* Yes, sir; he made her get it.

*Q.* He told you so?

*A.* Yes, sir.

*Q.* Did he say anything about testimony? [Objected to.]

*A.* Yes, sir.

*Q.* From whom did that come? [Objected to.]

*A.* A man by the name of Allen.

*Q.* Who procured the testimony? [Objected to]

*A.* Mr. Dumont.

*Q.* Mr. Dumont procured the testimony?

*A.* Yes, sir.

*Q.* Did he so state to you? [Objected to.]

*A.* Yes, sir, all the testimony that she needed; he said the divorce was granted for adultery.

*Q.* Do you know whether, or not, Mr. Dumont has been married since the divorce from his first wife? [Objected to.]

*A.* No, sir.

*Q.* You don't know that?

*A.* No, sir.

Cross-examination by Mr. Smith.

*Q.* Are you an intimate friend of William H. Dumont?

*A.* No, sir.

*Q.* Have you ever been?

*A.* No, sir.

*Q.* When did you first get acquainted with him?

*A.* That I could not tell.

*Q.* Well, about when?

*A.* Well, I guess about the time he moved to Summit?

*Q.* When was that?

*A.* I cannot tell, along the seventies; I remember the time their house was built there in seventy; I could not give the date.

*Q.* Were you living in Summit then?

*A.* No, sir; I was living at Chatham then.

*Q.* When did you move to Summit?

*A.* In 1873.

*Q.* Was their house built then?

*A.* Yes, sir; it was built along the seventies.

*Q.* How do you know?

*A.* Because I remember I moved to Chatham myself in 1870?

*Q.* How do you know their house was built in 1870?

*A.* Because I know the row of houses was built in 1870—in the seventies—1875 or 1876.

*Q.* What row of houses?

*A.* On the boulevard.

*Q.* How did you know that one of that row of houses was Mr. Dumont's?

*A.* I did not know when they were built.

*Q.* This was what you understood afterwards?

*A.* What I knew by inquiry, I suppose.

*Q.* Whom did you inquire this from?

*A.* I could not tell.

*Q.* When did you inquire?

*A.* I could not tell.

*Q.* Why did you inquire?

*A.* Because I was anxious to know, I suppose; curiosity, I suppose.

*Q.* What made it a matter of curiosity for you to know that Mr. Dumont was building a house?

*A.* No more than that I was interested in the growth of Summit.

*Q.* You were living at Chatham?

*A.* Yes, sir.

*Q.* And you were passing through Summit?

*A.* Yes, sir.

*Q.* You were so interested in the growth of Summit that you took particular pains to know that a row of houses was built, is that it?

*A.* Yes, sir; and the old boulevard had been straightened, I remember.

*Q.* You say this was when you were passing to the train?

*A.* Yes, sir; I passed right by it day and night.

*Q.* And you saw this row of houses?

*A.* Yes, sir.

*Q.* You do not know whom you inquired from?

*A.* No, sir.

*Q.* And subsequently you found that one of thoses houses was built for Mr. Dumont?

*A.* Yes, sir.

*Q.* When did you say you got acquainted with William Dumont?

*A.* I could not tell you; on the train.

*Q.* Who introduced him to you?

*A.* I do not know that I was introduced to him.

*Q.* Picked up an acquaintance with him?

*A.* I do not know that; I remember we all used to travel in the baggage car together.

*Q.* All of whom?

*A.* A number of the men up the road.

*Q.* Well, who?

*A.* Well, there was Ned. Hopkins was one, and Strong was another.

*Q.* Where did they live?

*A.* Hopkins lived in Madison, and Strong in Summit.

*Q.* What did you do in the car?

*A.* We used to carry on.

*Q.* What do you mean by carrying on?

*A.* Sometimes read.

*Q.* Reading is not carrying on, is it?

*A.* No, sir.

*Q.* What do you mean, then?

*A.* We would have a good time in there between Summit —— [Interrupted.]

*Q.* Doing what?

*A.* Little of everything; shoving each other, and knocking each other's hats off.

*Q.* Was Mr. William Dumont there, too?

*A.* He was generally on the train, and Percy S. Young was there.

*Q.* He took part in the fun?

*A.* Yes, sir.

*Q.* That was the first of your acquaintance with him, was it?

*A.* Yes, sir; I think it was.

*Q.* When did you say you moved to Summit?

*A.* In 1883—the fall of 1883.

*Q.* Did you know Mr. Theodore Dumont then?

*A.* Yes, sir.

*Q.* When did you get acquainted with him?

*A.* In the cars.

*Q.* The same way?

*A.* No, sir.

*Q.* How?

*A.* I was introduced to him.

*Q.* By whom?

*A.* Mr. Johnson.

*Q.* Where does he live?

*A.* I don't know where he lives now.

*Q.* Where did he live then?

*A.* At Summit.

*Q.* What was the object of your introduction, do you remember?

*A.* Yes, sir.

*Q.* What?

*A.* A game of cards.

*Q.* Where?

*A.* In the smoking car.

*Q.* Was Mr. Johnson taking part in the game?

*A.* Yes, sir.

*Q.* Which Mr. Johnson was it?

*A.* Mr. George, I think; Mr. Weeks, I think was the other man.

*Q.* Mr. Weeks lived at Summit, did he?

*A.* He did at that time.

*Q.* And you were introduced for the purpose of taking part in this game of cards?

*A.* Yes, sir.

*Q.* Where was Mr. Theodore Dumont living?

*A.* At Summit.

*Q.* In his father's house?

*A.* Yes, sir.

*Q.* This game of cards, was it usual to continue it from day to day?

*A.* Yes, sir.

*Q.* The same set?

*A.* Most generally; yes, sir.

*Q.* How long was it continued?

*A.* In the cars?

*Q.* Yes.

*A.* That, I believe, was up to the summer before I had my falling out with him.

*Q.* When did you have your falling out with him?

*A.* It will be two years this June.

*Q.* This coming June?

*A.* Yes, sir.

*Q.* And that would be in 1885?

*A.* Yes, sir.

*Q.* When did you commence to visit at Mr. Dumont's house?

*A.* I think when I lived at Chatham I have been over there playing; I think I drove over from Chatham.

*Q.* And for the purpose of a game of cards?

*A.* Yes, sir; a game of whist.

*Q.* You were not acquainted with Mr. Dumont's father?

*A.* No, sir.

*Q.* Or his mother?

*A.* No, sir.

*Q.* You went for the purpose of carrying on this whist game?

*A.* Yes, sir.

*Q.* When did you say you first went there?

*A.* I think in 1882; I think the summer of 1882; I think that was the time.

*Q.* The summer of 1882?

*A.* Yes, sir.

*Q.* That was while you were living at Chatham?

*A.* Yes, sir; I think I drove over there two or three times; and the following winter I think I was there.

*Q.* That summer you met Mr. Theodore Dumont to have a game of cards?

*A.* Yes, sir.

*Q.* Did you have the games?

*A.* Yes, sir.

*Q.* Where?

*A.* In his father's dining-room.

*Q.* Was his father present?

*A.* He generally came in once in awhile before he retired.

*Q.* And after that when did you visit there for the same purpose—after 1883?

*A.* After I moved to Summit I was there almost every week; I guess every week.

*Q.* Do you know when his father died?

*A.* Yes, sir.

*Q.* When?

*A.* Either before or after New Year's; I think it was after, if I am not mistaken; I remember I drove over there with a sleigh, either on Christmas or New Year's day.

*Q.* One or the other?

*A.* Yes, sir.

*Q.* You don't know which one?

*A.* No, sir; he died two or three days after that, I think.

*Q.* Whose sleigh did you have?

*A.* My brother's.

*Q.* You drove from where?

*A.* From my house.

*Q.* Where was that?

*A.* In Summit.

*Q.* You used to have Mr. Theodore Dumont's sleigh sometimes?

*A.* No, sir.

*Q.* His horse and wagon, didn't you?

*A.* Once; yes, sir.

*Q.* Only once?

*A.* That is all I can remember; yes, I did have it once after, when I went up for some cherries for his mother to Long Hill.

*Q.* Except that and one other time was all you had it?

*A.* Yes, sir; I think I went to Dunellen one time with his horse and buggy.

*Q.* Now, the father died in 1884, you say, did you?

*A.* He died the winter I moved to Summit; I went there in 1883, and I think he died between Christmas and New Year's.

*Q.* Now, previous to that time, your visits at the house had been how often, on an average, for the purpose of card-playing?

*A.* Well, we used to have sets around to the different houses—three of them—around to different places; we would have it at Mr. Dumont's house; well, if I remember aright, when we first started in—I don't know whether we had them twice a week, but later on we had it twice a week, but we changed it to once a week; I think it was once in every three weeks; that was when we first started in.

*Q.* There were four of you?

*A.* Yes, sir.

*Q.* Who were the four?

*A.* The other was a gentleman named Van Doun.

*Q.* Where does he live?

*A.* He lived at Summit at the time; and another gentleman lived up there—he is a Frenchman, named Boulanger.

*Q.* Who else?

*A.* That is all at that time.

*Q.* Did you go to Mr. Stayle's house?

*A.* Yes, sir; we have been there; I had forgotten that.

*Q.* When was that, before or after Mr. Dumont's death?

*A.* Mr. Stayle had one of our parties once in awhile, and so did Mr. Benjamin.

*Q.* Did you go to his house before or after Mr. Dumont's death?

*A.* Mr. Stayle's?

*Q.* Yes?

*A.* I think afterwards, if I am not mistaken; yes, I am pretty sure, because Stayle moved away the following spring.

*Q.* Now, you say you were intimate with Mr. Theodore Dumont?

*A.* Yes, sir.

*Q.* He befriended you several times, didn't he?

*A.* Yes, sir.

*Q.* In what way?

*A.* He loaned me money on mortgage—$400.

*Q.* What else did he do for you?

*A.* He loaned me his pass on the railroad to go into the race-course at Sheep's Head Bay.

*Q.* You went to the race-course, did you?

*A.* Yes, sir.

*Q.* Frequently?

*A.* One season I did; yes, sir, during vacation, that is, I took my vacation a day at a time and went down.

*Q.* Well, what else, if anything, did he do for you; loaned you other money, didn't he, besides what he loaned you on mortgage?

*A.* Yes, sir; I believe he loaned me $50 to get my bond.

*Q.* Your what?

*A.* My bond.

*Q.* What bond?

*A.* The bond I gave the bank; I hired it from a fidelity company.

*Q.* He loaned you money to buy a commutation ticket once, didn't he?

*A.* That I cannot remember; he may have.

*Q.* You don't remember that?

*A.* No, sir; I don't remember.

*Q.* And during this time you were playing these games of cards with him?

*A.* Yes, sir.

*Q.* Do you drink at all?

*A.* Yes, sir.

*Q.* What?

*A.* Most anything.

*Q.* Well, whiskey?

*A.* I have drank it; yes, sir.

*Q.* You do drink it once in a while, don't you?

*A.* Yes, sir.

*Q.* If you are asked to have it you take it, don't you?

*A.* Yes, sir.

*Q.* You used to drink frequently with Mr. Dumont, didn't you?

*A.* Yes, sir.

*Q.* You have become intoxicated yourself?

*A.* Not that I can remember.

*Q.* You can stand a little bit more than others?

*A.* I don't know about that; I was never intoxicated in my life.

*Q.* Some people can stand more liquor than others, can't they?

*A.* I believe so; yes, sir.

*Q.* You are one who can stand a good deal?

*A.* I don't know about that; I never prided myself on that, but I can stand up with them, though.

*Q.* Where did you usually go on Sundays?

*A.* Well, usually to Charlie Smith's.

*Q.* Where is that?

*A.* Down at Millburn.

*Q.* Is that called the Milk Punch House?

*A.* Yes, sir; I believe so.

*Q.* How long would you usually stay there?

*A.* It would all depend upon whom we met there.

*Q.* You would drink there, all of you?

*A.* Yes, sir.

*Q.* Several times?

*A.* Yes, sir.

*Q.* And return home during the afternoon?

*A.* Yes, sir.

*Q.* Was it any of those times that you saw Mr. Dumont intoxicated?

*A.* No, sir; he never drank enough; we used to take a man along with us, though, who used to get pretty full.

*Q.* Who was that?

*A.* That was Chapman.

*Q.* Did you go to Mr. Dumont's place of business in New York?

*A.* Yes, sir.

*Q.* And did you drink with him while there?

*A.* No, sir.

*Q.* Did he ever come to see you at your place of business?

*A.* No, I don't think he did; he may have come in there; I cannot remember that he did.

*Q.* You cannot remember that?

*A.* No, I have seen him in the bank, though; I don't think he came to see me.

*Q.* When was it that you remember seeing him intoxicated?

*A.* Well, I don't know as you would call it intoxicated; he was under the influence of liquor.

*Q.* Well, you were under the influence of liquor after you had been to the Milk Punch House during the day?

*A.* No, sir; I don't think I was.

*Q.* How many drinks do you think puts a man under the influence of liquor?

*A.* It depends upon how much he can stand.

*Q.* Well, now, you say he was under the influence but not intoxicated?

*A.* No, sir; but he was very excitable.

*Q.* Did he play cards at that time with you?

*A.* Yes, sir; he used to brace up on brandy or whiskey.

*Q.* He was in the habit of drinking some liquor?

*A.* He used to brace up on account of his nerves; he was a very nervous man.

*Q.* Of a very nervous temperament?

*A.* Very, indeed.

*Q.* You are not, are you?

*A.* No, sir.

*Q.* How long altogether was it that you continued these games of cards with him?

*A.* At his house?

*Q.* All the time, either at his house or anywhere else?

*A.* Up to the time that I say I had my difficulty with him.

*Q.* Were you and he usually partners?

*A.* At one time we were; yes, sir.

*Q.* When was that?

*A.* The first part of the winter of 1885, I think it was.

*Q.* Then on the train were you partners?

*A.* On the train, yes, sir, always; I think on the train always.

*Q.* Mr. Dumont also offered to assist you at the time you wanted to give bonds for the position of collector up there, didn't he?

*A.* Yes, sir.

*Q.* In Summit?

*A.* Yes, sir.

*Q.* Did you qualify as collector?

*A.* No, sir.

*Q.* Why?

*A.* Because I was a stranger in the place comparatively, and they would not accept outside bondsmen; I accepted

the nomination for collector as I supposed my father-in-law in Chatham would go on the bond, and after I was elected I found he could not.

*Q.* Didn't your father-in-law refuse to go on your bond?

*A.* Yes, sir.

*Q.* Mr. Dumont offered to go on the bond?

*A.* No, sir.

*Q.* Didn't he offer to indemnify Mr. Robbins if he went on?

*A.* No, sir.

*Q.* Mr. Robbins offered to go on?

*A.* Yes, sir.

*Q.* Don't you know that Mr. Theodore Dumont offered to indemnify him?

*A.* No, sir.

*Q.* How do you know?

*A.* Because Mr. Cranstoun drew up the paper for my father-in-law to sign to guarantee Mr. Robbins.

*Q.* So there was nothing said to Mr. Dumont about that, that you remember?

*A.* He never offered to do it; no, sir; I would not have gone to my father-in-law if he had.

*Q.* You did not take any meals at Mr. Dumont's house, did you?

*A.* I think I did once; yes, sir.

*Q.* Your family did not visit his family, did they?

*A.* No, sir; his sister called at the house once, I think, when my little boy was bitten by a dog—by a bird dog that I had.

*Q.* That was all?

*A.* That was the only time I remember.

*Q.* That was all the intercourse between the families?

*A.* Yes, sir.

*Q.* You think you took meals once at his house?

*A.* I know I was there once; we used to drive down to Newark every Sunday, and he would go to Brooklyn, and

I would go to Coney Island or somewhere, and when we came back we would drive back together.

*Q.* So your going there was merely with Mr. Theodore Dumont for the purpose of this game of cards for you four?

*A.* I suppose that was all; yes, sir.

*Q.* Do you know Mr. Chapman?

*A.* Yes, sir.

*Q.* Where does he live?

*A.* Summit.

*Q.* Your intimacy with Mr. Theodore Dumont, when you commenced riding with him, and so forth, was after there was a controversy between Mr. Dumont and Mr. Chapman, wasn't there?

*A.* No, sir; not entirely.

*Q.* Was it principally after that?

*A.* Principally; yes, sir.

*Q.* That was one of the principal reasons, wasn't it?

*A.* Yes, sir; I guess that it was.

*Q.* You remember that was talked about at the time?

*A.* About what?

*Q.* You heard Mr. Dumont express himself as having fallen out with Mr. Chapman?

*A.* No; he used to make up with him before he had a falling out.

*Q.* Well, afterwards?

*A.* Yes, sir.

*Q.* Did he say anything about having fallen out with Mr. Chapman?

*A.* No reason.

*Q.* Did he say anything about it?

*A.* Yes, sir.

*Q.* And it was after that, wasn't it, that your principal intimacy with Mr. Dumont took place?

*A.* No; he used to come around to my house; used to come around with Mr. William Dumont's daughter Bessie

at night; I had a dog that belonged to him—a setter dog —and he used to come around to the house very often.

*Q.* Did he play cards at those times?

*A.* No, sir; he never played cards at my house.

*Q.* When was it that the intimacy in relation to the card-playing was the greatest, after this matter between Mr. Dumont and Mr. Chapman, or before?

*A.* No; we had been playing the winter before; we were just as intimate the winter before as afterwards, I think.

*Q.* That was in 1883?

*A.* Yes, sir; up to January; and then in 1884 we stopped for a while; when his father died we stopped for a while.

*Q.* How long?

*A.* That I could not tell; I used to see him on the train every day.

*Q.* Well, how long would you say it was stopped?

*A.* That I cannot remember exactly the time; I think it was about two weeks on the train that it was stopped; two or three weeks that he stopped playing after his father died.

*Q.* How many conversations did Mr. Dumont have with you in relation to the matter which you have testified to to-day?

*A.* Well, if he had anything on his mind at all, he was apt to talk about it most of the time when I was with him.

*Q.* Did you have any other intimate friends besides Mr. Theodore Dumont at that time?

*A.* In Summit?

*Q.* Yes?

*A.* No, sir.

*Q.* He was the only intimate friend you had there?

*A.* Yes, sir.

*Q.* When you went there to play cards, at Mr. Dumont's house, was his mother usually there?

*A.* Yes, sir,

*Q.* Always?

*A.* Not always present; no, sir.

*Q.* Did you play in the same room where she was?

*A.* He usually sent his carriage after me, and I would get there before the rest would, and I would sit in the sitting-room that they had, off the porch.

*Q.* While you were playing cards, she was not there?

*A.* No, sir, never; the only time I saw his mother was in that place.

*Q.* In the little sitting-room?

*A.* Yes, sir.

*Q.* That was the only time you saw him with his mother?

*A.* Yes, sir.

*Q.* When was that?

*A.* Very frequently, when I went there.

*Q.* Were any of the family present?

*A.* No, sir.

*Q.* Wasn't Mrs. Robbins present?

*A.* I don't thing I ever saw her there; no, sir.

*Q.* Was that before or after his father's death?

*A.* It was afterwards.

*Q.* Did you see her there before Mr. Dumont's death?

*A.* No, sir; his father generally would be there.

*Q.* And after the father's death, then the mother would be there?

*A.* Not always; no, sir.

*Q.* Well, usually?

*A.* Once in a while; I do not say usually; either once in a while or frequently.

*Q.* When was the first time you played cards at Mr. Dumont's house after his father's death?

*A.* I cannot tell you that.

*Q.* When would you say?

*A.* I would not say.

*Q.* How near do you get to it?

*A.* I would not care to say.

*Q.* Now, the first time you played cards there at Mr. Dumont's house, did you see Mrs. Dumont present in that room?

*A.* No, sir.

*Q.* Did you say that she was present the second time you were there?

*A.* No, sir; I do not think I met her after her sickness until the following summer, I think, or along some time after that.

*Q.* That is, after Mr. Dumont's sickness?

*A.* Along cherry-time, I think it was; she wanted some cherries, and I knew where I could get those Spanish white cherries on Long Hill, and I went with Mr. Dumont to engage them, and after the funeral I went after them; he was going with me, and he could not go, and told me to get them and drive up there with my wife, and I did so.

*Q.* So, between Mr. Robert Dumont's sickness and death and this time that you went for cherries at cherry-time, you do not remember at any time having seen Mrs. Dumont?

*A.* I do not; no, sir.

*Q.* When after that do you remember that you played cards at Mr. Dumont's house; now, you have got to the cherry-time, that fixes some period of time in your mind; now, when was the next time after that you played cards there in Mr. Dumont's house?

*A.* I think we played there—I would not say every week—but every other week, on the average.

*Q.* Now, I ask you when was the next time you remember after that?

*A.* After cherry-time?

*Q.* Yes, after the cherry-time; after you went for the cherries, what was the next time after that you played cards there?

*A.* I have forgotten, now.

*Q.* Do you know, or don't you?

*A.* I don't know; of course I cannot pick out the day.

*Q.* Was it within a month of the time?

*A.* I think it was.

*Q.* Why do you think so?

*A.* Because I was in Summit and I know so.

*Q.* Then you know it was within a month of the time?

*A.* Yes, sir; think so.

*Q.* Who played with you at that time?

*A.* I think it was our regular set.

*Q.* Are you positive about that?

*A* No, I am not positive; I know Mr. De Forest used to come in the summer time.

*Q.* Don't say what he used to do; I ask you about this particular time; if you remember it, say so?

*A.* I remember playing there.

*Q.* You remember playing at his house within a month of the time you went for cherries?

*A.* Yes, sir.

*Q.* Do you swear to that positively?

*A.* Not positively; no, sir.

*Q.* Can you swear positively that you played there within two months after the time you went after cherries?

*A.* I can swear I went there off and on.

*Q.* I did not ask you that. [Former question read as follows: Can you swear positively that you played there within two months after the time you went after cherries?]

*A.* I cannot swear to any definite time?

*Q.* You cannot swear that you played within two months, can you?

*A.* I can swear that I played there.

*Q.* Within the two months?

*A.* Yes, sir; I think so; I cannot say certain.

*Q.* You cannot swear positively to that?

*A.* No, sir; I cannot.

*Q.* When do you take your vacation, usually?

*A.* Last year I took it in October.

*Q.* When did you take it in 1884?

*A.* I took it by the day.

*Q.* Commencing when?

*A.* In June, I think it was.

*Q.* And ending when?

*A.* I think I had three days in October, if I am not mistaken.

*Q.* What was the first day in June that you took your vacation?

*Q.* That I could not tell you.

*Q.* Was it one of those days that you went with the horse for the cherries?

*A.* No, sir.

*Q.* One of your vacation days?

*A.* No, sir; it was at night, after I got back from business—along about six o'clock.

*Q.* That you remember distinctly, do you?

*A.* Yes, sir.

*Q.* Now, was it after that that you commenced your vacation, or before?

*A.* I think I commenced and took days in June and July, and I think some in August.

*Q.* You do not know what days you took?

*A.* No, sir; not exactly what days.

*Q.* You don't remember any of them now, do you?

*A.* Not exactly the days; no, sir.

*Q.* Don't you remember where you went upon any of those days?

*A.* Yes, sir.

*Q.* Where?

*A.* Well, I went to Sheeps Head Bay race track, and I also went to the Brighton Beach race track.

*Q.* Every day on your vacation you went to one or the other?

*A.* I believe I did; yes, sir, I think I did.

*Q.* When did you see Mrs. Dumont, after the time that you went after the cherries, as you say?

*A.* I saw her when I came back.

*Q.* That same night?

*A.* Yes, sir.

*Q.* When after that?

*A.* I think the next time I went there.

*Q.* When was that?

*A.* I could not tell; I know shortly after, because she told me she—— [Interrupted.]

*Q.* I did not ask you what she told you; I ask you when you saw her next?

*A.* The next time I went there.

*Q.* I ask when that was?

*A.* Shortly afterwards.

*Q.* But cannot you say how long afterwards?

*A.* No, sir.

*Q.* When again did you see her?

*A.* I cannot tell the exact time I saw her; I used to meet her.

*Q.* When you went there to play whist?

*A.* Yes, sir.

*Q.* No other times, did you?

*A.* No, sir; I never went there any other times, except when I took the horse back after I had driven him to Newark.

*Q.* So the only times you saw her, if at all, was when you went there—after the time you spoke about getting cherries—to play whist with this club?

*A.* Yes, sir.

*Q.* Did you see her every time you went?

*A.* No, sir.

*Q.* Where was the conversation with Mr. Theodore Dumont, in relation to what his brother William should give his mother?

*A.* I think it was on the ferry-boat or cars—the first conversation.

*Q.* You say "you think;" do you know where it was?

*A.* Yes, sir; I know it was.

*Q.* Where was it?

*A.* On the cars or the ferry-boat.

*Q.* Well, which?

*A.* That I cannot tell; it was going down on the train or on the ferry-boat.

*Q.* You cannot recollect whether it was in the cars or on the ferry-boat?

*A.* No, sir; I remember about the conversation with him.

*Q.* Do you know when it was?

*A.* Yes, sir.

*Q.* When?

*A.* It was shortly after his father's death; I suppose three or four weeks; he told me that he had just taken in this partner, about that time; I don't know exactly when it was; it may not have been that long.

*Q.* He told you what?

*A.* That he had taken—that his brother William took a partner in, and gave him an interest in preference to his mother.

*Q.* Were those the words he used?

*A.* Yes, sir; "in preference to his own flesh and blood;" I think those were the words.

*Q.* What did he tell you that he had demanded of his brother?

*A.* $5,000 a year for his mother during her lifetime.

*Q.* That you are quite sure of, are you?

*A.* Yes, sir.

*Q.* How do you remember that so well at this time?

*A.* I can remember a great many other things, as far as that is concerned, that he told me.

*Q.* Have you talked to anybody about this testimony that you have given to-day?

*A.* Yes, sir; I have talked to Mr. Curtis about it.

*Q.* When?

*A.* I don't know how long ago it was; three or four weeks ago.

*Q.* That was the first?

*A.* Yes, sir.

*Q.* Did you talk to anybody else but Mr. Curtis?

*A.* Mr. William Dumont came to see me two or three times.

*Q.* When?

*A.* About the 1st of February, I think it was—along there.

*Q.* You talked to him then, did you, about this testimony?

*A.* No, I didn't talk with him about the testimony; he asked me if I heard his brother talk about it.

*Q.* About what?

*A.* About him and family affairs.

*Q.* You told him you had?

*A.* Yes, sir.

*Q.* You volunteered then to give him information, did you, as to what you heard said?

*A.* No; I cannot say that I volunteered to do it.

*Q.* Why did you do it?

*A.* Simply because he came to me, and I told him I did not want to be mixed up with it, but if I was subpœnaed, I would give it.

*Q.* You told him about these conversations, did you?

*A.* Not entirely; no, sir; I don't think I did.

*Q.* Was this the first that you had spoken about these conversations to anybody since they had taken place between you and Mr. Theodore Dumont?

*A.* I think I told my wife.

*Q.* How was it that they impressed themselves upon you so?

*A.* Well, there are a great many things that he told me that impressed themselves upon me.

*Q.* What else did he talk to you about this day that you spoke about, when this conversation took place, in relation to $5,000?

*A.* Nothing.

*Q.* Nothing else?

*A.* No, sir.

*Q.* Did you ride down on the train with him from Summit?

*A.* I don't think I did; I think the conversation was on the ferry-boat.

*Q.* You did not ride down on the train with him?

*A.* I am not certain.

*Q.* Don't you remember?

*A.* I am not certain.

*Q.* You remember the conversation so exactly, certainly you can remember whether you were on the train with him?

*A.* I was on the train, but I don't know whether I was sitting in the same seat with him.

*Q.* Nothing was said on the train?

*A.* I do not say that.

*Q.* Nothing was said?

*A.* I do not say that nothing was said on the train; I would not be certain but what it was on the train.

*Q.* You do not know whether you rode with him on the train?

*A.* I know I rode on the train with him.

*Q.* Sat alongside of him?

*A.* I cannot remember.

*Q.* You don't know whether you talked with him on the train, do you?

*A.* Not certain; no, sir, or on the ferry-boat; I know it was one or the other places that he told me; I am not certain.

*Q.* But at the same time either on the ferry-boat or on the train?

*A.* Yes, sir.

*Q.* Some such words as you have stated were said?

*A.* Yes, sir.

*Q.* You don't remember anything else that was said at that time?

*A.* I don't think anything else was talked about.

*Q.* That was all that was talked about?

*A.* Yes, sir; I think that was all.

*Q.* That was all that was said?

*A.* At that time.

*Q.* You have given all the conversation at that time between you and Mr. Theodore Dumont?

*A.* Yes, sir; further on we had some conversation.

*Q.* When did you have the next conversation with him?

*A.* I could not locate the time, but I know it was in some of our buggy rides; he told me a great many things outside of the case.

*Q.* During your buggy rides?

*A.* Yes, sir; and about his family and his own family; I know he never had much love for William.

*Q.* He told you that, did he?

*A.* Yes, sir; he told me the reason why.

*Q.* Well, I didn't ask you that; when was it that he told you in relation to the time that you supposed he was in financial difficulties—the conversation that you have spoken about?

*A.* That was the time he was getting his divorce.

*Q.* When was that?

*A.* A year ago last winter; about two years ago; probably just before that.

*Q.* Two years ago last winter?

*A.* This winter.

*Q.* That would be 1884?

*A.* No, sir; it would be 1885.

*Q.* Where was that conversation?

*A.* In his buggy.

*Q.* Do you remember the time?

*A.* Yes, sir.

*Q.* Where were you going?

*A.* To Newark.

*Q.* On Sunday, was it?

*A.* Yes, sir.

*Q.* What month?

*A.* I think it was in February or March; I forget which; he had an operation performed on him, and he used to go to Brooklyn.

*Q.* About this time that you remember about the conversation, was it February or March?

*A.* It was along the latter part of the winter.

*Q.* Do you remember which month it was in?

*A.* No, sir.

*Q.* You were driving to Newark?

*A.* Yes, sir.

*Q.* And it was in March or April, 1885?

*A.* I will not say in what month; it was along in the latter part of the winter or the first of spring.

*Q.* You cannot locate the month?

*A.* No, sir; I think, if I remember right, it was in February.

*Q.* But you are sure of the year?

*A.* I know it was the winter before I had my quarrel with him.

*Q.* That, you say, was in 1885, was it?

*A.* Yes, sir; 1885.

*Q.* Was it after the operation had been performed?

*A.* No, sir; I think it was before it.

*Q.* Before the operation was performed?

*A.* Yes, sir; I think it was.

*Q.* Don't you know?

*A.* I am not certain; I know he was under great excitement.

*Q.* I ask you whether you know when it was, whether it was before or after the operation?

*A.* I think I drove him to Newark before the operation.

*Q.* I asked you, at the time you had this conversation, was it before or after the operation?

*A.* I don't care to answer; I cannot locate the time exactly.

*Q.* You cannot tell whether it was before or after?

*A.* I cannot; I don't remember when he had the operation performed, but I think he had it performed in the winter; if I am not mistaken, in the winter of 1885.

*Q.* The winter of what—1885?

*A.* Well, it was two years ago about this time.

*Q.* When he had the operation performed?

*A.* That I won't say; I think it was; I think it was in the spring; I know that it was very cold weather.

*Q.* If you know, Mr. Treat, can't you tell whether this conversation was before or after the operation?

*A.* I don't think it was on account of the operation.

*Q.* I didn't ask you that; you understand the question?

*A.* Yes, sir; no, I can't tell.

*Q.* Can you say when the operation was?

*A.* No, sir.

*Q.* The day?

*A.* No, sir.

*Q.* The month?

*A.* No, sir; I cannot.

*Q.* Was it in the spring or summer?

*A.* If I remember right, he came around the first Sunday in his sleigh, and I told him he would not get to Newark in a sleigh, and he went back and got his buggy.

*Q.* Was it in the spring, summer or winter of 1885?

*A.* The latter part of the winter; I know it was cold weather, because he had a pocket pistol with him and——

*Q.* I didn't ask you that; I asked you whether it was the spring, summer or winter?

*A.* It was cold weather.

*Q.* Don't you know?

*A.* Not certain, no, sir; that is, in regard to the operation; I know we went to Newark a great many times, almost every Sunday.

*Q.* Still you don't know when the operation was?

*A.* Not for a certainty; no, sir.

*Q.* When was it that you had the conversation about

putting our head upon the block, or something of that kind?

*A.* The same time.

*Q.* Same time?

*A.* Yes, sir.

*Q.* Same day?

*A.* That same conversation.

*Q.* On the same ride?

*A.* The same conversation.

*Q.* Now, what exactly did he say in relation to that?

*A.* He was drinking very hard at that time——

*Q.* I didn't ask you that; I asked you what he said?

*A.* He said that his mother, if I am not mistaken, put her arms around his neck very affectionately, and wanted him to tell her what the matter was, and wanted to know whether it was financial affairs——

*Q.* I asked you what was said about putting her head upon the block; you understand that?

*A.* Yes, sir; I understand that.

*Q.* Exactly.

*A.* When he got through the conversation that I just started to tell, he said he knew his mother would do anything for him, and that it always was so.

*Q.* Those were the words he used?

*A.* Yes, sir; he said father said she would put her head under the block for him.

*Q.* Was that exactly what he said—those the words?

*A.* Yes, sir; I am certain they were.

*Q.* Why, then, on your direct examination, did you say that substantially was said, or some such remark, if you remember exactly what was said?

*A.* I didn't know that I did say that.

*Q.* Do you remember whether you said that upon the direct examination?

*A.* No, sir.

*Q.* You don't remember what your answer was in that relation on the direct examination?

*A.* No, sir.

*Q.* And this was a part of the same conversation in 1885, was it?

*A.* 1885; yes, sir.

*Q.* In the latter part of the winter of 1885, as you remember?

*A.* Yes, sir; as I remember.

*Q.* Did Mr. Dumont, at that time, say anything about buying a seat in the Stock Exchange?

*A.* Yes, sir—not for himself; no, sir.

*Q.* For whom?

*A.* For his cousin.

*Q.* Did he say how much he had payed for it?

*A.* I forget whether it was $25,000 or $30,000.

*Q.* He said he had bought it, didn't he?

*A.* Yes, sir.

*Q.* That was about the same time, was it, that that conversation took place?

*A.* If I remember right.

*Q.* When the others?

*A.* Yes, sir; if I remember right, along the first of January, or somewhere along there.

*Q.* When was the conversation, if you remember, in relation to Dr. Risk being a witness to the will; about the time that the will was made; afterwards?

*A.* Yes, sir.

*Q.* Did Mr. Theodore Dumont tell you then that they had Dr. Risk there as a witness?

*A.* Yes, sir.

*Q.* And what else did he say about Dr. Risk?

*A.* He said if there was any contest there would be no luny business about it.

*Q.* Did you understand from that that Dr. Risk had been brought there especially?

*A.* Yes, sir.

*Q.* As a witness to the will?

*A.* Yes, sir; I understood Mr. Dumont to say that was his doings.

*Q.* Whose doings?

*A.* Mr. Theodore Dumont's.

*Q.* That he got Dr. Risk to go there as a witness at that time?

*A.* Yes, sir.

*Q.* Did he say so to you?

*A.* I think he did; yes, sir.

*Q.* Did he, or not?

*A.* Yes, sir.

*Q.* Did he say that he had asked Dr. Risk to go there?

*A.* That I cannot tell, whether he asked him or not.

*Q.* Did he say he got him to go there?

*A.* No, sir; I don't know as he did say that.

*Q.* What position did you say you held in the bank where you are engaged in New York?

*A.* Well, I have worked at four or five different places in the bank; I held no regular position; I am settling clerk.

*Q.* Did you ever hold any regular position there?

*A.* Yes, sir.

*Q.* What?

*A.* I was assistant on the note teller's desk when I first went in the bank; I was collection clerk for a while, and I went as settling clerk in the clearing-house; and then I have charge of the business at the clearing-house—run a small route—and when I come back to the bank I have city notes and check-list to prove?

*Q.* What is your salary?

*A.* $1,000.

*Q.* Aren't you known in the bank as one of the messengers?

*A.* Not that I know of.

*Q.* Is not that the position that you occupy there?

*A.* No, sir; messengers do nothing but run around.

*Q.* That is most likely your business there, is it not?

*A.* No, sir; I don't touch a route until after twelve o'clock, and I am through every day by half-past two; I went there as a clerk, and have always been a clerk; we only have one messenger who runs a route, but I have charge of the clearing-house work; I admit I run a route.

*Q.* Are you in the habit of betting on horse-races when you attend them?

*A.* I have; yes, sir.

*Q.* Usually?

*A.* Not lately; no, sir; I did at that time.

*Q.* You attend pool-rooms, don't you?

*A.* I have—I have been in pool-rooms.

*Q.* You used to frequent them quite often, didn't you?

*A.* Yes, sir; I did at that time.

*Q.* You are not on friendly terms with Mr. Theodore Dumont now, are you?

*A.* No, sir.

*Q.* And have not been since when?

*A.* Two years this June.

*Q.* When was it you had the talk with him about the partnership with his brother in New York City—with Theodore Dumont?

*A.* I said before two or three weeks; I think it was after his father's death.

*Q.* Same time you had the other conversation, was it?

*A.* No, sir.

*Q.* The same time you had the conversation about the $5,000, as you remember?

*A.* Yes, sir.

*Q.* Was that on the boat?

*A.* As I said before, I cannot remember whether it was on the boat or train.

*Q.* It was one place or the other, was it?

*A.* Yes, sir.

*Q.* You are quite sure, are you?

*A.* Yes, sir.

*Q.* That what you have stated as to what he told you

about the business partnership ending when one partner died, and the remaining partner took the business, as you have testified to here, was the same time you had the conversation about the $5,000?

*A.* Yes, sir.

*Q.* And that was on the train or on the boat?

*A.* Yes, sir; I had a great many conversations with him on the same subject.

*Q.* But this one I am asking you about?

*A.* Yes, sir.

*Q.* You are quite positive about it?

*A.* Yes, sir.

*Q.* At the same time, was it, that he told you that he didn't want the business for himself, but it was for his mother, was it?

*A.* Yes, sir.

*Q.* In one of the conversations that you have stated to have had with Mr. Theodore Dumont, where you said that he seemed to be very much prostrated, you said in your direct examination that, from what he told you, you supposed he was under financial difficulties?

*A.* No, sir; I did not make that remark.

*Q.* You did not say that?

*A.* No, sir.

*Q.* Did you say anything like it?

*A.* I said I supposed his mother thought he was under financial difficulties—that his mother asked him if he was under financial difficulties.

*Q.* He said that to you?

*A.* Yes, sir; "what was the matter with him—whether he was under financial difficulties."

*Q.* And you did not use the word "supposed" there in your direct examination?

*A.* No, sir.

*Q.* When was that conversation, do you remember?

*A.* That was, I think, in the winter of 1885.

*Q.* Was it at the same time that the conversation in re-

lation to what his father said about her putting her head upon the block, took place?

*A.* Yes, sir; the same time.

*Q.* Was it at the same time that Theodore said to you that William would be disappointed after his mother's death?

*A.* No, sir.

*Q.* When was that?

*A.* That was the time we were riding from Morristown towards Madison.

*Q.* When was that?

*A.* That was the fall of 1884, I think it was; yes, sir.

*Q.* That was the time the conversation was had in relation to William's being a fool?

*A.* Yes, sir.

*Q.* It was part of that same conversation?

*A.* Yes, sir; we met William going up with his family.

*Q.* Was that the same time the conversation took place in relation to William's taking the business?

*A.* No, sir; he mentioned it, of course, at that time, but it was not the first time he told me.

*Q.* When was that—the time you have spoken about—on the boat?

*A.* Yes, sir; on the boat or train.

*Q.* That was the only other time that you remember?

*A.* Yes, sir.

*Q.* You said that Mr. Dumont's wife spent the summer of 1884 in Summit, did you?

*A.* I did not say the whole of the summer; but she was there that summer.

*Q.* How long, do you know?

*A.* No, sir; I do not.

*Q.* Did you see her at the house?

*A.* I did; yes, sir.

*Q.* How many times did you see her there?

*A.* Once that I remember.

*Q.* That the only time you remember?

*A.* I saw her out riding with him that summer, but not at his house; I remember he said he met her there one Sunday morning.

*Q.* Part of that summer she spent there?

*A.* Yes, sir; she was there that summer, and she was there the summer before, too.

*Q.* Did I understand you to say that during that time Mr. Dumont did not live with her?

*A.* He did not live with her in the winter.

*Q.* Not in the summer, you did not mean?

*A.* No, sir; I did not mean that.

*Q.* She was living at the house, wasn't she?

*A.* Yes, sir.

*Q.* At Mr. Dumont's mother's house?

*A.* Yes, sir.

*Q.* And when you said that he did not live with her, you meant the next winter?

*A.* No, sir; the winter before and the next winter also; he was getting a divorce the next winter from her.

*Q.* That is, the winter of 1885 he was getting a divorce from her?

*A.* Yes, sir.

*Q.* How do you know that?

*A.* He told me so.

*Q.* When?

*A.* When his wife was getting it.

*Q.* When was that?

*A.* The winter of 1885.

*Q.* Did he tell you at that time in relation to the divorce —getting the divorce from her?

*A.* He told me he wanted to marry another girl.

*Q.* Well?

*A.* That he went on there and made his wife get a divorce from him.

*Q.* Was that the time he told you about the two divorces?

*A.* Yes, sir.

*Q.* Where was this conversation?

*A.* In his buggy.

*Q.* Where were you going then?

*A.* Towards Newark.

*Q.* All these conversations were in the buggy, going towards Newark, were they?

*A.* Most of them; yes, sir.

*Q.* Did he tell you that one of his divorces was illegal?

*A.* He said that he sent on a divorce to Indiana; got one there; sent on and procured one from his wife; that either Tracy or Catlin, I forget which, told him that it would not hold in New York State.

*Q.* That was the same time that the other conversation took place, was it?

*A.* What other?

*Q.* That you have stated about the divorce—the rest of the conversation about the divorce?

*A.* Yes, sir.

*Q.* In the buggy, going towards Newark?

*A.* Yes, sir; talked about it every Sunday; for pretty near six months it was generally our conversation.

*Q.* Was this after he got the second divorce?

*A.* No, sir; he had not procured it yet when I fell out with him; it was under way.

*Q.* It was under way?

*A.* Yes, sir.

*Q.* When Mr. William Dumont came to see you, did you tell him all about those conversations?

*A.* Not at that time; no, sir.

*Q.* Which one did you tell him about?

*A.* I told him—he asked me what I knew about the case, if I ever heard Theodore talk about it; I told him pretty much what I have testified to; he wanted me to go and see Mr. Curtis, and I told him I would rather not; I did not want to be drawn in it, but if I was subpœnaed I would appear; he wrote me a letter to come and see him.

*Q.* Why were you so willing to testify to those conversations with Theodore?

*A.* I have not testified that I was willing.

*Q.* You told all the conversations to William, didn't you?

*A.* Yes, sir.

*Q.* And stated that you would come if you were subpœnaed?

*A.* Yes, sir; simply because —— [Interrupted.]

*Q.* Were you subpœnaed to come here?

*A.* Yes, sir; I was subpœnaed to come three weeks ago.

*Q.* Are you paid for your time for coming here?

*A.* No, sir.

*Q.* Have you made an agreement to that effect?

*A.* No, sir; all I got was a dollar when I was subpœnaed; no bargain made whatever.

*Q.* No understanding about a fee being paid?

*A.* No, sir; not a bit; if you wish me to state my reason I will.

*Q.* What is it?

*A.* Simply because he told; I told him what Theodore had told me about the business, the income being $15,000 a year, and he said it was a damn lie, and he could prove to me that it was no such thing.

*Q.* That was all he said, was it?

*A.* No, sir; not all, I don't know that it was all; I made up my mind, that if it was so he had been injured.

*Q.* Sympathy for William caused you to come?

*A.* Yes, sir.

*Q.* You had no sympathy for the man who had befriended you in years gone by, had you?

*A.* Not when the truth was to be told; no, sir; no sympathy whatever; there is no sentiment in me at all.

*Q.* What do you mean by sentiment?

*A.* I mean that if I am put on the stand, I tell what I know and nothing more; what he has done to me in the past —— [Interrupted.]

*Q.* William did not know what you were going to testify to when you were put on the stand until you told him, did he?

*A.* He was present when I was at Mr. Curtis' office; he heard the questions that Mr. Curtis asked me.

*Q.* When you went to see Mr. Cranstoun about this bond, you told him at that time, didn't you, that Mr. Theodore Dumont was willing to indemnify Mr. Robbins?

*A.* No, sir.

*Q.* To go on the bond and indemnify him? 10

*A.* No, sir.

*Q.* Didn't you?

*A.* No, sir.

*Q.* Didn't you tell Mr. Cranstoun at the same time, or about the time, that Mr. Theodore Dumont was one of the whitest men in the world?

*A.* I don't remember; no, sir.

*Q.* Never remember saying anything of that kind?

*A.* No, sir.

*Q.* At any time? 20

*A.* No, sir.

*Q.* In any of your conversations with Mr. Cranstoun?

*A.* No, sir.

*Q.* Did you ever say any such thing as that to Mr. Cranstoun?

*A.* I don't remember of it; no, sir; I may; I don't say that I did not, but I don't remember it now; there was a time I thought so.

*Q.* Was Mr. Curtis and William Dumont the only persons—were they the only persons that you have talked with 30 about the testimony that you are giving here to-day?

*A.* I talked with my wife about it.

*Q.* Nobody else?

*A.* Not that I remember; no, sir.

*Q.* Do you know Mr. Isaac Devoe?

*A.* Yes, sir.

*Q.* Have you talked with him about it?

*A.* Yes, sir.

*Q.* So you do remember somebody else?

*A.* Not about the testimony; no, sir.

*Q.* Didn't you talk about this matter of the will?

*A.* Yes; we talked about the contest of the will.

*Q.* And you talked about the conversations you had with Theodore Dumont, didn't you?

*A.* No, sir; I don't think I gave him anything at all.

*Q.* Where did you have a conversation with him?

*A.* At the Union Trust Company; he asked me what I knew; I told him I had been subpœnaed; it was after I was subpœnaed; I did not tell him what I did know or what I was going to testify to.

*Q.* Didn't you tell Mr. Devoe, at that time, that you could not testify to anything in relation to any conversations, except from hearsay?

*A.* No, sir.

*Q.* And didn't you also say to Mr. Devoe, at that time, that you could not remember the conversations that you had three years ago?

*A.* No, sir.

*Q.* Did you have any such conversation with Mr. Devoe?

*A.* No, sir; we were talking over the case—we were talking about Mr. Dumont more than anything else.

*Q.* I ask you whether you remember any such conversation as that?

*A.* No, sir; I didn't know but what you wanted to know our conversation.

*Q.* No; I asked you particularly as to a certain part of the conversation; that is what I asked you about?

*A.* No, sir.

*Q.* And you say you had no conversation with him in relation to the testimony that you were going to give?

*A.* No, sir.

*Q.* About what had taken place three years since?

*A.* I told him that I had a subpœna; he said, "What

do you know; you don't know anything about it except from hearsay."

*Q.* What did you say?

*A.* I don't know as I made any reply whatever; I was very guarded in what I did say.

*Q.* Do you know what you said?

*A.* Yes, sir; I know a great many things I said.

*Q.* What did you answer him, then?

*A.* I don't know as I gave him any answer; I don't think I did.

*Q.* You don't think you told him anything?

*A.* I don't think I gave him any direct answer.

*Q.* Why were you so cautious?

*A.* Simply because I did not care to talk about the case or the testimony.

*Q.* You were talking about it then, were you not—about the testimony?

*A.* Talking about the case, but not the testimony.

*Q.* Was there anybody else beside Mr. Devoe, now you have refreshed yourself, that you have talked to about the case, except your wife?

*A.* Not that I know of; I don't know; I may have.

*Q.* Don't you know?

*A.* Not certain of it, no; I may say a great many things in the course of two months that I forget.

*Q.* Do you remember when it was that you had this conversation with Mr. Devoe?

*A.* No, sir; I do not.

*Q.* Was it within two months?

*A.* No, sir; I think it was less time than that.

*Q.* Less time than that?

*A.* Yes, sir.

*Q.* Three weeks ago?

*A.* I think a little longer than that.

*Q.* Four weeks?

*A.* I don't exactly remember the time.

*Q.* You don't remember the date?

*A.* No, sir; not the date.

*Q.* Nor how long ago it was?

*A.* No, sir; I know it was since the 1st of February.

*Q.* That is the nearest you can get to it?

*A.* Yes, sir.

*Q.* Why is it that you are sure it was since the 1st of February?

*A.* Because I did not know much about the case until about the 1st of February, that is, that my testimony was wanted; Mr. William Dumont——[Interrupted.]

*Q.* Didn't you say you told Mr. Devoe you were subpœnaed?

*A.* I said I was to be subpœnaed.

*Q.* You knew that, didn't you?

*A.* Yes, sir; I knew that; Mr. Dumont had called upon me and I told him my child was sick with pneumonia and I could not attend to it then.

*Q.* Why wouldn't you come without being subpœnaed?

*A.* Because I did not want to be mixed up in the affair.

*Q.* Is that the only reason?

*A.* Yes, sir.

*Q.* When did you move away from Summit?

*A.* Two years this 1st of next September—a year and nine months ago.

*Q.* That was when—what year would that be?

*A.* The fall of 1885, I think.

*Q.* And you moved to Summit when?

*A.* 1883—the fall of 1883.

*Q.* What month?

*A.* I think it was the middle of August—the middle or 1st.

*Q.* August, was it?

*A.* Yes, sir.

*Q.* Of 1883?

*A.* 1883; yes, sir.

Redirect by Mr. Curtis.

*Q.* Prior to your acquaintance with Mr. Theodore Dumont, were you in the habit of visiting race-courses?

*A.* No, sir.

*Q.* Prior to your acquainantance with Mr. Theodore Dumont, were you in the habit of betting on horse-races?

*A.* No, sir; never.

*Q.* Since the termination of your intimacy, have you been in the habit of betting on horse-races?

*A.* Up to the fall afterwards; yes, sir, I was.

*Q.* Since then, have you?

*A.* No, sir.

*Q.* Prior to your intimacy with Mr. Theodore Dumont, were you in the habit of visiting pool-rooms?

*A.* No, sir.

*Q.* Or purchasing pools on horse-races?

*A.* No, sir; never knew what they were.

*Q.* Since then, have you been in the habit of visiting pool-rooms and buying pools on horse-races?

*A.* Outside of that fall, no, sir.

*Q.* At whose suggestion did you first visit the race-course?

*A.* I went down with Mr. Chapman and Mr. Dumont.

*Q.* At whose invitation?

*A.* Mr. Chapman's that day.

*Q.* Were you invited by Mr. Dumont to vist race-courses after that?

*A.* He would let me have his pass to enter the race-course and on the boat and cars.

*Q.* Did you ever bet for him on horses?

*A.* Yes, sir.

*Q.* You did?

*A.* Yes, sir.

*Q.* Referring to the loans of money made by Mr. Dumont to you, have they been paid?

*A.* Yes, sir; with interest to date.

*Q.* After the death of Mr. Robert Dumont, did Mr.

Theodore Dumont refer to his brother more than once in the spring of 1884?

*A.* Yes, sir.

*Q.* Frequently.

*A.* Yes, sir; very often—very often talked about him.

*Q.* And about his refusal to contribute to his mother's support?

*A.* Yes, sir.

*Q.* Out of the business?

*A.* Yes, sir.

*Q.* And whenever he referred to him was it —— [Interrupted.]

*A.* In very strong language. [Question objected to as leading, and also as having been examined upon on direct examination.]

*Q.* Whenever he referred to his brother or spoke of his brother how did he speak of him? [Objected to as immaterial and irrelevant.]

*A.* In very strong language.

*Q.* What do you mean by "strong language?"

*A.* He generally was profane in speaking of him; he called him almost everything.

*Q.* During your intimacy with Mr. Dumont, was the subject of Mr. William Dumont's relations to his mother and the will spoken of more than once? [Same objection.]

*A.* Yes, sir.

*Q.* Frequently—many times?

*A.* I testified to the times I could remember when the will was talked of, or he hinted anything about the will.

*Q.* Is it not a fact that Mr. Theodore Dumont stated to you in substance, in the conversations when he spoke of his brother's refusal to contribute to his mother's support from the business, that he would fix him, or words to that effect? [Objected to as immaterial and irrelevant, and as leading.]

*A.* Yes, sir; he said he was satisfied that he could take his business now.

*Q.* Is it not a fact that he also stated to you in conversations referring to his brother that he would attend to him —take care of his case—get even with him, or words to that effect? [Same objection, and as having been gone over on direct examination.]

*A.* I do not know as he made it in exactly those words.

*Q.* In substance what? [Same objection.]

*A.* Well, I don't exactly understand you, Mr. Curtis.

*Q.* Didn't he express an open hostility to his brother? [Same objection.]

*A.* Yes, sir.

*Q.* State whether or not Mr. Theodore Dumont is of a vindicative character? [Same objection.]

*A.* Yes, sir.

*Q.* In his hatreds?

*A.* Yes, sir; he seems to have a mania for that kind of work.

*Q.* With his brother or other people whom he hates? [Same objection.]

*A.* Yes, sir; no difference who they are; on the least provocation.

*Q.* With the least provocation?

*A.* Yes, sir.

*Q.* Were you, during the spring of 1884, and after that, the early part of 1884, and after that, a constant companion of Mr. Theodore Dumont?

*A.* Not entirely; no, sir; not in the spring of 1884, and up to about the 1st of May; after that I was, but off and on through the winter.

*Q.* Was there any one with whom you associated more than you did with him?

*A.* I did not associate with anybody, except him, in Summit.

*Q.* You were a frequent visitor at his house during those times?

*A.* At card parties; yes, sir; no other times.

*Q.* You frequently went to ride with him?

*A.* Yes, sir.

*Q.* And he made a confidant of you?

*A.* Yes, sir.

*Q.* When were those trips to Newark that you spoke of?

*A.* They were in the spring of 1885—winter or spring of 1885.

*Q.* Were you in the habit of driving him to Newark?

*A.* Yes, sir.

*Q.* And bringing his horse back?

*A.* Yes, sir.

*Q.* Those trips were made on Sundays?

*A.* Yes, sir; generally about eleven o'clock in the morning we would start.

*A.* And you would bring the horse back after you left him at Newark?

*A.* Yes, sir.

*Q.* He would take the train at Newark for New York?

*A.* Yes, sir.

*A.* State what conversation took place between you and Mr. Isaac Devoe at the time you have spoken of on cross-examination?

*A.* Well, I met him there, and we were talking; I asked him about—if he was living out at Summit, and if his mother was then there, and he said no; we were talking about different things; I told him I understood there was going to be a contest over the will, and he was surprised; he did not know about it; he wanted to know who was contesting it, and I told him; we talked about different matters; he asked me what my quarrel with Dumont was; he told me that I was not the only one that he had quarreled with; that he frequently quarreled with men in the club over smaller things than he quarreled with me about.

*Q.* In playing at cards is it not a fact that Mr. Dumont frequently became violent for mistakes at cards?

*A.* Yes, sir.

*Q.* Was he abusive at those times?

*A.* Yes, sir; very abusive—to his partner; if he made a mistake there was no abuse.

*Q.* Mr. Dumont made a loan of $400 to you, did he?

*A.* He loaned my wife $400; my wife owned the property.

*Q.* And did he receive any security for that loan?

*A.* A bond and mortgage; yes, sir.

*Q.* On what?

*A.* A house in Summit.

*Q.* One of the conversations you have testified to regarding the will took place, you say, soon after Mr. Dumont's death?

*A.* Yes, sir.

*Q.* At the time Mrs. Dumont was quite feeble?

*A.* Yes, sir.

*Q.* Mr. Dumont told you she was feeble?

*A.* Yes, sir; in a very precarious condition.

*Q.* That she could not talk with him about it that day?

*A.* Yes, sir. [Objected to as leading, and as having been gone over on direct examination.]

*Q.* One conversation, you state, took place on the cars or ferry-boat?

*A.* Yes, sir.

*Q.* You are quite sure it was one or the other of those places?

*A.* Yes, sir.

*Q.* Which one it was you do not know?

*A.* I cannot testify.

*Q.* Who were Mr. Dumont's intimate friends at that time, the spring of 1884, as far as you know?

*A.* In Summit?

*Q.* Yes, sir.

*A.* Mr. Chapman was, up to the first of May, I think it was, until the freeholders had a meeting; he was an intimate friend of his.

*Q.* W. M. Chapman?

*A.* Yes, sir.

*Q.* Any one else?

*A.* Mr. Stowe—Frederick Stowe.

*Q.* Any one else?

*A.* Not intimately, I don't know, outside of myself.

*Q.* The bond and mortgage given by your wife to Mr. Dumont has been paid?

*A.* Yes, sir.

*Q.* You are not indebted to him now?

*A.* No, sir; in no sense.

*Q.* Is it not a fact that you were reluctant to testify in this case? [Objected to as leading.]

*A.* Yes, sir; I would rather have kept out of it.

*Q.* And after you were invited to come to my office, is it not a fact that you declined to come for several weeks?

*A.* Yes, sir; did you say after I came to your office?

*Q.* No, before.

*A.* Yes, sir; Mr. Dumont asked me four or five times, and wrote me letters.

*Q.* You at first refused to come?

*A.* Yes, sir; I told him I would not go.

Re-cross by Mr. Cranstoun.

*Q.* About that bond and mortgage—that $400 bond and mortgage—that was a second mortgage on your house?

*A.* Yes, sir; you drew it up.

*Q.* The property was then mortgaged for about its full value?

*A.* No, sir.

*Q.* Nearly so?

*A.* No, sir.

*Q.* Didn't you tell me, at the time I drew the bond and mortgage, that the property was mortgaged up pretty well, and you could not get money from anybody else, and that Mr. Dumont was the only person who could loan you that money?

*A.* I don't remember that; no, sir.

*Q.* Didn't you, at the same time, say that Mr. Dumont was the whitest man you knew of in the world?

*A.* I may have said it at that time; I may have thought so.

*Q.* And he was as dear to you as a brother?

*A.* I don't remember that.

*Q.* At the time the bond and mortgage was drawn?

*A.* I don't remember making that remark.

*Q.* How much was the first mortgage?

*A.* $2,700.

*Q.* The second mortgage was——[Interrupted.]

*A.* $400.

*Q.* Did you have any other mortgages on it?

*A.* No, sir.

*Q.* How much did you sell the property for?

*A.* $3,750.

*Q.* How many mortgages were on it before this $400?

*A.* Two.

*Q.* What were the whole amounts?

*A.* No; before the $400 mortgage of Mr. Dumont's?

*Q.* Yes.

*A.* One.

*Q.* Didn't you have a mortgage pressing you?

*A.* Yes, sir.

*Q.* One of $400?

*A.* Yes, sir; that was by Mr. Joshua Young.

*Q.* Weren't there threats of foreclosure against you?

*A.* I didn't pay the interest; yes, sir.

*Q.* And wasn't it for that reason that Mr. Dumont helped you?

*A.* No, sir.

*Q.* Didn't you get the $400 before the bond and mortgage was drawn?

*A.* Before the bond and mortgage was drawn?

*Q.* Yes.

*A.* No, sir; I did not.

*Q.* Did you get any money from him to pay interest with?

*A.* Not that I remember; no, sir; he paid me up in his office.

*Q.* Just refresh your memory and see if you did not get money from him?

*A.* Not on account of the bond and mortgage.

*Q.* Never mind about the bond and mortgage; didn't you get money before that to get you out of your difficulties?

*A.* Not that I remember; no, sir; I may; I don't know, but I don't think I did; I may.

*Q.* Did not Mr. Young threaten to foreclose the $400 mortgage?

*A.* I think he did; yes, sir; there was $2,700 on the house at the time; first it was $2,000 and the following year I got $2,700 from Mr. Potter.

*Q.* Didn't you borrow some money from Mr. Dumont on a note before that, which was to help you on the $400 Young mortgage?

*A.* I don't know, Mr. Cranstoun; I was mixed up so with that house that I cannot remember who I did borrow from; I may have done it, and then again I may not; I don't recollect; I know it was held over my head there for two or three years; a couple of years I thought I was going to lose my place.

*Q.* Didn't Mr. Dumont loan you sufficient money to buy your commutation ticket for a year?

*A.* Not that I remember.

*Q.* Didn't you say you were hard-pushed, and if you did not buy a ticket by the year it would cost you a good deal more, and every dollar helped?

*A.* I may have said it.

*Q.* And if he would let you have the money you would pay it back by installments?

*A.* I may have; I know he frequently loaned me money; I think that was, if I remember right, a part of

that $100, but I don't know that he loaned it for a ticket; I won't say what it was for, but I remember there was a note that I had paid certain payments on.

*Q.* Do you remember about it at all?

*A.* Now, since you speak about it, I remember there was a loan that I had paid certain amounts on, I don't remember it—I don't remember the amount or anything about it, but when he gave me this loan of $400, it was counted in the mortgage.

*Q.* You did not get $400 from him at the time?

*A.* No, sir; I do not think I did.

*Q.* You had $3,100 on the house?

*A.* Yes, sir.

*Q.* And it was sold for $3,750?

*A.* Yes, sir; and a woman refused $3,500 this fall for it.

*Q.* You do not call that the full value of the property, do you?

*A.* No, sir.

*Q.* When you say $3,100, it was not mortgaged for its full value?

*A.* No, sir.

*Q.* After that you sold it for $3,750?

*A.* Yes, sir; it cost me more than $3,750.

Re-redirect by Mr. Curtis.

*Q.* How much more?

*A.* About $250, or something like that—pretty near $4,000.

*Q.* How much did it cost you?

*A.* At least, the property was worth that much to me; the contract price was $3,000 and a little over for the house; that was not counting an extra well—putting down a well and making other improvements, grading, and so forth, that I had done, making it to amount to pretty near $3,500, if not quite $3,500; besides that, I had to pay bonus when I got my first mortgage and when I got my second mort-

gage, and I count it in the cost of my house; and there was the lot, although the lot was given to my wife, it stood as so much money, for my father-in-law sold property next door for $600, this spring.

Re-recross by Mr. Smith.

*Q.* When you went to the race-course, you say that you borrowed Mr. Dumont's pass, did you?

*A.* Yes, sir.

*Q.* Railroad passes?

*A.* Yes, sir.

*Q.* He had passes on almost all the railroads, didn't he?

*A.* Yes, sir; pretty near.

*Q.* How did you come to borrow them?

*A.* He offered them to me very often.

*Q.* You borrowed them every time you went, didn't you?

*A.* Almost every time.

*Q.* You borrowed his pass to go on the track, didn't you?

*A.* Yes, sir; that is what I have testified to.

*Q.* Didn't Mr. Dumont try to prevent you from betting at horse-races?

*A.* He would not have loaned me his pass if he did not want me to do it.

*Q.* How old are you?

*A.* That has nothing to do with it.

*Q.* How old are you?

*A.* I am of age.

*Q.* How old are you?

*A.* 33; will be in August.

*Q.* How old were you when you borrowed these passes?

*A.* 28 or 29; 30, or something like that.

*Q.* You went to the race-courses because Mr. Dumont loaned you passes?

*A.* No, you asked me —— [Interrupted.]

*Q.* I say, was that the reason you went?

*A.* No, sir.

*Q.* Well, why did you go?

*A.* Because I got infatuated with it, that is all.

*Q.* Because you wanted to go?

*A.* Yes, sir.

*Q.* I ask you again, did not Mr. Dumont try to prevent you from betting on horse-races?

*A.* No, sir.

*Q.* Did not Mr. Dumont, in the presence of Mr. Isaac Devoe, ask you not to bet on horse-races?

*A.* Not that I remember.

*Q.* Did not he ask you not to invest any money, or bet, or buy pools?

*A.* Not as I ever remember.

*Q.* Wasn't that about the first time that you ever went to any races that he asked you that?

*A.* I don't remember his asking me that; I cannot tell you what time it was.

*Q.* Don't you remember anything of that kind during your acquaintance with him?

*A.* No, sir.

*Q.* Do you belong to any of the clubs—any club at all that Mr. Dumont belongs to?

*A.* A club?

*Q.* Yes.

*A.* A political club.

*Q.* Is that the club you referred to when you spoke about club here?

*A.* No, sir.

*Q.* What club did you refer to?

*A.* The club that he belongs to; I don't know what club Mr. Devoe meant; I suppose a club in New York where they meet to play cards; I believe there are such things in New York.

*Q.* Is that the club you referred to?

*A.* That is the club I suppose he referred to; that is the remark he made.

*Q.* What did he say?

*A.* "Up to the club."

*Q.* What did Mr. Devoe say?

*A.* Talking about our quarrel about a game of cards, he said, "That is just the way he did up to the club, if he was dead wrong."

*Q.* Was this conversation the time you had the other conversation with Mr. Devoe about the testimony?

*A.* That was the time; we were talking about that almost the whole time.

*Q.* You say he was very abusive to his partner if he made a bad play?

*A.* Yes, sir.

*Q.* You were his partner how long?

*A.* Almost all the time.

*Q.* Well, for how long, a year?

*A.* Yes, sir.

*Q.* Two years?

*A.* I guess so.

*Q.* Well, for all that you were his partner for two years?

*A.* Yes, sir; because I was under obligations to him, I took a great deal more from him than I would from any other man; I stood it as long as I could.

*Q.* The obligations were what?

*A.* The same as I have stated—financial.

*Q.* Couldn't he have found anybody else in Summit to play cards but you?

*A.* Well, he didn't.

*Q.* Couldn't he?

*A.* I don't know about that; he got some one from Madison after I left.

*Q.* The club that you were playing with, you were introduced there by Mr. Dumont?

*A.* I think I was.

*Q.* Weren't you introduced into all those houses by Mr. Dumont?

*A.* No, sir; I went to Summit before Mr. Dumont came to Summit.

*Q.* Weren't you introduced by him?

*A.* No, sir; I went over to John Jackson's house years before Mr. Dumont ever lived there.

*Q.* Were you ever in either one of the houses of Mr. Boulanger, Mr. Stayle, or Mr. Vondune, before you went there with Mr. Dumont?

*A.* Stayle's? yes, sir; I was in Mr. Stayle's house; we had whist party at Mr. Jacklin's house; Mr. Stayle was there; we had been down there; as far as Vondune is concerned —— [Interrupted.]

*Q.* Mr. Stayle's house?

*A.* Yes, sir; but the other man, Boulanger, he did not move into Summit until about a year, I think, before.

*Q.* Mr. Vondune had been living there?

*A.* He was not in our set at that time.

*Q.* Did you go into those houses before you had went there with Mr. Dumont—Mr. Vondune's or Stayle's?

*A.* Mr. Stayle's house?

*Q.* Or Mr. Vondune's?

*A.* I was invited to come there by Mr. Boulanger.

*Q.* Now, did you go into the house of Boulanger or Vondune before you went there with Mr. Dumont; you can answer either yes or no?

*A.* I don't know as I went there the first time; I was invited there by them to go there.

*Q.* Answer the question?

*A.* I cannot answer yes or no; I cannot remember the first time I went in there.

*Q.* Who did you first go into Mr. Boulanger's house with?

*A.* I don't remember.

*Q.* Who did you first go into Mr. Boulanger's house with?

*A.* Mr. Dumont.

*Q.* Theodore Dumont?

*A.* Yes, sir; he lived somewhat out of the village, and I could not get there without I rode in a carriage.

*Q.* Did you ever go into those houses afterwards?

*A.* No, sir.

*Q.* The only times you went there were the times you have spoken about?

*A.* Yes, sir.

*Q.* Were they members of this whist club?

*A.* Yes, sir.

*Q.* And continued so?

*A.* Yes, sir.

*Q.* Is Mr. Dumont friendly with the other members of the club, do you know?

*A.* Is he now?

*Q.* Yes.

*A.* I don't know.

*Q.* Have you ever heard of his being unfriendly with either of them?

*A.* No, sir; I was not unfriendly with any of them, either.

*Q.* So that when you said that Mr. Theodore Dumont quarreled with the men in the club, you said that as what Mr. Devoe told you, was it?

*A.* Yes, sir; I will give you other testimony, as far as that is concerned, on that subject.

*Q.* I ask you whether you said that as what Mr. Devoe told you?

*A.* In his conversation with me; yes, sir.

*Q.* It was after May 1st, as I understand, that you became intimate with Mr. Theodore Dumont?

*A.* No; I was intimate with him before that; I was not as intimate with him before that as I was afterwards, but I was intimate with him; he came after me very often.

*Q.* You were more intimate with him after May 1st than before?

*A.* Yes, sir.

*Q.* Did you ever ride with him before May 1st?

*A.* Yes, sir.

*Q.* On Sunday?

*A.* Yes, sir.

*Q.* When?

*A.* A good many times; he used to come for me once in a while.

*Q.* Mention a Sunday that you remember riding with him before May 1st?

*A.* He used to take his sister up to church, and he would come around to our house.

*Q.* I ask you if you remember a Sunday?

*A.* Not a Sunday; no, sir; if you can find the date that Mr. Chapman's daughter was sick I can tell you.

*Q.* I am not on the stand; you are testifying.

*A.* Well, I don't know; I remember the time I went out with him, the most was the time that Chapman's daughter was sick.

*Q.* That was the time you went?

*A.* Yes, sir.

*Q.* That is the time you remember now?

*A.* I remember that one particular time, and I know there were other times.

*Q.* Well, what other times do you remember of?

*A.* I remember——[Interrupted.]

*Q.* His father died in January, 1884?

*A.* Yes, sir.

*Q.* Now, between that and May 1st, what times, on Sundays, do you remember riding with Mr. Theodore Dumont?

*A.* I do not remember any one Sunday, but I remember riding with him.

*Q.* Do you remember any particular Sunday?

*A.* Not the date; no, sir.

*Q.* Nor what month it was?

*A.* It was during the winter sometime.

*Q.* Commencing when?

*A.* Well, I rode with him before his father's death.

*Q.* I am not asking you that; I am asking you after his father died; you understand the question?

*A.* I don't know.

*Q.* Between January and May 1st?

*A.* Yes, sir.

*Q.* Do you remember a Sunday that you rode with Mr Dumont?

*A.* No, sir; only, as I said, off and on I went with him.

*Q.* But you cannot remember a Sunday in any month—January, February, March or April—that you rode with him?

*A.* He would have a difference with Chapman, and he would shake him and take me up.

*Q.* I say you do not remember a single Sunday?

*A.* Not the date of it.

*Q.* When was it that he had a difference with Chapman?

*A.* He had it in regard to the freeholders here—the freeholder's meeting.

*Q.* Election, wasn't it?

*A.* Election time.

*Q.* When was that?

*A.* I think it was the 1st of May.

*Q.* Do you know of any other differences before that?

*A.* Well, no more than he would call Chapman "a dirty, drunken sot."

*Q.* I did not ask you that; do you remember any other differences before that; I do not ask what he called him?

*A.* Yes, sir; over the cards on the train.

*Q.* When?

*A.* On the train, during the winter.

*Q.* That is what you referred to when you said "other differences," was it?

*A.* Yes, sir; I meant that; Chapman would be his partner and I was against him——[Interrupted.]

*Q.* Those are the other differences you referred to, then, outside of the one after May?

*A.* Yes, sir; it would not last more than a day or two, and they would make up again.

*Q.* Then, what had the differences with Chapman to do with your riding?

*A.* Simply because he would want to take some one out, and if he didn't want to take Chapman he would take me.

*Q.* Do you mean to say that any differences before the 1st of May between Mr. Dumont and Mr. Chapman were such that Mr. Chapman would not go out riding with him?

*A.* Yes, sir; I do.

*Q.* Or that Mr. Dumont would not take him?

*A.* That is it; Mr. Chapman would have gone with him if Mr. Dumont had gone after him.

*Q.* And it is because of those differences that you are positive you rode with him during that period?

*A.* No, sir; that is not my only proof.

*Q.* What other is there; you have already testified that it was on account of differences between Mr. Dumont and Mr. Chapman?

*A.* Simply because I used to look for him and he used to come for me during that winter.

*Q.* You mean after the 1st of January?

*A.* No, I mean before.

*Q.* I ask you after the 1st of January?

*A.* I am talking about during the winter; I don't remember about after the 1st of January, the exact time he took me out riding.

*Q.* After the 1st of January?

*A.* No, sir.

*Q.* What period are you speaking about—when do you mean by winter?

*A.* I mean winter; from the first of November to the—well, call this winter.

*Q.* You call this winter?

*A.* Yes; it is winter weather.

*Q.* You have the fact of the time of Mr. Dumont's death, haven't you?

*A.* Yes, sir.

*Q.* You know when that took place?

*A.* Yes, sir.

*Q.* Cannot you fix from that whether you rode with him after that—between that and the 1st of May, or not?

*A.* Yes, sir; I know I did.

*Q.* And you do not know how long after his death?

*A.* No, sir; I cannot tell you; I know several times.

*Q.* You know you rode with him?

*A.* Yes, sir.

Re-redirect by Mr. Curtis.

*Q.* Did Mr. Theodore Dumont ever quarrel with anybody else at cards but his partner?

*A.* Over the game of cards do you mean?

*Q.* Yes; did he ever quarrel at Mr. Boulanger's house?

*A.* That is where he had the quarrel with me.

*Q.* Did he ever quarrel with Mr. Boulanger?

*A.* That I don't know.

*Q.* Was it about Mr. Boulanger? [Objected to.]

*A.* No, sir.

*Q.* You were playing with Mr. Boulanger as a partner?

*A.* Yes, sir.

*Q.* And that was the cause of your quarrel with Mr. Dumont?

*A.* I made a certain play that was legitimate enough, but he took exception to it; he used abusive language, and I asked him a question that he got insulted about, so he said, and we have never spoken since.

Adjourned until April 13th, 1887 (Wednesday), at ten o'clock A. M.

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ELIZABETH, N. J., April 13th, 1887.

Appearances as before, with the exception of Mr. Curtis.

Adjourned by consent to April 20th, 1887, at ten o'clock A. M.

ELIZABETH, N. J., April 20th, 1887.

Taking of testimony in above-entitled matter continued, pursuant to adjournment last had.

Appearances as before, with the exception of Mr. Curtis.

*Robert D. Foot*, a witness called and sworn on behalf of the caveator, testified as follows:

Direct examination by Mr. Riker.

*Q.* You are a grandson of Robert Dumont and Mary B. Dumont?

*A.* Yes, sir.

*Q.* Your mother was their daughter?

*A.* Yes, sir.

*Q.* And is not living?

*A.* No, sir.

*Q.* You are the only child of your mother?

*A.* Yes, sir.

*Q.* Where do you live?

*A.* Morristown, New Jersey.

*Q.* What is your age?

*A.* Twenty-four.

*Q.* Between the time of the death of Robert Dumont and Mary B. Dumont, how frequently did you see her?

*A.* Well, I was there very seldom; I once made a stay of two weeks at the house when my grandmother was supposed to be dying; I think that was the spring before she died.

*Q.* Did you make any other visits at the house except that?

*A.* No; I just made calls on my grandmother in the day-time; staid there an hour or two and then went away.

*Q.* On those calls what members of the family did you see?

*A.* Well, I saw Mrs. Robbins and Miss Swords, and

my grandmother at various times; sometimes I would see one, sometimes the others, and sometimes all.

*Q.* Did you see Mr. Theodore Dumont?

*A.* Not that I recollect.

*Q.* You called before his hour for returning from business?

*A.* It was always in the day-time.

*Q.* Prior to your grandfather's death, did you visit the house more frequently or less frequently?

*A.* More frequently.

*Q.* What time did you make those visits?

*A.* It was then my home; I considered it my home—as much my home as any place was.

*Q.* What proportion of your time did you spend at your grandfather's prior to his death?

*A.* I spent most of my vacations there from college in the years 1882 and 1883; previous to that I was in Europe for five years.

*Q.* During the vacations of 1882 and 1883 you saw considerable of Mr. Theodore Dumont?

*A.* Yes, sir; I believe so.

*Q.* And also of Mr. William Dumont, did you or did not?

*A.* Not so much; he was not living home then.

*Q.* From your observations, at about the time of your grandfather's death and for some months subsequent to that time, what is your opinion in regard to the character of your grandmother, so far as her being difficult or easy to influence is concerned? [Objected to as irrelevant, immaterial and incompetent.]

*A.* I think that my grandmother's character was the same then as it always had been—that she was a woman that would do anything in the world for a person that she loved, and she would be strongly prejudiced and not at all inclined to do anything for any person that she hated; that she was a woman that could be lead and not driven.

*Q.* You have heard, or have you heard since your

grandfather's death, Mr. Theodore Dumont express his feelings in regard to William Dumont? [Objected to for same reasons as before.]

*A.* Yes, sir.

*Q.* State what you have heard him say, specifying the date? [Objected to for same reasons as before.]

*A.* I could not specify dates or places; I could say, in a general way, that Mr. Theodore Dumont expressed himself as not being on very friendly terms with Mr. William Dumont—quite to the contrary.

*Q.* What epithets did he use, as far as you can remember, in regard to him? [Objected to for same reasons as before.]

*A.* I don't know that I can specify any epithets.

*Q.* Well, what terms did he use? [Same objection as before.]

*A.* I could not specify his terms; in a general way, that he was a pretty low-down fellow; that is about as near as I can come to it; I cannot remember the exact terms.

*Q.* Did he use strong adjectives in expressing them? [Same objection as before.]

*A.* Very often.

*Q.* Cannot you recall some of them? [Same objection.]

*A.* I do not know that I can; I suppose they were usually strong adjectives employed, although they did not make a very great impression upon me.

*Q.* Were you able to get Theodore's feelings towards William? [Same objection as before.]

*A.* How do you mean, "able to get?"

*Q.* Able to determine what his feelings towards him were—his personal feelings? [Same objection as before.]

*A.* Yes, that he disliked him.

*Q.* Was the dislike a moderate dislike or a strong dislike?

*A.* A very strong dislike.

*Q.* Have you ever heard him speak of William's con-

nection with his father's business? [Same objection as before.]

*A.* I cannot remember; I have an impression that he has, but in what way—[witness hesitated]—I believe he told me; I think I am right in making this statement, that he used his influence to get William a situation with his father as book-keeper—that he used his influence to that effect, but I am not very positive about that; I think so; that is my impression, but I would be unwilling to swear to it, because it is not certain in my mind that he did.

*Q.* Between the death of your grandfather and the succeeding April, did you see Theodore Dumont at all?

*A.* I imagine I did; yes.

*Q.* Can you recall whether within that particular time you heard him use such epithets as you have already testified to? [Same objection as before.]

*A.* I cannot say that it was within that time; if I remember right, shortly after my grandfather's death, I went back to college; I could not specify any time that Theodore used any epithets; I do not remember any date or any place; I know it in a general way.

*Q.* Did you ever hear him, subsequent to your grandfather's death, make any remarks in regard to his mother's will? [Objected to for same reasons as before.]

*A.* I don't think that Theodore ever mentioned his mother's will to me that I know of—that I can remember.

*Q.* Were the expressions used by Theodore, of which you have spoken, made prior or subsequent to your grandfather's death?

*A.* Subsequent to his death.

*Q.* I wish you would now try to recall some of the particular expressions used by Theodore in speaking of his brother, and give the exact words. [Objected to for same reasons as before.]

*A.* I am unable to do it in a positive manner.

*Q.* Give, then, the words as near as you can remember them. [Objected to for same reasons.]

*A.* Well, he called him—I don't know—it is a very difficult thing to remember; the purport of it is that he might have been a thief, a blackguard; his conduct was altogether unfilial, but as to remembering the exact words, they never made enough impression upon me to remember them; that is the general purport.

Cross-examination by Mr. Smith.

*Q.* Did you have any conversation during this period with Mr. William Dumont?

*A.* Undoubtedly.

*Q.* How did he feel towards Mr. Theodore Dumont?

*A.* About the same way that Mr. Theodore felt toward Mr. William.

*Q.* You are not contesting the will, are you?

*A.* No, sir.

*Q.* You are satisfied with it as it is? [Objected to as not being cross-examination, and as irrelevant.]

*A.* I made no contest.

*Q.* No objections to it, have you?

*A.* I have made none.

*Q.* When did your mother die?

*A.* April, 1865; I think it was in April.

*Q.* Did she leave any estate?

*A.* Well, I am sure I don't know.

*Q.* You don't know whether she left any estate or not?

*A.* No; I know she left some silver.

*Q.* She left no real estate?

*A.* Not that I know of.

*Q.* No personal property?

*A.* Nothing that I know of except some jewelry, but nothing of any great value.

*Q.* Didn't she leave a large tract of land in Morristown?

*A.* I don't know.

*Q.* Never heard about it, eh?

*A.* No; what tract do you refer to?

*Q.* Well, is there any tract at all that you know of in Morristown that your mother left?

*A.* No.

*Q.* Mr. Theodore Dumont, in the conversations that he had with you, where those expressions that you spoke about, that you do not remember exactly what they were, were used, was complaining of his brother's treatment of his mother, wasn't he?

*A.* Yes, sir; not complaining, but criticising.

*Q.* You are a person, financially, of considerable means, are you not? [Objected to as not cross-examination, and as irrelevant and immaterial.]

*A.* I have some money; yes, sir.

*Q.* Sufficient to be independent of anything that you might get from the Dumont estate, are you not? [Objected to for same reasons.]

*A.* I am independently well off; yes, sir.

*Q.* And have been so for how long? [Objected to for same reasons.]

*A.* Two or three years—two years.

*Q.* What do you mean by saying that Mrs. Dumont was a woman that could not be driven?

*A.* I mean that she was a woman that had a mind of her own; that you could not force her.

*Q.* An intelligent woman?

*A.* Very.

*Q.* Of good judgment?

*A.* Very good judgment, in my opinion.

*Q.* Do you remember visiting at Mrs. Dumont's house after Mr. Dumont's death?

*A.* Yes, sir; the spring before my grandmother died.

*Q.* But previous to that, you don't remember?

*A.* I don't remember having made any visit, except to call; I might have, but I don't remember?

*Q.* You don't remember when?

*A.* No; I do not; it is very possible I did make visits, but I don't remember it now.

Redirect.

*Q.* Your father has married again, has he not?

*A.* No.

*Q.* Isn't he married?

*A.* No.

*Q.* What were your relations with your grandmother?

*A.* They were of the pleasantest kind; she was devoted to me, and I think I was devoted to her.

*Q.* You stated, on your cross-examination, that the epithets used by Mr. Theodore Dumont respecting Mr. William Dumont were used when he was speaking of William's treatment of his mother?

*A.* Yes, sir.

*Q.* Did you ever hear him use epithets when not speaking of this matter?

*A.* Hardly; well, I don't remember.

*Q.* You said that your grandmother could not be forced?

*A.* Yes, sir.

*Q.* Could she be influenced by other acts? [Objected to for the same reasons as on direct examination.]

*A.* She could be influenced by presentation of facts; my idea of my grandmother is that she would not be influenced on hearsay; those facts could be presented in a manner by a person that she liked that would have a great influence on her, more so than if they were presented by a person that she did not like, but she was a woman that, I think, weighed things, and came to a judgment independently.

*Q.* Would you say that she was yielding or otherwise towards those that she loved? [Objected to for same reasons.]

*A.* I would say that she was yielding; she was always to me; that was my personal experience.

Recross.

*Q.* Well, you think, then, that she, after hearing a matter, was a woman of sufficient judgment to carefully weigh it, and then make up her own mind?

*A.* Most decidedly so.

*Q.* You found that out in your experience—by being with her yourself?

*A.* Yes, sir; I should say so.

*Q.* Was she a woman, in your judgment, from your experience with her, who had a strong idea of right and wrong?

*A.* I think she would be influenced in her affections for persons; I know that she condoned many of my offences.

Caveator rests.

Adjourned until Saturday, May 7th, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., May 7th, 1887.

Examination of witnesses in the above-entitled matter adjourned until May 14th, 1887, at same time and place.

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ELIZABETH, N. J., May 14th, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment.

Appearances as heretofore.

*John L. Dumont*, a witness called and sworn on the part of the proponent, testified as follows:

Direct examination by Mr. Smith.

*Q.* Where do you reside?

*A.* In Brooklyn.

*Q.* What is your age, sir?

*A.* Fifty-five.

*Q.* Are you related to the late Mary B. Dumont, deceased?

*A.* Nephew of her husband.

*Q.* Did you know Mrs. Dumont?

*A.* Very well.

*Q.* Did you visit at her house?

*A.* Constantly.

*Q.* How frequently?

*A.* Within the last few years, perhaps three or four times a year; perhaps oftener.

*Q.* You visited Mrs. Dumont herself?

*A.* Yes, sir; visited the whole family; it was her house, and I visited her.

*Q.* Do you remember visiting her after the death of her husband?

*A.* Several times.

*Q.* After that time, do you remember visiting her?

*A.* Yes, sir; several times.

*Q.* Do you remember any conversation with her on any of those visits in relation to the business formerly carried on by her husband with her son William, and the overdrawing of the accounts by her son William?

*A.* I do.

*Q.* When was that conversation, if you remember?

*A.* The Saturday before Washington's birthday, in 1885.

*Q.* Where was it?

*A.* In the library.

*Q.* At her house in Summit?

*A.* At her house in Summit, in the library.

*Q.* State now the circumstances of the conversation, and what the conversation was?

By Mr. Riker—Objected to as incompetent, irrelevant, immaterial and not proper rebuttal.

*A.* I asked her if she was receiving anything from Uncle Robert's business; she answered, "No, that at first Willie

promised to give her something, but afterwards had refused;" she informed me that she had taken all her business out of his management, and was going to control it herself; I then asked her why she did not have William's books examined, to see if there was not something belonging to Uncle Robert there; she said, "No, she would not do that; that while Uncle Robert was living he had frequently complained that Willie had overdrawn his account, but she always made some excuse for him, and she felt very badly now at his treatment of her;" I then again asked her, "Why don't you have his books examined?" she said, "No, she would not do anything of the kind; that she felt very badly and did not want to talk about it, but when she was gone she would leave the bulk of her property to Nettie and Theodore;" that was the only conversation I ever had with her on the subject.

Cross-examination by Mr. Curtis.

*Q.* Do you know Charles A. Robbins?

*A.* I do.

*Q.* Is he in any way associated or connected with you in business?

*A.* He is my clerk.

*Q.* Do you know Theodore S. Dumont?

*A.* I do.

*Q.* Did he, at any time in the past, purchase for you a seat in the stock exchange?

*A.* He did.

Redirect by Mr. Smith.

*Q.* When was that?

*A.* In March, 1885; the money was paid back to him in December, 1885.

*Q.* By you?

*A.* Yes, sir; I sold the seat and paid him back the value of it in December, 1885.

*Q.* Do I understand that the money was loaned to you to buy the seat?

*A.* No, sir; it was given to me for my lifetime, to be willed back at my death, but when I sold the seat I gave him the money back; I didn't care to be owing it to him.

Recross.

*Q.* How much was the amount of his advance to you?

*A.* He did not advance anything, he made me a present of twenty-seven thousand and some hundred dollars.

Redirect.

*Q.* That you have paid back to him?

*A.* Yes, sir.

*Sarah R. Dumont*, a witness called and sworn on behalf of the proponent, testified as follows:

Direct examination by Mr. Smith.

*Q.* You are the wife of Mr. John L. Dumont, who has just testified?

*A.* Yes, sir.

*Q.* You knew Mrs. Mary Dumont, deceased, I suppose?

*A.* Very well.

*Q.* How well did you know her?

*A.* As well as I could know any one; intimately.

*Q.* Did you visit at her house in Summit?

*A.* Yes, sir.

*Q.* How frequently?

*A.* Sometimes three or four times a year—sometimes oftener.

*Q.* Do you remember any of those visits after her husband's death?

*A.* Yes, sir; quite soon after her husband's death.

*Q.* Do you remember, during any of those visits, any conversation with Mrs. Dumont in relation to the business of her husband?

*A.* I do.

*Q.* Please state what those conversations were?

By Mr. Riker—Fix the date, please.

*Q.* Can you fix the date of those?

*A.* No, sir; it was February or March.

*Q.* 1884; after her husband's death?

*A.* It was right after her husband's death.

*Q.* It was February or March after her husband's death?

*A.* Yes, sir; it was not later than that.

*Q.* That is, one of the visits, you mean?

*A.* The first visit after her husband's death.

*Q.* Then the next visit after that was about when—how long after that, three or four months?

*A.* No; before that; I think I went out quite frequently.

*Q.* Did that continue up to the time of her death—the visits there?

*A.* Yes, sir.

*Q.* During those visits, did you have any conversation, that you remember, with Mrs. Dumont in relation to the business of her husband, and her son William in connection with it?

*A.* The first visit——[Interrupted.]

By Mr. Riker—Answer the question.

Witness—Yes, sir.

*Q.* That was at the first visit, was it?

*A.* Yes, sir.

*Q.* State what the conversation was, please, that you remember?

By Mr. Riker—Objected to as incompetent, immaterial, irrelevant and as not proper rebuttal.

*A.* She told me that her son had overdrawn his account, and how badly Uncle Robert had felt on several occasions when he came from the office.

*Q.* Which son did she say?

*A.* William had overdrawn the account.

*Q.* Did she say how her husband exhibited his feeling bad when he returned? [Same objection.]

*A.* She said he would often come home with tears in his eyes.

*Q.* Did she say what she said at that time? [Same objection.]

*A.* No, sir.

*Q.* What did she say to you in relation to what took place when her husband came back in this state of feeling? [Same objection.]

*A.* She would feel very badly and feel it was unjust, but would not want to have any trouble about it.

*Q.* She said that?

*A.* Yes, sir.

*Q.* Was this all the conversation at that time that you remember in relation to this matter? [Same objection.]

*A.* All in regard to that of overdrawing the accounts.

*Q.* Was there any conversation at that time in relation to how her son William had treated her in relation to paying her anything out of the business? [Same objection.]

*A.* No, sir; not to me.

*Q.* Was there any conversation in relation to how the non-payment or overdrawing of the account by William had affected her? [Same objection.]

*A.* She said she often denied things herself on that account rather than have any trouble.

*Q.* You remember no other conversation after that in relation to this matter, do you? [Same objection.]

*A.* She repeated it several times, and I think on three occasions—I remember distinctly, on three different visits there.

*Q.* How did she seem to feel in relation to it, as exhibited by her words and actions? [Same objection.]

*A.* She was very much hurt about it, and felt it was unjust, but still she did not want any trouble.

*Q.* Unjust on whose part, did she say? [Same objection.]

*A.* She thought it was unjust on William's part.

Cross-examination by Mr. Riker.

*Q.* At the interviews with Mrs. Robert Dumont of which you have spoken, who, if any one, was present besides yourselves?

*A.* No one.

*Q.* Where did these conversations take place?

*A.* In her room at one time, and I think once in the library.

*Q.* Where did the first one take place?

*A.* I don't remember.

*Q.* Where did the three, which you distinctly remember, take place—you have spoken of three which you remember distinctly?

*A.* Twice in her own room and once in the library.

*Q.* Was the first one in her room?

*A.* I don't remember.

*Q.* Was the second one in her room?

*A.* I don't remember.

*Q.* Was the third one in her room?

*A.* I don't remember; I know there were two in her room and one in the library, but I could not tell you whether it was the first, second or third.

*Q.* At the times which you mention of conversing with her in her room, was she confined to her room by illness?

*A.* The first time, I think, was in the library, and she was about the house quite well; no, she was not confined to her room at any of the times.

*Q.* Where in Brooklyn do you live?

*A.* Macon street, 126.

*Q.* Do you know where Mr. Theodore Dumont lives?

*A.* Yes, sir; I do.

*Q.* Where?

*A.* Macon street.

*Q.* What number?

*A.* 152.

Redirect.

*Q.* How long has Mr. Theodore Dumont lived on Macon street, Brooklyn, do you know?

*A.* Since the 1st of January.

*Q.* How long have you lived in Macon street?

*A.* Since the 1st of May.

*Q.* This last May?

*A.* Yes, sir.

*Q.* Where did you live before that?

*A.* Cumberland street.

Recross by Mr. Curtis.

*Q.* Have you called upon Mr. Theodore Dumont or his family since you moved to Brooklyn?

*A.* I have.

Adjourned until Wednesday, May 25th, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., May 25th, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment last had.

Appearances as before.

By Mr. Smith—I call upon Mr. William H. Dumont to produce the balance sheets or statements for the years 1877, 1878 and 1879 of the firm of Robert Dumont & Son, requested at the last meeting.

By Mr. Curtis—Papers produced and handed to Mr. Smith.

*Philip Martin*, a witness produced and sworn on behalf of the proponent, in rebuttal, testified as follows:

Direct examination by Mr. Smith.

*Q.* Where do you reside?

*A.* At 782 Sixth avenue, New York city.

*Q.* What is your business?

*A.* I keep a barber-shop.

*Q.* Where?

*A.* At No. 2 Barclay place.

*Q.* In what building?

*A.* The Broadway Bank building.

*Q.* New York city?

*A.* Yes, sir.

*Q.* Do you know Mr. Theodore Dumont?

*A.* I do.

*Q.* Mr. William Dumont?

*A.* Yes, sir.

*Q.* Mr. Frederick J. Treat?

*A.* Yes, sir.

*Q.* Were you in the habit of attending races during the year 1884?

*A.* I was.

*Q.* For how long were you in the habit—how many years?

*A.* I have been attending races for the past ten years back.

*Q.* Off and on?

*A.* Yes, sir; off and on.

*Q.* Do you remember attending any races with Mr. Frederick J. Treat?

By Mr. Riker—What is the object of the question?

By Mr. Smith—The object is to rebut testimony of yours in relation to the first attendance at the races by Mr. Treat, on the direct examination of Mr. Treat.

*A.* I do.

*Q.* Do you remember the first race that you attended with Mr. Treat?

*A.* I do.

*Q.* About when was that?

*A.* It was in the summer of 1884; it was either the last

part of the spring meeting, or the first part of the fall meeting.

*Q.* At what horse-race?

*A.* At Sheep's Head Bay.

*Q.* State now the circumstances under which Mr. Treat and yourself attended that race together, and how he came to be with you at that time?

By Mr. Riker—I object to the question on the ground that it is irrelevant and not rebuttal.

*A.* Mr. Treat up to that day was a perfect stranger to me; Mr. Theodore Dumont came to my place of business in the morning, and he asked me if I was going to attend the races that day, I told him that I would, he then said, "Have you any objections to taking a friend of mine along?" I said, "Not at all;" he said, "A Mr. Treat, who had never been to the races before, was very anxious to go, and if I choose I should take him along;" I told him I would, and he then told me that he would send Mr. Treat around to me in the course of an hour.

By Mr. Riker—We move to strike out that whole testimony, to this point.

The witness [continuing]—In the course of an hour Mr. Treat came in and introduced himself to me, and asked me what time I was going down; I informed him that he should either meet me at my place of business at half-past twelve, or on the boat at ten minutes to one, and according to that he met me on the boat, and we went down together.

*Q.* Did Mr. Treat say whether that was the first race he had attended, or not?

*A.* On the way going down we talked over races, and Mr. Treat said he had never been to a race-track in his life, and he had been very anxious to see it; I told him that it would be very interesting to him if he had never seen it; of course we staid there during the afternoon and came up together.

*Q.* Was there anything said by Mr. Theodore Dumont,

at the time he spoke to you, about Mr. Treat's betting; if so, what was it? [Same objection as before.]

*A.* Mr. Dumont, when he asked me to take Mr. Treat down, he told me; he said, "Now don't induce Mr. Treat to bet on horse-races, because he is a man that cannot afford to lose his money;" so, when we went down to the races, when the first race came off, Mr. Treat asked me if I was going to bet on the race; I told him it was a race I did not know much about; I didn't think I would, but before the race took place I went to work myself and put $5 on one of the horses, he came and asked me what I had bet on, and I told him, "I have bet $5, but I would not advise you to put any money on this horse, because horse-racing is very uncertain, and I would not like you to lose your money;" he said, "I have about $20 or $25, and if I lose that it won't make any difference to me;" so he went to work and bought a ticket on the same horse I did, and as luck turned out the horse came in winner, and we made; it paid $19 and some cents for $5—it was a mutual pool ticket—which was something very extraordinary.

*Q.* Did you see Mr. Treat at the races frequently from that time?

*A.* I met him quite often after that.

*Q.* Do you remember Mr. Treat at any time saying to you anything in relation to letting Mr. Theodore Dumont know about his betting on horse-races? [Same objection as before.]

*A.* Yes, he requested me several times not to mention it to Mr. Dumont, about his betting on horses.

*Q.* Didn't want him to know about it?

*A.* Didn't want him to know about it?

*Q.* Did you have any conversation with Mr. Theodore Dumont, after the return from the race, in relation to Mr. Treat? [Same objection as before.]

*A.* On the first day?

*Q.* Yes; after the first day you were there?

*A.* Yes, sir; the next morning Mr. Dumont came in, and the moment he came in my place, he said: "Phil, I am very sorry that I introduced Mr. Treat to you to go to the races;" I said, "Why, he has made money;" and he said, "That is the very reason I wish he hadn't made any, in fact I wish he had lost, for that would have stopped him from going to the race; the man is now crazy to go to the races."

Cross-examination by Mr. Riker.

*Q.* How long have you known Mr. Theodore Dumont?

*A.* I have known Mr. Theodore Dumont—it was seven years ago last December when I went into business on the corner of Park Place and Broadway, and Mr. Dumont was then a customer at the place; I have known him ever since.

*Q.* How frequently is he into your place?

*A.* Mr. Dumont is there every morning, except when he happens to be away out of town anywhere.

*Q.* Have you met outside of your business relations?

*A.* Yes, sir.

*Q.* Been to the races together?

*A.* Yes, sir.

*Q.* Many times?

*A.* Not very often, because Mr. Dumont generally goes on Saturday, days I could not go.

*Q.* Well, about how frequently in the course of the racing season would you go with him?

*A.* I suppose I have met him as much as—perhaps three or four times during the season; last year I do not believe I met him at all.

*Q.* Did Mr. Dumont ever loan you his ticket to go into the races?

*A.* Whenever he did not go I asked him for his badge; I generally asked him for it and he gave it to me.

*Q.* Has he ever loaned you money?

*A.* Yes; I have borrowed money off Mr. Dumont.

*Q.* What sums?

*A.* Oh, small sums, $10 or $20, perhaps.

*Q.* How frequently?

*A.* Not very often; it is only when I needed it; maybe —perhaps two or three times a year.

*Q.* Have you ever assisted him in his business transactions?

*A.* Not at all, sir.

*Q.* Do you know a man by the name of Frederick Gallagher?

*A.* No, sir.

*Q.* Do you know a man by the name of Patsy Gallagher or Patrick Gallagher?

*A.* Yes, sir; I know him.

*Q.* Who is he?

*A.* He is a sporting man.

*Q.* Where is his place?

*A.* In Barclay street.

*Q.* A gambling-house, isn't it?

*A.* Yes, sir.

*Q.* What business did you have with Mr. Gallagher in behalf of Mr. Theodore Dumont?

*A.* I don't know as I have had any.

*Q.* Did you ever settle a little matter with Mr. Gallagher for Mr. Theodore Dumont?

*A.* I don't remember that I did.

By Mr. Smith—I object, as not a proper cross-examination of the witness.

*Q.* Do I understand, Mr. Martin, if you did any such thing as that, you have forgotten it?

*A.* No; if I did, I would not have forgotten it.

*Q.* Didn't you settle for Mr. Theodore Dumont a claim which was held by that house against him? [Objected to.]

*A.* Mr. Gallagher had spoken to me about it—about a settlement between them.

*Q.* Were you the person who arranged the terms of the settlement? [Objected to for same reasons as before.]

*A.* No, sir; Mr. Dumont and Mr. Gallagher had spoken to me about it, and Mr. Dumont, I believe, went and fixed it up with him, whatever it was.

*Q.* When was this?

*A.* I think it was a year; whether it was last May or the year before, I could not remember; I think it was two years ago.

*Q.* Can you recall the amount of the claim that Mr. Gallagher had against Mr. Theodore Dumont?

*A.* No, sir.

*Q.* Do you remember the nature of the claim?

*A.* I do not know what it was.

*Q.* Don't you know whether it was a gambling debt or not?

*A.* I do not know; I remember Mr. Gallagher saying that he had some claim against Mr. Dumont, but I didn't get any particulars of it.

*Q.* How did it happen that Mr. Gallagher spoke to you about this matter?

*A.* Mr. Gallagher and I had been quite intimate, and he very often spoke to me about his business affairs—so often, that that is one reason why, perhaps, I do not remember distinctly.

*Q.* Have you any business connection whatever with Mr. Gallagher?

*A.* Only that he comes to my place as a customer.

*Q.* You are not yourself a sporting man, are you?

*A.* No, sir; I cannot say that I come under that head; I carry on a legitimate business.

*Q.* I mean to say, you frequent places of sporting men?

*A.* No, sir; I do not; the race-track, I do.

*Q.* Then, I understand you, you have never made any investments at Mr. Gallagher's place?

*A.* No, sir; although, in fact, Mr. Gallagher would not allow me even if I wanted to; Mr. Gallagher thinks enough of me that he would not allow me, even if I wanted to, because he has informed me to that effect.

*Q.* What games are played at Mr. Gallagher's? [Objected to.]

*A.* I have not been in Mr. Gallagher's place within the last four or five years; I could not tell you whether they are playing games there at the present time.

*Q.* What games were played there then? [Objected to.]

*A.* The times that I have been in the place, they dealt faro and dealt a roulette wheel.

*Q.* How do you know that Mr. Gallagher would not let you play?

*A.* Mr. Gallagher always informed me that he thought a good deal of me, and did not want me to lose any of my money in his place.

*Q.* You judge from that that they were continuing the same sort of game where they could lose money?

*A.* That was some years ago; I have known Mr. Gallagher for the last fifteen years.

*Edward D. McConnell,* a witness called and sworn on behalf of the proponent, in rebuttal, testified as follows:

Direct examination by Mr. Smith.

*Q.* Where do you reside?

*A.* Madison, New Jersey.

*Q.* On the line of the Delaware, Lackawanna and Western road?

*A.* Yes, sir.

*Q.* How far beyond Summit?

*A.* Considered about four miles, I think.

*Q.* From Madison?

*A.* From Madison to Summit.

*Q.* Do you know Mr. Theodore Dumont?

*A.* Yes, sir; very intimately.

*Q.* Mr. Frederick J. Treat?

*A.* Yes, sir.

*Q.* What train did you usually come down from Madison in the morning?

*A.* Seven thirty-two from Madison.

*Q.* What time did that arrive at Summit?

*A.* Seven forty-three or seven forty-five.

*Q.* What train did Mr. Theodore Dumont and Mr. Treat usually come down in?

*A.* The same train that I did.

*Q.* What did you do on the way down in the train, usually?

*A.* Played whist.

*Q.* With whom?

*A.* Mr. Gearing; I played against Mr. Treat and Mr. Dumont.

*Q.* Was that the regular set?

*A.* It was considered so; yes, sir.

*Q.* When did this commence—this playing of this game by you four gentlemen?

*A.* I think it was in 1884.

*Q.* 1884 Mr. Dumont's father died, didn't he?

*A.* Yes, sir.

*Q.* Was it previons to that and after that?

*A.* We played before that, and after he died Mr. Dumont did not play for some little time.

*Q.* Previous to Mr. Dumont's father's death, which you remember was in 1884, you played the game in the cars, did you?

*A.* Yes, sir.

*Q.* And subsequent to that time?

*A.* Yes, sir.

*Q.* You say that Mr. Theodore Dumont did not play after his father's death?

*A.* For about three weeks or a month—maybe a little longer—he did not play.

*Q.* Would he go down on the same train?

*A.* Yes, sir.

*Q.* What would he do?

*A.* Sat on the seat; four or five seats ahead, while the set was playing, sometimes on the other side of the car, and sometimes directly behind us four or five seats.

*Q.* What was Mr. Treat doing?

*A.* He was playing cards in the set.

*Q.* How frequently did you play the game?

*A.* Every morning that the set played, except on Monday, when Mr. Treat went down on an earlier train.

*Q.* Do you remember of any instance when Mr. Treat was on the train that he did not play in the set in the cars?

*A.* No, sir; I do not.

*Q.* Who took Mr. Dumont's place during the month or so after his father's death?

*A.* Mr. Chapman generally played.

*Q.* In his place?

*A.* Yes, sir.

*Q.* Then, when Mr. Dumont commenced to play again, did the set continue as it was before?

*A.* Yes, sir.

*Q.* You and Mr. Gallagher, Mr. Theodore Dumont and Mr. Treat?

*A.* Yes, sir.

*Q.* How often did you play then?

*A.* Every morning.

*Q.* Except Mondays?

*A.* Yes, sir.

*Q.* Who took Mr. Treat's place then?

*A.* We generally got in whoever was on; we had to make the set up; sometimes one and sometimes another.

*Q.* During the month that Mr. Dumont was not playing, do you remember any time that Mr. Treat did not play cards in the set?

*A.* No, sir; I do not.

*Q.* Do you remember any time that Mr. Treat sat in the seat or went down with Mr. Dumont?

*A.* No, sir; I do not.

*Q.* If he had, you would have noticed it?

*A.* Yes, sir; he was always anxious to get up a game of cards, and generally made it up.

*Q.* It was invariable that you played a game of cards going down on the train?

*A.* Yes, sir.

*Q.* After Mr. Dumont commenced to play, do you remember any morning when Mr. Theodore Dumont and Mr. Treat were on the train together that they did not play in the set?

*A.* No, sir; I do not.

*Q.* How long did that last—the set between you gentlemen?

*A.* Well, we played there for over two years.

*Q.* Until when?

*A.* Until Mr. Dumont had a fuss with Mr. Treat during the summer; I think it was 1885.

*Q.* Up to that time, the playing was in the cars there, as you have already stated?

*A.* Yes, sir; the regular set.

*Q.* Do you remember any time, after Mr. Dumont's father's death up to the time when they stopped in 1885, that Mr. Theodore Dumont and Mr. Treat were on the train together that they did not join in the set?

*A.* No, sir.

*Q.* What was done when you arrived at Hoboken?

*A.* We generally went on the boat together, and sat on a seat right in a row.

*Q.* Who?

*A.* Mr. Chapman, Mr. Dumont, and sometimes Mr. Treat, and myself, but he generally went ahead as soon as the boat had got into the New York side—went off ahead of us.

*Q.* Why?

*A.* He said he had to get up to the bank at nine o'clock.

*Q.* Was that usual for him, to leave ahead of you?

*A.* Yes, sir.

*Q.* Do you remember any time that you did not go on the boat together after leaving the train at Hoboken?

*A.* No, sir; we all took the same boat.

*Q.* In conversation with each other?

*A.* Yes, sir.

*Q.* Do you remember any time that Mr. Dumont and Mr. Treat did not go on the boat with the party from 1884 to 1885, or left the party when they got upon the boat?

*A.* No, sir.

*Q.* What did you usually do when you arrived at New York city—the party?

*A.* Mr. Dumont and I invariably walked up together to Barclay street, and sometimes Mr. Chapman was with us; sometimes he would go ahead, but Mr. Dumont and I were always together.

*Q.* Then you were invariably in the company of Mr. Dumont from the time that he left Summit until you got up into New York, were you?

*A.* Yes, sir.

*Q.* That is, when he was on the train?

*A.* Yes, sir.

*Q.* Could there have been any conversation between Mr. Theodore Dumont and Mr. Treat when you were playing cards in the set on the way down in the train that the rest of the party would not have heard?

*A.* No, sir.

*Q.* Do you remember hearing any conversation during that time between Mr. Treat and Mr. Dumont in relation to William Dumont or his business?

*A.* No, sir; I never did.

*Q.* Do you remember any conversation at any time between Mr. Theodore Dumont and Mr. Treat in relation to the family matters of Mr. Theodore Dumont or his mother?

*A.* No, sir.

*Q.* If there had been such a conversation, you would have heard it, wouldn't you?

*A.* I would.

*Q.* You visited Mr. Dumont's place of residence in Summit, didn't you?

*A.* Very often; yes, sir.

*Q.* His mother's house?

*A.* Yes, sir.

*Q.* To play cards there in the set?

*A.* Yes, sir; I stayed there without playing cards.

*Q.* Spent the night there?

*A.* Yes, sir; I stayed there a week at a time.

*Q.* When did you first commence to play cards, if you remember, at the house, after the father's death?

*A.* I think it was either the 1st of May or the 1st of June of 1884.

*Q.* Was Mr. Treat present at that time?

*A.* No, sir.

*Q.* When did Mr. Treat first play there after that, if you remember?

*A.* I think it was about three months.

*Q.* After the 1st of May?

*A.* Yes, sir; it may have been four months; I don't know exactly; it was sometime afterwards.

*Q.* That would be about the 1st of September, as you remember, of that year—1884?

*A.* Yes, sir.

*Q.* Were you there the first time that he played?

*A.* I was.

*Q.* Where were you when he arrived?

*A.* I was at the dining-table.

*Q.* Was the whole family at the dining-table?

*A.* Yes, sir.

*Q.* Mrs. Dumont, too?

*A.* Yes, sir.

*Q.* After leaving the dining-table, where did you find Mr. Treat?

*A.* I found him in the sitting-room, or out on the piazza.

*Q.* You don't remember which place it was?

*A.* No, sir; I think it was on the piazza.

*Q.* Did Mrs. Dumont go out on the piazza at that time?

*A.* She came out after we had gotten out there, I think.

*Q.* How often did you play at that house?

*A.* Well, about once in every three weeks.

*Q.* And after this time, was Mr. Treat there the next time that you played, do you remember?

*A.* That I cannot tell; he was not there regular after that; he came off and on.

*Q.* What did Mrs. Dumont usually do after leaving the dining-table?

*A.* She followed us into the sitting-room a few minutes; Mr. Dumont and I generally went in ahead and she came in afterwards.

*Q.* And when Mr. Treat came there to play cards, was he in the sitting-room?

*A.* Generally; yes, sir.

*Q.* You would find him in the sitting-room?

*A.* Yes, sir.

*Q.* What, then, would Mrs. Dumont do?

*A.* She generally came in and took a chair, and took up the *Evening Post* and looked it over.

*Q.* And how long would she remain there?

*A.* Until the party was going to play cards; she then left, and she generally sat in the sitting-room with the family.

*Q.* And the rest of the family would go where?

*A.* Into the dining-room.

*Q.* Do you remember any time that Mr. Treat was there for the purpose of the game that you were not present at the house?

*A.* No, sir; I generally played there whenever they had any games.

*Q.* That was invariable?

*A.* Regularly; the regular set.

*Q.* You then were present usually when Mr. Treat was

at the house, present in the library with Mrs. Dumont, Mr. Theodore Dumont and Mr. Treat, were you?

*A.* Yes, sir.

*Q.* Did you at those times, or any time, see anything in the conduct of Mr. Theodore Dumont, or Mrs. Dumont, that indicated that Mrs. Dumont had fear of, or was afraid of, Mr. Theodore Dumont?

*A.* No, sir; she was affectionate to him.

*Q.* Her actions were affectionate towards him?

*A.* Yes, sir.

*Q.* And what was his towards his mother?

*A.* He was the most devoted son I ever saw.

*Q.* Was there any objection that you knew of, or heard, on the part of Mrs. Dumont, to the playing of cards in the house?

*A.* On the part of Mrs. Dumont?

*Q.* Yes.

*A.* No, sir.

*Q.* Or of Mr. Theodore Dumont's playing?

*A.* No, sir; she was in favor of it, and told him to play and have a good time.

*Q.* Do you remember any instances that she requested him not to play in the house, or play cards?

*A.* Never, sir; she generally took a great interest in fixing the table after we got through dinner, to have everything arranged, and when the games were to be there she hurried us through so that she could have things fixed.

*Q.* What train did you come out in, in the afternoon usually?

*A.* Five-twenty from New York.

*Q.* Who, of the set, came out in that train?

*A.* Mr. Dumont and Mr. Gearing.

*Q.* Did Mr. Treat come out in it?

*A.* No, sir.

*Q.* What train did he come out in?

*A.* He came in an earlier train; four-thirty usually.

*Q.* Did you carry on the set of whist on the way out in the afternoon?

*A.* Yes, sir; it was a different set, Mr. Treat not being there.

*Q.* Was that invariably the case on the way up?

*A.* Always.

*Q.* The same as going down in the morning?

*A.* Yes, sir.

*Q.* Was Mr. Theodore Dumont—what was his conduct in the game, as to being quarrelsome or not?

*A.* I never knew him to be quarrelsome; very often he would fly up for what he thought was a miss-play, but it was all over in a minute.

*Q.* That is very usual?

*A.* Very indeed, there are very few players that don't do it.

*Q.* Do you remember any conversation between Mr. Theodore Dumont and his mother in relation to his going to play cards at any particular time?

*A.* I remember one instance; yes, sir.

*Q.* What was it.

*A.* I think Miss Swords was there, and she said something about playing cards; we were going over to Mr. De Forest's house; Mr. Dumont said, "Well, mamma, if you don't want me to go I will stay home;" she was not feeling very well, and she said, "No, go; I want you to go and have a good time," and we walked over together; that was the only time I ever heard anything said about it.

Cross-examination by Mr. Curtis.

*Q.* How long have you known Mr. Theodore Dumont?

*A.* I have known him about six or seven years, I guess.

*Q.* When did you first begin playing cards?

*A.* I think it was in 1884.

*Q.* Who was his partner at that time?

*A.* Mr. Treat generally in the mornings.

*Q.* Who was his partner before Mr. Treat became his partner?

*A.* I don't know; that was the time I got into that set.

*Q.* You do not know who was his partner before that?

*A.* His partner?

*Q.* Before Treat?

*A.* No, sir; I don't know.

*Q.* How long did Treat continue to be his partner?

*A.* A year and a half or two years.

*Q.* Who became his partner after that?

*A.* That set was broke up in the morning.

*Q.* Were you his partner?

*A.* Yes, sir.

*Q.* When?

*A.* Every night.

*Q.* How long did you continue to be his partner?

*A.* About two or three years, I think.

*Q.* Until he moved away from Summit?

*A.* Yes, sir.

*Q.* Did you ever have any financial transactions with Mr. Dumont?

*A.* Did I?

*Q.* Yes?

*A.* In what way?

*Q.* In any way.

*A.* I borrowed money from him.

*Q.* How frequently?

*A.* Twice.

*Q.* Didn't you at one time borrow $70 from him?

*A.* No, sir.

*Q.* Did you not at one time owe him $70?

*A.* Never.

*Q.* Didn't Mr. Hugh Tooler ever advance you any money for the purpose of enabling you to repay a debt against you of Mr. Dumont's?

*A.* No, sir; I never borrowed $5 from Mr. Tooler in my life, or five cents.

*Q.* Did you ever receive any money from Mr. Tooler which you paid to Mr Dumont?

*A.* I have paid—I cannot say that—yes, I think I had money that Mr. Tooler lost with Mr. Dumont at cards; that is the only time he has given it to me to give to him.

*Q.* Did you ever lose money at cards—playing cards with Mr. Dumont?

*A.* No, sir; I never did.

*Q.* Did you play for money?

*A.* Did I?

*Q.* Yes.

*A.* No, sir; not at that time.

*Q.* At any time?

*A.* I have since; yes, sir.

*Q.* When Mr. Dumont has been your partner?

*A.* No, sir.

*Q.* Did you play for so much a corner in whist?

*A.* No, sir.

*Q.* Those were games--there was no money on those games?

*A.* There was money bet, but I had no interest in it.

*Q.* Who did.

*A.* The rest of the players, whoever they were.

*Q.* Did Mr. Dumont put up for himself and his partner?

*A.* No, sir; in the evening games I bet points and he took my bet.

*Q.* So that you did not use any money of your own?

*A.* Not a cent.

*Q.* Mr. Dumont took your bets?

*A.* Yes, sir.

*Q.* That was the invariable rule, was it?

*A.* Not always.

*Q.* I understand you to say that you did not use any money; there was money on the games?

*A.* Yes, sir.

*Q.* And the money that was put up was put up by Mr. Dumont, so far as you and he were concerned?

*A.* Yes, sir.

*Q.* You put up no money at all?

*A.* Not a cent.

*Q.* Did Mr. Hugh Tooler, at any time, offer you any money, which you declined, for the purpose of paying Mr. Dumont a debt?

*A.* No, sir.

*Q.* You are quite sure about that?

*A.* I know it.

*Q.* It is not a failure of memory on your part at all, but you are positive about it?

*A.* I am.

*Q.* You say Mr. Treat was Mr. Dumont's partner for a year and a half after you began playing?

*A.* About that time.

*Q.* What were the relations existing between Mr. Treat and Mr. Dumont?

*A.* They were friends.

*Q.* Together frequently?

*A.* Yes, sir.

*Q.* Did you ever see them riding together?

*A.* No, sir; I never did.

*Q.* Did you ever see them talking together?

*A.* No, I cannot say I did, unless there was somebody around; the only time I ever saw him was in the morning.

*Q.* Did you ever see them talking together?

*A.* No, sir.

*Q.* You never saw them talk together?

*A.* In general conversation with other people?

*Q.* I asked you if you ever saw them talking together?

*A.* I never saw them unless there was somebody around.

*Q.* Will you answer my question categorically; I ask you whether you saw those two gentlemen talking together?

*A.* No, sir; I never did.

*Q.* So far as you know, did the same relations exist, so far as the games were concerned, between Mr. Dumont and Mr. Treat as existed between you and Mr. Dumont?

*A.* Yes, sir.

*Q.* And you succeeded that relation which Mr. Treat bore to Mr. Dumont?

*A.* Yes, sir.

*Q.* You are intimate with Mr. Dumont?

*A.* Yes, sir.

*Q.* And still are?

*A.* Yes, sir.

*Q.* And came here at his request?

*A.* Yes, sir.

*Q.* What friends did Mr. Dumont have at the time you speak of, when you first began to play cards?

*A.* What intimate friends?

*Q.* Yes, sir; if you know.

*A.* I don't know that he had any particular intimate friends; he was friends with almost everybody.

*Q.* You don't know that he had any intimate friends?

*A.* No, sir.

*Q.* When did you first meet Mr. Dumont to play cards with him?

*A.* I think it was in 1884.

*Q.* What part of 1884?

*A.* I cannot tell exactly; I could not tell you that.

*Q.* Fix it approximately?

*A.* I could not tell whether it was the latter part of 1883 or the beginning of 1884.

*Q.* What is your best recollection about it?

*A.* I think it was before the 1st of January, 1884.

*Q.* How long?

*A.* I cannot tell you that.

*Q.* Two months, three months, or six?

*A.* I cannot tell you; but I knew him a long time before that, but not to play cards with him.

*Q.* At whose request did you come into the game?

*A.* I don't know that it was anybody's request.

*Q.* How did you happen to come into the set?

*A.* To make it up.

*Q.* Was there a place which you took in the set?

*A.* I cannot tell; somebody was away from there, and I commenced to play, and after that I always played.

*Q.* Prior to the time you met Mr. Dumont in whist, did you know him intimately?

*A.* No, sir.

*Q.* When did you begin to have an intimate acquaintance with Mr. Dumont?

*A.* I think it was in May, 1884, when I first went down there to play whist at his house, and joined that set in Summit.

*Q.* Did you ever go to the race-track with Mr. Dumont?

*A.* Once.

*Q.* What is your business?

*A.* I am in the woolen business.

*Q.* In New York?

*A.* Yes, sir.

*Q.* How long have you resided in Madison?

*A.* Twelve years.

*Q.* What are your present relations with Mr. Dumont, pleasant or otherwise?

*A.* They have always been pleasant.

*Q.* Do you know Mr. Chapman, of Summit?

*A.* Yes, sir.

*Q.* Did he at one time form a player in your set?

*A.* Yes, sir.

*Q.* When?

*A.* When anybody was away he generally took their place.

*Q.* Fix the time, please, when any such thing took place?

*A.* I cannot tell that; it may have been once a week or once a month.

*Q.* What year?

*A.* 1884, I think.

*Q.* Did you ever see him play before that?

*A.* I may have seen him.

*Q.* Did you?

*A.* I cannot tell you.

*Q.* You don't know?

*A.* No, sir.

*Q.* You don't know how frequently in 1884 he played?

*A.* No; I cannot say that.

*Q.* Did he play in January, 1884?

*A.* I cannot say that.

*Q.* Did he play in February, 1884?

*A.* He may have.

*Q.* Did he?

*A.* I think he did.

*Q.* Did he play in March?

*A.* He may have played.

*Q.* Did he?

*A.* I cannot tell you.

*Q.* Did he play in April?

*A.* Oh, I don't know.

*Q.* Did he play in May?

*A.* That I don't know.

*Q.* Do you know whether he did or not?

*A.* He may have; he played so seldom I cannot bring any particular time to my mind.

*Q.* He played so seldom?

*A.* Yes, sir.

*Q.* Did you meet Mr. Chapman during the spring of 1884 at the house of Mr. Dumont, in Summit?

*A.* I never met him there in my life.

*Q.* When did you first begin to go to the house?

*A.* I think it was in May or June, 1884; it was in the summer time.

*Q.* Came down in the evening, or got off the train?

*A.* I got off the train and spent the night there.

*Q.* Your relations to Mr. Dumont have been specially friendly for the last year and a half, have they not?

*A.* Yes, sir.

*Q.* Have you any more intimate friend than Mr. Dumont?

*A.* I don't know that I have any more.

*Q.* You have received presents at his hands?

*A.* Small presents; I don't know that you could call them presents, however.

*Q.* Who was present at the evening whist parties?

*A.* Mr. Boulanger, Mr. Van Doun, Mr. Treat, Mr. Dumont and myself, and sometimes Mr. De Forest.

*Q.* Mr. Ottie De Forest?

*A.* Yes, sir.

*Q.* Do you know what was the occasion of Mr. Treat's stopping tc play or ceasing to be the partner of Mr. Dumont?

*A.* Yes, sir.

*Q.* Some difficulty between Mr. Dumont and Mr. Treat?

*A.* Yes, sir.

*Q.* Personal difficulty?

*A.* No, sir.

*Q.* Do you know what their relations have been since then?

*A.* I don't think they have spoken.

*Q.* At the evening plays at the house, who was Mr. Dumont's partner?

*A.* He played with different people; they cut in different rubbers; they did not play with the same partner every rubber; they cut the cards and the two highest would play together and the two lowest.

*Q.* Who was it that usually played at those games?

*A.* Mr. Boulanger, Mr. Van Doun, Mr. Treat, myself, and sometimes Mr. DeForest.

*Q.* Did not Mr. Stayle sometimes play?

*A.* He played once or twice, but he was away from Summit then.

*Q.* Who was your partner at that time?

*A.* I cut in first one and then the other.

*Q.* Who was usually your partner; who did you consider your partner?

*A.* There was no consideration about it; it had to go as the cards were cut.

*Q.* How frequently did you play during the evenings?

*A.* Once a week.

*Q.* Was that the regular thing?

*A.* Yes, sir.

*Q.* And you were in attendance every night?

*A.* I don't think I missed a time.

*Q.* What evening was that?

*A.* Generally on Monday evening.

*Q.* You say you were present every Monday evening when the game was played?

*A.* Yes, sir.

*Q.* Covering what period?

*A.* From 1884 up to the time of his mother's death.

*Q.* You recollect positively you did not miss an evening?

*A.* No, sir.

*Q.* You say you did not miss an evening?

*A.* Not that I remember.

*Q.* You swear positively to that?

*A.* Yes, sir, when the regular set was played; they very often had extra sessions.

*Q.* And there were evenings that you were not present?

*A.* I don't think there was a single time.

*Q.* How frequently were those extra sessions?

*A.* When Mr. DeForest was there he tried to get up a game.

*Q.* Would you know of those every time they took place?

*A.* Yes, sir.

*Q.* And you were in attendance every time?

*A.* I think I was.

*Q.* You swear that every game of cards that was played at Mr. Dumont's house, from 1884 to 1885, you were present at?

*A.* I think I can.

*Q.* Whether it was a regular or an extra session?

*A.* I don't know about the extra sessions; I won't say that.

*Q.* What do you say as to that?

*A.* I think I was.

*Q.* You think you were present at every extra session, as well as every regular session?

*A.* Yes, sir.

*Q.* Did any one else besides Mr. De Forest get up any extra games or sessions during the week?

*A.* I don't know; it was spoken of in the train, and it was sometimes at Mr. De Forest's house and sometimes at Mr. Dumont's house.

*Q.* Sometimes at Mr. Stayle's house?

*A.* I was never at Mr. Stayle's house in my life.

*Q.* Sometimes at Mr. Boulanger's house?

*A.* Yes, sir.

*Q.* You never played at Mr. Stayle's?

*A.* No, sir.

*Q.* How many times did you play at Mr. Boulanger's?

*A.* Once in three weeks.

*Q.* How many times at Mr. De Forest's house?

*A.* I have been there a dozen times, I suppose.

*Q.* Did you ever play any extra sessions at Mr. Boulanger's house?

*A.* I could not say; maybe; I think it was generally at Mr. De Forest's or Mr. Dumont's.

*Q.* You don't know whether you played any extra sessions at Mr. Boulanger's house?

*A.* I don't think I did.

*Q.* You never played at Mr. Stayle's house?

*A.* No, sir.

*Q.* Did you ever play at Mr. Van Doun's house?

*A.* Only the times he used to have it.

*Q.* Did you ever play there?

*A.* Yes, sir.

*Q.* How frequently?

*A.* Once in every three weeks.

*Q.* No oftener than that?

*A.* No, sir.

*Q.* You are sure you played there once in three weeks?

*A.* I won't be sure of that, because sometimes it would not be convenient for him to have it, and it would go to somebody else's house, and then come around to his regular turn again.

*Q.* Do you know Philip Martin, who testified here to-day?

*A.* I never saw him before.

*Q.* At any time, when you were present at the house of Mr. Dumont in Summit, did any discussion or conversation take place between Mr. Dumont or any member of the family regarding gambling at the house?

*A.* Yes, sir.

*Q.* When was that?

*A.* I don't know the exact date.

*Q.* About when?

*A.* That I cannot tell you.

*Q.* Between whom was the conversation?

*A.* It was not exactly a conversation; Miss Swords said at one time she wished they would not have it; she objected to playing cards, or the playing of cards for money.

*Q.* Who was present?

*A.* Mrs. Dumont, I think.

*Q.* State all that took place—what was said?

*A.* I cannot tell you the exact conversation; I know she said that she wished those parties would break up; she did not approve of playing for money.

*Q.* What did Mrs. Dumont say?

*A.* I don't know what reply she made, but I inferred that she did not object to it as long as her son could afford it, and did not go beyond his allowance, he was at liberty to do it.

*Q.* You say that was your inference?

*A.* Yes, sir.

*Q.* You cannot say what she said on the subject?

*A.* No, sir; not the exact words.

*Q.* What did Theodore state?

*A.* I don't know that he said anything at that time.

*Q.* You don't know that he said anything?

*A.* No, sir.

*Q.* Are you sure that he said nothing?

*A.* I am not sure of that either.

*Q.* Will you state what your best recollection is?

*A.* I don't remember it at all.

*Q.* Then, as I understand you, Miss Swords entered some protest against gambling in the house?

*A.* Yes, sir.

*Q.* In the presence of Mrs. Dumont, and Mr. Theodore Dumont, and yourself?

*A.* Yes, sir.

*Q.* Anybody else?

*A.* I don't know whether Mrs. Robbins was there or not.

*Q.* And the discussion fell flat?

*A.* There was nothing said about it much.

*Q.* No one made a reply to it?

*A.* Except what Mrs. Dumont said.

*Q.* What did she say, in words?

*A.* I could not give you the exact words, but if he could afford it, and did not go beyond his allowance, he was at liberty to do it if it gave him any pleasure.

*Q.* And you say that was said in the presence of Miss Swords?

*A.* I think it was.

*Q.* And Mrs. Robbins?

*A.* I don't know whether she was there or not.

*Q.* What is your best recollection on that subject?

*A.* I cannot tell you whether she was or not; she sometimes came in and went out of the room.

*Q.* I ask for your best recollection as to that?

*A.* I cannot recollect.

*Q.* Where was the conversation held?

*A.* In the library.

*Q.* When?

*A.* In the evening, after dinner.

*Q.* What year?

*A.* I think it was in the summer of 1885; I won't be positive about that; it was in the summer time, when she was visiting there.

*Q.* After dinner?

*A.* Yes, sir.

*Q.* And the family were gathered in the library?

*A.* Mrs. Dumont and Miss Swords, and Mr. Dumont and myself were there.

*Q.* Was Mr. Robbins there?

*A.* I think not.

*Q.* And, as I understand you, Mrs. Dumont acquiesced in the gambling?

*A.* Yes, sir; I judged so.

*Q.* And Mr. Theodore Dumont made no reply whatever?

*A.* I cannot tell you that; I don't remember exactly what he said; it didn't amount to anything.

*Q.* I didn't ask you whether it amounted to anything but what he said?

*A.* I cannot tell you.

*Q.* Your memory is a blank upon what he said?

*A.* As far as the general words that he made, I don't know.

*Q.* Do you know anything about it; if you do, testify in regard to it?

*A.* No, sir.

*Q.* All you do remember positively is what Miss Swords said; whatever else was said you have no recollection?

*A.* I am not testifying her exact words, but that is about what she said.

*Q.* You are endeavoring to give the substance of her statement?

*A.* Yes, sir.

*Q.* But you cannot give the substance of the reply or conversation had between the others?

*A.* No, sir; I gave what Mrs. Dumont intimated, as well as Miss Swords.

*Q.* And that is all?

*A.* Yes, sir.

*Q.* Don't you know, as a matter of fact, that Mr. Theodore Dumont was very indignant at the suggestion of Miss Swords?

*A.* I don't know that he was.

*Q.* Was he at any time?

*A.* I don't know whether he said anything afterwards about it or not.

*Q.* Do you know that he did not?

*A.* No, I do not.

*Q.* Don't you know that he repelled the suggestion of Miss Swords with an oath?

*A.* No, sir, I do not remember it; I never heard him utter an oath in the presence of his mother in my life.

*Q.* I asked you whether you do not know that he repelled the suggestion of Miss Swords with an oath?

*A.* No, sir.

*Q.* Didn't he tell her that it was none of her business?

*A.* I don't know whether he did or not.

*Q.* Do you know that he did not?

*A.* No, sir.

*Q.* And as to what he did say, your mind is entirely a blank, is it?

*A.* I don't remember whether he said anything at all; he might have turned around and walked out of the room.

*Q.* Mr. Dumont's nature is a docile one, isn't it?

*A.* I don't know that it is.

*Q.* Submissive?

*A.* To certain things, yes.

*Q.* A man who has great prejudices against profanity?

*A.* He is profane at times.

*Q.* He is not easily excited?

*A.* Yes, he is.

*Q.* But he did not think enough of this suggestion of Miss Swords to pay any attention to it?

*A.* I don't know whether he did or not.

Redirect examination.

*Q.* That is, you don't remember?

*A.* I don't remember that he said anything.

*Q.* The conversation, as you remember, was between Miss Swords and Mrs. Dumont, was it?

*A.* That is it; I think about that time the rest of the party came in, and we left the room to go into the dining-room.

*Q.* The rest of the card party came in?

*A.* Yes, sir.

*Q.* And that cut off the conversation?

*A.* Yes, sir.

*Q.* That is as you remember now?

*A.* That is as I remember, as far as I know.

*Q.* You were asked whether Mr. Dumont had any particular intimate friends, and I think you said that you did not know that he had; you do not mean to say that Mr. Dumont had no intimate friends, do you?

*A.* Not at all; no.

*Q.* In the games that took place at the house, as I understand, there was betting, was there?

*A.* Yes, sir.

*Q.* How much was the amount usually put on the game—bet?

*A.* It was shilling points, twelve and a half cents a point, and then a dollar, two dollars, and sometimes something extra on the rubber.

*Q.* That is quite customary in card clubs among gentlemen, to put up small stakes on the game?

*A.* I never heard of a club playing that they did not bet something.

*Q.* Was Mr. Dumont, in the games at the house—was his habit insulting to the other members playing?

*A.* No, sir.

*Q.* Or to his partner?

*A.* No, sir.

*Q.* Do you ever remember of his ever treating Mr. Treat in an insulting manner in any of the games that were played at the house?

*A.* No, sir; I do not. [Objected to as not proper redirect.]

*Q.* Do you remember of any instance where Mr. Dumont's conduct to Mr. Treat, at any of the games at the house, was insulting? [Same objection.]

*A.* No, sir; on the contrary, I think Mr. Treat insulted Mr. Dumont.

By Mr. Riker—I move to strike out as irresponsive, immaterial and not proper redirect.

*Q.* Your intimate acquaintance with Mr. Theodore Dumont commenced in 1884, but you played cards previous to that time?

*A.* Yes, sir.

*Q.* On the train?

*A.* Yes, sir.

*Q.* In the set I suppose?

*A.* Yes, sir.

*Q.* And with Mr. Treat also?

*A.* Yes, sir.

Recross.

*Q.* Do you consider it insulting for one person to address another, and use profanity, and call him a "damn fool?"

*A.* Well, I don't know, if it is meant in earnest I might.

*Q.* Assuming that two gentlemen were playing cards together and a miss-play had been made, and one partner

called another a "damn fool," would you regard that as insulting?

By Mr. Smith—Objected to, on the ground that it is a hypothetical question.

*A.* I never had it tried on me, so I don't know.

*Q.* You don't know whether that would be insulting or not?

*A.* It would depend altogether upon who did it.

*Q.* Assuming that Mr. Theodore Dumont called his partner a "damn fool," would you consider that insulting?

*A.* I never heard him call him that.

*Q.* I didn't ask you that; I say assuming that he did?

*A.* If done under the impulse of the moment, no.

Redirect.

*Q.* Did you ever hear Mr. Dumont, any time you played with him, call his partner a "damn fool?"

*A.* I never did.

*Q.* Did you ever hear him call Mr. Treat a "damn fool?"

*A.* I never did.

*Wilmot M. Chapman*, a witness called and sworn on behalf of the proponent, in rebuttal, testified as follows:

Direct examination by Mr. Cranstoun.

*Q.* Where do you reside?

*A.* Summit, New Jersey.

*Q.* How long have you resided there?

*A.* Fifteen years.

*Q.* Are you acquainted with Theodore Dumont?

*A.* Yes, sir.

*Q.* How long have you been acquainted with him?

*A.* Ever since he came to Summit, seven or eight years, I should judge.

*Q.* Are you acquainted with Frederick J. Treat?

*A.* Yes, sir.

*Q.* Have you ever rode out with Mr. Theodore Dumont?

*A.* Yes, sir; a great many times.

*Q.* Frequently?

*A.* Yes, sir.

*Q.* When did that first begin?

*A.* In the spring of 1882.

*Q.* How long did it continue?

*A.* Until about June, 1884.

*Q.* Do you remember when your child was sick?

*A.* Yes, sir.

*Q.* When was that?

*A.* From the 1st of December, 1883, to the Christmas day—to the 25th day of December, 1883.

*Q.* Who was your family physician at that time?

*A.* Doctor Risk.

*Q.* He attended your child, did he?

*A.* Yes, sir.

*Q.* During your child's sickness, at that time, in the month of September, did you ride then with Mr. Dumont?

*A.* No, sir; I missed two or three Sundays.

*Q.* On what days—what day of the week was it that you rode with him?

*A.* Sundays always.

*Q.* Always on Sunday?

*A.* Yes, sir.

*Q.* From the 1st of January, 1884, to the 1st of June, 1884, were there any times during that time that you did not ride with Mr. Dumont on Sunday?

*A.* There was one Sunday, immediately after his father's death and burial, that he explained to me that he would not call for me, on account of his mother's illness, so that I could make other arrangements; I missed one Sunday.

*Q.* Did he say whether he was going out that Sunday or not?

*A.* He said he would not; his mother was brooding over his father's death, and he did not want to leave her.

*Q.* With that exception, between the 1st of January and the 1st of June, did you ride with him every Sunday?

*A.* I did, unless it might be one Sunday preceding the 1st of June.

*Q.* And between the 1st of May and the 1st of June?

*A.* Yes, sir.

*Q.* As far as you know, you went every Sunday?

*A.* I went every Sunday, except one Sunday, on account of his mother's illness, after his father's burial.

*Q.* Where did you generally go?

*A.* There was no definite plan; we used to stop at our gate and try to decide where we would drive; we drove in every direction at different times.

*Q.* At any of those times, do you remember whether you went singly with Mr. Dumont, or with any other person; or was any other person present?

*A.* I only remember two occasions where we had company with us.

*Q.* Do you remember who they were?

*A.* One was his nephew, Bert Foot, and Mr. Stowe, one Sunday on a trip to Morristown; and another was Doctor Taylor, the druggist, and some one else, I don't remember who the other party was.

*Q.* That was between the 1st of January and the 1st of June, was it—1884?

*A.* No, sir; the trip with Mr. Stowe and Bert Foot, was the fall previous.

*Q.* With Doctor Taylor and this other person?

*A.* After January 1st, 1884.

*Q.* Were they in the same carriage, together?

*A.* Yes, sir.

*Q.* You mean by that, at the times you rode, Doctor Taylor, Mr. Stowe and Mr. Foot, were they in the same carriage with you when you rode on those Sundays?

*A.* Every time when we were hitched up we were hitched up double and only had one rig.

*Q.* Mr. Treat's question was this [reading from Mr. Treat's cross-examination, page 340]—"Q. Was it any of those times that you saw Mr. Dumont intoxicated? A.

No, sir; he never drank enough; we used to take a man along with us, though, who used to get pretty full. Q. Who was that? A. That was Chapman."—Is that true, Mr. Chapman?

*A.* No, sir; I want to say it is a lie of the first water; first, he did not take me along with him; and second, I was never intoxicated with Mr. Dumont during a ride or any other time.

*Q.* Was there any time, either before the 1st of January, 1884, or after, when you were in the company with Mr. Dumont and Mr. Treat out riding, or on any other occasion, when you were intoxicated or pretty full?

*A.* No, sir.

*Q.* Did you ever go out riding with Mr. Theodore Dumont at night?

*A.* No, sir.

*Q.* Do you know of any occasion, at any time, when he went out riding at night?

*A.* I do not; he cannot see after dark.

*Q.* Was he in the habit of riding after dark—when it came on night?

*A.* Not driving; he cannot see his horse after dark.

*Q.* Why?

*A.* He has an affection of the eyes; he was caught at our house one night after dusk, and my daughter was going to the village and she had to drive his horse for him; he could not see; it was just after dark.

*Q.* Just dusk?

*A.* Just dusk; I offered to send my man with him, but as my daughter was going to the village, she offered to drive.

*Q.* Were there any other occasions, excepting Sundays, that he came and took you out riding?

*A.* I don't remember any.

*Q.* You are a pretty intimate friend of Mr. Theodore Dumont, are you not?

*A.* I think I am.

*Q.* If he had taken any one out riding at night would he have called for you ?

*A.* During that time that we were intimate and he lived in Summit, very likely he would have come to me.

*Q.* Did you ever visit at his house ?

*A.* I have made occasional calls.

*Q.* How frequent ?

*A.* Well, it was a common occurrence to drop in any time in the evening; called on him Sundays, when he did not come to the house; only once did I take tea there.

*Q.* Did you see him in the presence of his mother ?

*A.* Yes, sir.

*Q.* How did he appear in the presence of his mother ?

*A.* His disposition towards his mother was one of consideration and affection; more like a small boy to his mother; his mother certainly was very affectionate to him.

*Q.* Did you ever see him in any condition, in the presence of his mother, which, in your opinion, led you to believe that his mother was afraid of him ?

*A.* No, sir; I did not.

*Q.* Did you ride up and down in the cars with Mr. Theodore Dumont ?

*A.* Most of the time that he lived in Summit, until June, 1884.

*Q.* What train would you take down in the morning ?

*A.* The express; seven fifty-one A. M. from Summit.

*Q.* When did you commence riding with him down in the cars ?

*A.* Shortly after he came to live in Summit; I don't know the date.

*Q.* Continued until when ?

*A.* About June 1st, 1884.

*Q.* Who else were present at that time—on those occasions ?

*A.* Mr. Treat, Mr. McConnell, Mr. Gearing, of Morristown, Mr. Youngs, of Summit; that is the immediate party that were with him.

*Q.* Did you always ride on that train?

*A.* It was my regular train; not always; I missed it sometimes.

*Q.* During the time you rode on it was whist played on the cars?

*A.* Yes, sir.

*Q.* Who formed the party of whist—the whist party?

*A.* The morning party was Mr. Dumont—in that set I mean—Mr. Dumont and Mr. Treat, Mr. McConnell and Mr. Gearing, and others to fill vacancies; I seldom played in the morning.

*Q.* Was there any chance during the trip down, when they were playing whist, for conversation to take place?

*A.* No, sir.

*Q.* Did any conversations take place?

*A.* No, sir, outside of the whist party, because whist occupied the time; they had to play as rapidly as they could to get as many rubbers, before they reached Hoboken, as they could.

*Q.* After reaching Hoboken, what was done then?

*A.* Immediately went on the ferry-boat.

*Q.* Who went first?

*A.* Treat would run ahead, for fear he would miss that boat; we took it leisurely; if we missed the boat, we took the next one.

*Q.* Did he say the reason why?

*A.* He had to be at the bank at nine o'clock.

*Q.* Who went off the boat—who sat together on the boat going over?

*A.* Well, do you mean of that party.

*Q.* Yes, sir.

*A.* Almost always Mr. Dumont and Mr. McConnell and myself; Treat only when he did not get the boat ahead.

*Q.* Was there any time that Mr. Theodore Dumont did not play going down on the train?

*A.* After his father's death some time; I don't know how long.

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*Q.* Who sat with him then?

*A.* I don't know.

*Q.* Did Mr. Treat?

*A.* No, sir; Mr. Treat was playing whist with us; I took Mr. Dumont's place in the set.

*Q.* Is that the only time that you remember that Mr. Dumont did not play in the game?

*A.* The only time.

*Q.* What train did you come home in?

*A.* The five-twenty from New York.

*Q.* Who was then present?

*A.* Mr. Dumont and myself regularly, and the other two in the set uncertain, but seldom was Treat ever there; he got a train earlier.

*Q.* Did you ever know Mr. Dumont to take any other train but that during the time he was in Summit?

*A.* No, sir; except we had been away together, and caught a late train.

*Q.* Did you ever see Mr. Dumont intoxicated in the slightest degree in coming home from his business?

*A.* I never did.

*Q.* By the five-twenty train or any other time?

*A.* Never; if he drank, he did not show it.

*Q.* Have you ever been with Mr. Dumont the whole day when he did not drink a drop of liquor?

*A.* I have been with him riding lots of times, and he did not drink a drop; I have been to the races with him when he did not drink a drop.

*Q.* On any of those occasions, did he ever become excited?

*A.* Yes, sir; sometimes.

*Q.* Was his face flushed at those times?

*A.* It is always red.

*Q.* So that his excitability does not proceed or come from the use of liquor?

*A.* Not at all; I have seen him excited when I knew he had not drank anything.

*Q.* You say you went to the races with Mr. Dumont?

*A.* Yes, sir.

*Q.* Where was that?

*A.* Various places—Monmouth, Sheepshead Bay and Brighton.

*Q.* Did you ever go with Mr. Treat?

*A.* Never.

*Q.* Mr. Treat says, in answer to this question [reading] —"Q. At whose suggestion did you first visit the race-course? His answer is: I went down with Mr. Chapman and Mr. Dumont. Q. At whose invitation? A. Mr. Chapman's, that day." Is that true? [Objected to.]

*A.* It is not.

*Q.* Did you ever, on any occasion, go with Mr. Treat to the race-course?

*A.* I never did.

*Q.* Did you ever invite him, at that time, or any other time, to go with you?

*A.* Never; when he was going to the races, he would come in and borrow my field-pass; it would be some day when I was not going myself.

By Mr. Riker—I move to strike out the last answer.

*Q.* Mr. Treat said, in answer to this question, "In playing at cards, is it not a fact that Mr. Dumont frequently became violent for mistakes at cards?" His answer was, "Yes, sir." What have you to say to that? [Objected to.]

*A.* I never saw him violent over games of cards; he spoke up quick, as all of us do, when a wrong play was made; nothing further.

*Q.* He also says, "Was he abusive at those times?" His answer is, "Yes, sir; very abusive—to his partner; if he made a mistake there was no abuse." What do you say to that?

*A.* I never heard him abuse any one.

*Q.* Have you played frequently with Mr. Dumont?

*A.* I have.

*Q.* At the round of houses?

*A.* Only three times at the house.

*Q.* The rest of the time?

*A.* On the train.

*Q.* On any of those occasions did you ever see Mr. Dumont, or hear him, abusive to his partner?

*A.* I never did.

*Q.* Or violent?

*A.* Never violent or abusive, any more than quick, as all of us, when a wrong play was made, and a petulent request as to why such a card was led, or something like that.

*Q.* Mr. Treat said, in answer to this question, "But you cannot remember a Sunday in any month, January, February, March or April, that you rode with him?" His answer is, "He would have a difference with Chapman and he would shake him and take me up;" What have you to say to that? [Objected to.]

*A.* I do not remember having missed any Sundays riding with Mr. Dumont, except the ones I have stated.

*Q.* Did you have any difference with him?

*A.* I never had but one difference.

*Q.* When was that?

*A.* That was in the spring of 1884, a little after the board of freeholders organized that year.

*Q.* What month was that?

*A.* Well, I think it was in the month of June; I think it was the first meeting of the board of freeholders in the month of June; they were designating the newspapers which were to print the minutes of the board, and he and I were deadly opposed to having the *Summit Record* put on the list; the *Summit Record* was published by a fellow named Woodruff, as an independent paper, but through its columns the Democratic party of Summit were being lashed, and it was supposed by Mr. Dumont and I that the parties that used the paper for that purpose were trying to disrupt the Democratic party of Summit, and against my wishes and against my appeal, the *Summit*

*Record* was put on that list to publish the minutes; the next morning after that was done, I met Mr. Dumont on the ferry-boat and he accused me of being in the pay of Curtis, Martin & Co., of Summit; I said "it was a lie," and that was the only difference we ever had; that lasted a year, at which time a Democrat bought the paper and controlled its own columns, and we settled our difference.

*Q.* Was there any other difference before that?

*A.* No other before or afterwards.

*Q.* Did you have any difference with Mr. Theodore Dumont over a game of cards on the train?

*A.* Not any beyond the moment; never a difference that lasted over a game.

*Q.* Were there any differences or any cause before the first of May which prevented you from going out riding with Mr. Dumont, or which caused him not to go out riding with you?

*A.* No, sir; except the sickness of my little daughter and his father's death.

*Q.* That was not a difference?

*A.* And reason, you asked, also.

*Q.* Yes, and reason?

*A.* No differences; the only reason was my baby was sick, and his father's death.

*Q.* When did you get over your difference with Mr. Dumont, after the 1st of June, 1884; how soon?

*A.* It lasted about a year; the paper changed hands and became a Democratic paper, and I went to Mr. Dumont, at his office in New York, and said that the cause which had caused the difference between us had ceased, the paper had changed hands, and it was now in the control of a man who owned it, and who purchased it, and I thought we could drop our difference; he shook hands with me and said it was all right, and that settled it.

*Q.* What is Mr. Treat's reputation, or what was his reputation in 1884—1883, 1884 or 1885, as to his truth and veracity? [Objected to as immaterial.]

*A.* He had the reputation of a liar; he was publicly denounced in Summit as a liar, in the spring of 1885, by the chairman of a meeting.

By Mr. Riker—I move to strike out, as irresponsive, impertinent and scandalous.

*Q.* Were you present at that meeting?

*A.* I was.

By Mr. Riker—I move to strike out the question and answer.

*Q.* Did you ever hear any one else charge him as being a liar? [Objected to.]

*A.* Except whom?

*Q.* Except at that meeting?

*A.* I never did—that was public.

By Mr. Smith.

*Q.* When Mr. Dumont took this morning train that you all took to New York from Summit, what was his custom as to joining in the game of cards?

*A.* He immediately joined it.

*Q.* Was there any occasion, excepting after his father's death, that you remember, that he did not join in the game going down?

*A.* I know of none.

*Q.* Was there any occasion, that you remember, after January, 1884, up to the summer of 1885, when you were on the train, and Mr. Treat was on the train, that Mr. Treat did not join in the game of cards?

*A.* He was there regularly; I don't think he missed any number.

*Q.* You don't remember any time he was on the train that he did not join in the game?

*A.* I do not; he belonged to the regular set, mornings.

*Q.* And they invariably played on the train going down, did they?

*A.* Yes, sir.

*Q.* Was there any opportunity during the play of the game for conversation between the partners that were play-

ing, or the parties playing in the game, that would not be heard by the other members of the game, or persons in the neighborhood?

*A.* None whatever.

*Q.* Was there any time that you remember, or any occasion after January, 1884, during that year, of Mr. Treat and Mr. Dumont riding down in the train together, when they were not playing cards, in the same seat?

*A.* I don't know of any.

*Q.* You don't remember of any?

*A.* No, sir.

*Q.* When they were not playing cards? [Objected to as leading.]

*A.* No, sir.

*Q.* Do you remember of any occasion during that same period of any conversation on the boat between Mr. Theodore Dumont and Mr. Treat, when they were separate from the rest of the party, going over in the boat?

*A.* I do not; they always sat together.

*Q.* That was the invariable rule, was it?

*A.* Yes, sir.

*Q.* Do you remember anything being said at these—during the year 1884, during the game of cards or on the ferry-boat, between Mr. Theodore Dumont and Mr. Treat, in relation to William Dumont?

*A.* I never heard his name mentioned between them.

*Q.* Or anything in relation to Mrs. Dumont, the mother, or the family affairs?

*A.* No, sir; I never heard anything said about the family affairs.

*Q.* You never heard any remark between Mr. Theodore Dumont and Mr. Treat as to his mother?

*A.* No, sir.

*Q.* And no such conversations ever took place on the train, or on the boat, between Mr. Treat and Mr. Dumont, without being overheard by some of the parties that were playing in this game?

*A.* The game was played on the train; on the train they could not have had a conversation without being overheard, and on the boat there was a possibility that some morning they may have gone over to one side by themselves.

*Q.* You never remember of that taking place?

*A.* No, sir.

*Q.* You never remember any instance?

*A.* No, sir; never.

*Q.* What did you do when you got to New York?

*A.* I generally walked up with Mr. Theodore Dumont as far as the barber's.

*Q.* What became of Mr. Treat?

*A.* He generally ran ahead to get to his bank, where he was a messenger.

*Q.* He got off the boat ahead of the rest of the party?

*A.* Always hurried ahead.

Cross-examination by Mr. Curtis.

*Q.* What is your business?

*A.* I am an advertising agent.

*Q.* What was your business in 1886?

*A.* I was an advertising agent in 1886.

*Q.* What was your business in 1885?

*A.* I was out of business a portion of 1885.

*Q.* What was your business in 1884?

*A.* Manager of the New York Publishing House.

*Q.* Did you publish a paper at that time?

*A.* Yes, sir.

*Q.* What was the name of that paper?

*A.* The *Illustrated Times.*

*Q.* What was the character of that paper?

*A.* Sporting paper.

*Q.* Published how often?

*A.* Weekly.

*Q.* Containing illustrations?

*A.* Yes, sir.

*Q.* Sporting news?

*A.* Yes, sir.

*Q.* When did you stop the publication of that paper?

*A.* I didn't stop it; I ceased to be connected with it in August, 1884; I resigned my position.

*Q.* Were you the responsible manager for the publication of that paper?

*A.* I was manager, under a salary.

*Q.* Were you responsible for the character of the paper?

*A.* No, sir; I conducted the publication.

*Q.* Who was it published by?

*A.* The New York Publishing Company.

*Q.* A corporation?

*A.* The company was a joint stock association.

*Q.* Were you interested in that joint stock association?

*A.* I never had a cent in it.

*Q.* Who was responsible for the character of the paper as it came out weekly?

*A.* That is difficult to tell; there was an editor—a sporting editor.

*Q.* You were the business manager?

*A.* Yes, sir; and had nothing to do with editing.

*Q.* Did you ever receive a call from Mr. Anthony Comstock about the character of the paper?

*A.* No, sir.

*Q.* Didn't Anthony Comstock call upon you during your management of that paper regarding the illustrations published in it?

*A.* No, sir.

*Q.* Didn't Anthony Comstock notify you that unless the character of the paper or illustrations were changed, he would be compelled to have the paper indicted?

*A.* I have no such recollection; Mr. Comstock came to the office one afternoon in reference to an advertisement which he considered was a lottery scheme, which was immediately withdrawn.

*Q.* How about the illustrations; was nothing said about the illustrations?

*A.* I don't remember.

*Q.* Will you swear there was nothing said about the pictures?

*A.* I don't remember any; I would not like to swear it was or was not; I say I have no recollection of his speaking about the character of the illustrations at all; I never heard of their being seriously objectionable.

*Q.* You will not swear he did not object to the character of the illustrations?

*A.* I will not.

*Q.* It was during the year 1884?

*A.* I don't know when he called; it was the time I had charge of the business management.

*Q.* You spoke of the spring meeting of 1885, at which some epithet was used about Mr. Treat; what meeting was that?

*A.* It was a meeting called the Democratic caucus at Summit, and Pheasant was elected chairman.

*Q.* What was the occasion of the epithet?

*A.* Treat had been stating that I had furnished Strong with pasters, and elected Strong to the town committee; I simply denied it; he not only knew it so well, but he knew where the pasters were printed; I never heard of a Strong paster, and I so stated.

*Q.* Who did you say called him a liar?

*A.* John F. Pheasant.

*Q.* And he said that such a statement was a lie?

*A.* Yes, sir; that the pasters were furnished to elect Strong, and the way that came about was as I stated it; the circumstances connected with it will probably bring it to your mind.

*Q.* I remember the circumstances perfectly; you say the chairman of that meeting called Mr. Treat a liar?

*A.* John F. Pheasant was elected chairman.

*Q.* Answer my question.

*A.* He did.

*Q.* Called Mr. Treat a liar?

*A.* Yes, sir.

*Q.* And the occasion of it was because Mr. Treat accused you of having pasters for Mr. Strong as township committeeman?

*A.* Yes, sir; that is my recollection.

*Q.* So that there was a political difference between you and Mr. Treat at that time?

*A.* Yes, sir?

*Q.* Has that ever been healed?

*A.* It was the only difference we ever had.

*Q.* Has that ever been healed?

*A.* I don't think it was a sore to be healed.

*Q.* Has it ever been healed?

*A.* What do you mean?

*Q.* What I say.

*A.* Has what been healed?

*Q.* Has there been any reconciliation between you and Mr. Treat since that time?

*A.* No, sir.

*Q.* You have never spoken to him since?

*A.* No, sir; I never compromise with a man who tells a lie about me.

*Q.* You say you never compromise?

*A.* I never do with any man who tells a lie about me.

*Q.* So you never became reconciled to Mr. Treat?

*A.* No, sir; nor recognized him.

*Q.* Up to this time?

*A.* No, sir.

*Q.* Did you assist in the election of Mr. Strong?

*A.* I did not.

*Q.* Did you not use pasters and distribute them for Mr. Treat in the spring of 1885?

*A.* No, sir.

*Q.* Mr. Treat accused —— [Interrupted.]

*A.* 1884 was the date of that accusation.

*Q.* Mr. Treat accused you of having made political capital at the spring election of 1884?

*A.* He did not accuse me of anything to my face; he made statements around town.

*Q.* What was the occasion of any reference to this matter at this meeting—state the circumstances?

*A.* That is just what I asked the privilege of doing a little while ago; it seems previous to the caucus that evening, Pheasant was passing Taylor's store; Taylor was town clerk, and had charge of the town box; he was going to clear it out for the spring election; he saw Pheasant passing the store and called him in, and said to him "I am going to open this box and take out these ballots, and I want you to look yourself and see if there are any Strong pasters in the box;" Pheasant made this statement himself; that he examined them with Mr. Taylor, and there was not a ticket of Strong's with a paster on it; after making that statement he said, "I denounce him as a liar," in Congress Hall, and nobody contradicted it.

*Q.* Did you also denounce it as a falsehood?

*A.* I did; I said it was not so.

*Q.* Were you present at that meeting?

*A.* I was; I did not know he was going to examine the tickets or make any comments on it.

*Q.* Did you not, as a matter of fact, assist in the election of Charles K. Strong?

*A.* I did not.

*Q.* Did you attempt to secure his defeat?

*A.* I worked the straight Democratic ticket.

*Q.* In 1884 were you a member of the board of freeholders of this county?

*A.* I was elected that spring.

*Q.* That was the spring when you say the Summit *Record* was placed upon the list of publications to publish the reports of the meetings?

*A.* Yes, sir.

*Q.* You say that paper was put upon the list against your opposition and against your protest?

*A.* Yes, sir.

*Q.* That is a fact, is it?

*A.* Yes, sir.

*Q.* Is it not also a fact that it was done upon your motion?

*A.* I seconded Mr. Debbie's motion, with an explanation.

*Q.* And that is the way you opposed it—by seconding his motion?

*A.* I did oppose it.

*Q.* And you told Mr. Dumont that it was a falsehood; that you had helped to assist him?

*A.* No, sir; I said I was not in the pay of Curtis, Martin & Co., of Summit.

*Q.* He accused you of being in the pay of Curtis, Martin & Co.?

*A.* Yes, sir; and we never had any words until a year afterwards, when the paper changed hands.

*Q.* Is it not a fact that you made an apology to Mr. Dumont?

*A.* When I went to him at the end of the year, I said we both had used words that were not gentlemanly, and I thought we ought to act like men and not like boys; he said, "That is all right," and shook hands.

*Q.* Mr. Dumont did not apologize to you?

*A.* Mr. Dumont did; he said he was hasty, too.

*Q.* Mr. Dumont did apologize to you?

*A.* That is what he said; let it drop.

*Q.* Is it not a fact that when the question of publication of the records of the board of freeholders in the papers first arose, you did oppose the *Summit Record?*

*A.* I did.

*Q.* And objected to its name going on?

*A.* Yes, sir.

*Q.* And subsequently you seconded a motion to put it on the list?

*A.* As to the matter of publication among our papers —— [Interrupted.]

*Q.* Is it not a fact that you were told that if you did not do that, it would be done against your wishes, and it would be better for you to do it than have somebody else do it in spite of you?

*A.* I do not think so.

*Q.* Will you swear it was not a fact?

*A.* I will not swear to it.

*Q.* How frequently did you go to town in 1884?

*A.* Every day, I think—not every day, because if the freeholders' business led me away, I would remain home; in August, 1884, I took some days to myself—took my vacation; part of the time I was home, but I was pretty regularly a traveler.

*Q.* When you were asked in what direction you drove when you were with Mr. Dumont, I believe you did not state, except in a general way; will you now specify what places you drove to?

*A.* In every direction that we could get a drive from our house.

*Q.* I say, what places?

*A.* They varied so it is impossible to tell.

*Q.* Give some.

*A.* To Newark, to Elizabeth, once to Morristown and once to Madison.

*Q.* When you went to Newark would you stop?

*A.* Sometimes we would stop; I don't think we ever stopped in Newark any length of time; sometimes we drove back slowly; I don't think we ever stopped at all; we stopped at Smith's sometimes.

*Q.* What Smith?

*A.* Charlie Smith's, at Milburn.

*Q.* Did you ever spend the afternoon at Charlie Smith's?

*A.* No, sir.

*Q.* Did you ever spend a part of the afternoon at Charlie Smith's?

*A.* Yes, sir; one minute is a part of the afternoon.

*Q.* Is that the longest you ever staid at Charlie Smith's?

*A.* No, sir; we staid longer than a minute.

*Q.* How long?

*A.* It is impossible to tell, maybe an hour.

*Q.* Did you ever stop two hours?

*A.* I don't think I was ever there two hours together.

*Q.* What did you do?

*A.* I sat down and talked—it is impossible—I would go out to the shed and make water sometimes.

*Q.* Have a drink?

*A.* Sometimes I would.

*Q.* Play cards?

*A.* No, sir.

*Q.* But you would drink?

*A.* Sometimes.

*Q.* Did you ever get under the influence of liquor?

*A.* No, sir.

*Q.* Was it your habit at that time to get under the influence of liquor?

*A.* No, sir.

*Q.* Have you any such habit?

*A.* I never had such a habit.

*Q.* Is it not a fact that you frequently attended meetings of the board of freeholders when you were under the influence of liquor?

*A.* No, sir.

*Q.* Is it not a fact that you did at times?

*A.* I don't think I ever attended the board of freeholders when I was under the influence of liquor to any extent; I believe a man can be under the influence with one drink.

*Q.* Is it not a fact that you attended school board meetings in Summit under the influence of liquor?

*A.* No, sir.

*Q.* Is it not a fact that you attended the Democratic town committees under the influence of liquor?

*A.* I don't remember of it.

*Q.* Will you swear it is not a fact?

*A.* I have no recollection of it; I am under oath now.

*Q.* You have stated that you did not get under the influence of liquor at any time?

*A.* I say I had no habit.

*Q.* What do you understand by habit?

*A.* A habitual drinker; a steady drinker; a regular drinker.

*Q.* What do you mean by regular or steady drinker?

*A.* A man who drinks regularly.

*Q.* Every day?

*A.* Every day.

*Q.* Is it not a fact that you have been a regular drinker, every day?

*A.* There has not been an occasion —— [Interrupted.]

*Q.* Or have been under the influence of liquor once or twice or oftener a week?

*A.* No, sir.

*Q.* Will you name any occasion that you were under the influence of liquor?

*A.* No, I will not.

*Q.* Can you?

*A.* I don't know but what I might, but I won't.

*Q.* I ask you to do it?

*A.* I am not a criminal here; I am a witness; I don't think it is necessary.

*Q.* Why do you decline to answer?

*A.* I don't think it is necessary for me to state if I can remember an occasion when I was under the influence of liquor; I refuse to answer the question.

*Q.* In your direct examination, you swore that on no occasion were you intoxicated or under the influence of liquor?

*A.* I did not say so.

*Q.* You stated in your direct examination that neither at the time you were at Charlie Smith's, or any other occasion, were you intoxicated?

*A.* I did not; I stated in my direct examination that

no time when, I was in the company of Fred. Treat or Mr. Dumont was I under the influence of liquor.

*Q.* Do you mean to lead us to infer that at other times you were under the influence of liquor?

*A.* I don't mean to lead you to infer anything.

*Q.* You deny that you were under the influence of liquor?

*A.* I do not deny it; I decline to answer such a question?

*Q.* Why do you decline?

*A.* Because I don't choose to answer.

*Q.* If it is not true, why do you refuse to answer?

*A.* Because I don't think you have a right to ask me such a question; I decline to answer for the reason that I do not think I am on trial here, but simply subpœnaed as a witness in the case of the contested will case, and that all my answers pertaining to the matter of drink or intoxication or being full pertains to when I have been in the company of Mr. Dumont or Mr. Treat.

*Q.* How frequently, during the year 1884 or 1885, were you at Charlie Smith's?

*A.* I don't know.

*Q.* Can you approximate?

*A.* I cannot.

*Q.* How frequently in 1883 were you at Charlie Smith's?

*A.* I don't know.

*Q.* Was it more than once?

*A.* I don't know; I may not have been there at all.

*Q.* Were you usually at Smith's more than once in 1884?

*A.* I don't know; I cannot tell; I didn't go there very often.

*Q.* You say that Mr. Dumont was never abusive or violent at cards, do you know of his being abusive or violent at any other time?

*A.* I didn't say so.

*Q.* I ask you now?

*A.* I never said he was never abusive or violent at cards; I was asked if I was ever present, and I said no.

*Q.* What is the fact about that?

*A.* I was never present when he was.

*Q.* Were you ever present when he was abusive or violent at any other time?

*A.* I never was.

*Q.* Did you ever hear Mr. Dumont when he was profane?

*A.* I have.

*Q.* Did you ever hear him use epithets against other people?

*A.* I think I have.

*Q.* Did you ever hear him refer to his brother William and use epithets or profanity?

*A.* I never did.

*Q.* How often, if ever, did you meet Mr. Treat at Charlie Smith's?

*A.* I don't think I ever met him there; it is a fair possibility he went riding one Sunday with us and we stopped there.

*Q.* Did you ever meet him there?

*A.* I don't think I ever did.

*Q.* Did you ever drink with him there?

*A.* I don't think I ever drank with him in my life.

*Q.* When you were at Charlie Smith's, what did you drink there?

*A.* Didn't drink always; when I did I took what I felt like.

*Q.* What did you feel like?

*A.* I don't know what I felt like; you don't ask any particular time.

*Q.* I ask any time you were there?

*A.* I cannot answer such a foolish question; I don't understand what you mean; I want that answer put down.

*Q.* I want your answer put down, too.

*A.* I cannot answer it; "what did I feel like when I stopped at Charlie Smith's?"

*Q.* Who did you ever meet at Charlie Smith's?

*A.* I don't remember.

*Q.* Did you ever drink any intoxicating liquors while at Charlie Smith's, on any occasion while you were there?

*A.* Yes, sir.

*Q.* What?

*A.* What I felt like at the time.

*Q.* Will you specify?

*A.* I cannot.

*Q.* What were you in the habit of drinking?

*A.* I was not in the habit of drinking.

*Q.* On those occasions?

*A.* I was not in the habit on those occasions; Sunday after Sunday we would stop there and water our horse, or put the horse in the shed for a rest, and never have a drink; it was not a habit.

*Q.* What time did you usually reach your office in New York when you took the seven forty-five train?

*A.* About nine o'clock.

*Q.* Where was your office?

*A.* When?

*Q.* In 1884?

*A.* 15 Murray street; the train was frequently late; when we missed the regular boat we would not get to New York until afterwards.

*Q.* How frequently was the train late—more frequently on time, wasn't it?

*A.* Usually on time, but when they brought butter down and loaded it on the boat we missed the boat; they made a regular freight train of it.

*Q.* Were you Mr. Dumont's partner at whist at any time?

*A.* I have been Mr. Dumont's partner at whist.

*Q.* When?

*A.* When we met at the houses at Summit and cut in for partners.

*Q.* What year was that?

*A.* I don't know.

*Q.* Was it 1883?

*A.* I should think it was 1883 or 1884; I think very likely the winter of 1883 and 1884, the early part of that winter.

*Q.* 1885?

*A.* I just told you I thought it was the early part of 1883 and 1884.

*Q.* Did you play in 1885?

*A.* No, sir.

*Q.* If you played in 1883 and 1884, were you and Mr. Dumont partners?

*A.* When we cut in, and I became his partner by the cut.

*Q.* Did you play on the train?

*A.* I did.

*Q.* Were you his partner?

*A.* No, sir; I played against him usually.

*Q.* Who played in the set?

*A.* Whoever we could get; at night, Mr. Von Doun, sometimes Mr. Gearing, and half a dozen who dropped in; we took them as they came; sometimes Mr. McConnell; any of the whist players who came along would play; sometimes Mr. Tooler.

*Q.* Who played with you in the evenings in 1883 and 1884?

*A.* I have met, in Summit, playing, Mr. Von Doun, Mr. Ottie De Forest, Mr. Stayle, Mr. Benjamin, Mr. Treat and Mr. Dumont; I do not think of any others.

*Q.* When did this difference that you spoke of, between you and Mr. Dumont, arise?

*A.* In the spring of 1884.

*Q.* What month?

*A.* I am not sure, but I think it was the first regular meeting of the board of freeholders in June—the day after

that, but it may have been a special meeting in the month of May, I cannot remember; It would be the first Thursday in June, 1884, if it was the regular meeting.

*Q.* That was the first regular meeting?

*A.* Yes, sir.

*Q.* When is the first meeting?

*A.* About the middle of May.

*Q.* Then the difference arose subsequently to the middle of May?

*A.* Yes, sir.

*Q.* Prior to that time, in the spring of 1884, you and Mr. Dumont were on intimate terms, were you not?

*A.* Yes, sir.

*Q.* And you and Mr. Treat were on intimate terms?

*A.* I was never on intimate terms with him.

*Q.* Did you see him frequently?

*A.* Yes, sir.

*Q.* You played with him frequently?

*A.* I seldom played with Treat, because I did not play in the morning.

*Q.* Sometimes in the evening?

*A.* Sometimes when he was late and played in our set.

*Q.* I mean at the houses?

*A.* At the houses I never played but at one place, and it is possible he was at Mr. De Forest's; I never played at any of the houses in Summit outside of my own; I was not very much with him.

*Q.* Mr. Treat was your opponent, politically, in 1885, wasn't he?

*A.* No, sir, not that I know of; I am a Democrat, and I supposed he was.

*Q.* The fact that he is a Democrat didn't prevent his being opposed to you?

*A.* I consider that a man that is opposed to me politically is not a Democrat, and he cannot be much of a Democrat; political opposition means two parties; he may be opposed to me personally.

*Q.* Was he opposed to you personally?

*A.* I don't know.

*Q.* What is your best judgment or opinion on that point?

*A.* I never gave it a thought; it didn't make any difference to me.

*Q.* Do you know anything about it?

*A.* I do not; if he was, he was the means of giving me a large majority; perhaps he was.

*Q.* What kind of a wagon did you go riding with Mr. Dumont?

*A.* A side-bar spring buggy.

*Q.* Ever take a carriage?

*A.* Yes, sir, on two occasions.

*Q.* You say there were two occasions on which you went out to ride in a double carriage?

*A.* Yes, sir.

*Q.* When was the first of those occasions?

*A.* I cannot give you the date; it was in the summer time.

*Q.* What year?

*A.* I can guess at it; I should say it was the summer of 1883.

*Q.* When was the next occasion?

*A.* Well, I should judge that was in the early part of the winter of 1883 and 1884; it was in cool weather.

*Q.* Before 1884?

*A.* Yes, sir.

*Q.* You never went out to ride with him on any other occasion when the double carriage was used?

*A.* No, sir.

*Q.* On that other occasion the side-bar buggy was used?

*A.* Yes, sir; except when we had a sleigh.

*Q.* Did you ever take a ride in a double sleigh with Mr. Dumont?

*A.* Yes, sir.

*Q.* When?

*A.* One winter, three or four winters ago.

*Q.* What winter was it?

*A.* I don't know; I don't remember.

*Q.* Was it the winter of 1883 and 1884?

*A.* I should think it was; I should think it was 1882 and 1883.

*Q.* Did you ride in a double sleigh in 1883 and 1884?

*A.* Never had a double sleigh but once.

*Q.* When was that?

*A.* I don't know whether it was 1882, 1883 or 1884; it was one winter—one ride.

*Q.* Who went with you?

*A.* Bert Foot, of Morristown.

*Q.* Anybody else?

*A.* No, sir; Mr. Dumont.

*Q.* Where did you go?

*A.* Took a ride.

*Q.* Where?

*A.* To Irvington.

*Q.* Where did you stop at Irvington?

*A.* We didn't stop.

*Q.* Turned around and came back?

*A.* Yes, sir.

*Q.* So that the only occasions when you rode in a double carriage or sleigh——[Interrupted.]

*A.* Was those three.

*Q.* And those were in the year 1883 in carriages, and in 1882 or 1883 and 1884 in a sleigh?

*A.* My answer is as correct as I can remember.

*Q.* That is your best recollection?

*A.* Yes, sir; I could not tell; it is simply conjecture.

*Q.* Did you ever borrow any money of Mr. Dumont?

*A.* I never did.

*Q.* Did you ever have any financial transaction with Mr. Dumont?

*A.* None whatever.

*Q.* Mr. Dumont supported you politically in the spring of 1884, did he not?

*A.* I think he did, a good deal.

*Q.* He was prominent in securing your nomination, was he not?

*A.* He had a great deal to do with the whole business; I don't know about his prominence in securing the nomination; I think he was my friend all through it.

*Q.* He was an ardent supporter of yours in the spring of 1884?

*A.* I think he was.

*Q.* State what conversation took place between you and him on the ferry-boat the morning after the *Summit Record* was put on the list of papers of which you have spoken?

*A.* I have already stated it twice; would you like it again?

*Q.* Read the question, if he don't understand it.

*A.* I thought if I explained it twice it would not be wanted again; I came on the ferry-boat, and as I stepped in front of him he accused me of being in the pay of Curtis, Martin & Co., of Summit; I said it was a lie, and I went and sat down.

*Q.* What was his language?

*A.* That was the language.

*Q.* Use profanity?

*A.* I don't remember.

*Q.* Or any epithets?

*A.* I don't remember.

*Q.* Didn't he upbraid you for going back on him?

*A.* That is what he said, what I have stated.

*Q.* Didn't he upbraid you for going back on him?

*A.* I have stated it; he said, when I stepped in front of him, "You are in the pay of Curtis, Martin & Co., of Summit;" I said, "It is a lie," and I went and sat down on the other side of the boat.

*Q.* And that was the whole conversation that took place?

*A.* That was all.

*Q.* Did you have any other conversation with him on that subject during that month?

*A.* No, sir.

*Q.* Or prior to the spring of 1885?

*A.* No, sir.

By Mr. Smith—I now offer in evidence three yearly statements of 1877, 1878 and 1879, produced by Mr. William H. Dumont, this morning, in obedience to the notice to produce the yearly statements of Robert Dumont & Son. [Said statements marked *Exhibits 1, 2* and *3*, respectively, for the proponent.]

Adjourned until Wednesday, June 1st, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., June 1st, 1887.

Examination of witnesses in the above-stated matter continued, pursuant to adjournment.

Appearances as heretofore.

*Edward B. Kelly*, a witness produced and sworn on behalf of the proponent, in rebuttal, testified as follows:

Direct examination by Mr. Smith.

*Q.* Where do you reside?

*A.* Summit.

*Q.* How long have you resided there?

*A.* I was born almost there.

*Q.* Lived there all your life?

*A.* Yes, sir.

*Q.* Do you know Mr. Frederick J. Treat?

*A* Yes, sir.

*Q.* Do you know his reputation in Summit for truth and veracity?

*A.* Of my own personal feelings I could not —— [Interrupted.]

By Mr. Riker—Just answer the question.

[Last question read to the witness.]

*A.* It is not very good, his general reputation.

*Q.* Do you remember attending a public meeting in Summit, and Mr. Treat's name being mentioned in connection with his truth and veracity?

*A.* Yes, sir.

*Q.* What meeting was that?

*A.* A Democratic meeting.

*Q.* What was said in relation to him?

By Mr. Riker—Objected to as irrelevant and immaterial.

*A.* Mr. Treat, I think, accused a party of using pasters on the Democratic ticket, and this man investigated the matter and found that such was not the case, and he got up in the hall and called Mr. Treat "a liar."

*Q.* A public announcement, was it? [Objected to.]

*A.* Yes, sir.

Cross-examination by Mr. Riker.

*Q.* Where does Mr. Treat live?

*A.* He lives in South Orange now, to the best of my knowledge.

*Q.* How long is it since he lived in Summit?

*A.* In the neighborhood of one and two years—a year and a half, I think.

*Q.* How far is South Orange from Summit?

*A.* In the neighborhood of six miles.

By Mr. Riker—I now move that the testimony in regard to Mr. Treat's character for truth and veracity be stricken out.

*Q.* What is your personal feeling toward Mr. Treat?

*A.* It is not very good, sir.

*Q.* He owes you some money, does he not?

*A.* Yes, sir.

*Q.* Does he owe your father some money?

*A.* Well, my father, yes, sir; I have charge of the collecting.

*Q.* He does not owe you any money, then?

*A.* No, sir; not personally.

*Q.* You have charge of your father's business?

*A.* Yes, sir; I did then.

*Q.* Now, tell me, you were in the grocery business, were you not?

*A.* Yes, sir.

*Q.* And failed?

*A.* Yes, sir.

*Q.* And the business was changed in your father's name?

*A.* Yes, sir.

*Q.* And you were in the management of it?

*A.* Yes, sir.

*Q.* And it was at this time that this debt was contracted for which Mr. Treat owes you money?

*A.* Yes, sir.

*Q.* You know Theodore Dumont?

*A.* Yes, sir; I do.

*Q.* You have known him for a good many years?

*A.* Yes, sir.

*Q.* On intimate terms with him?

*A.* Yes, sir; I haven't seen him for two or three years—a year, anyhow.

*Q.* When he lived in Summit, you and he were intimate friends?

*A.* Yes, sir.

*Q.* Did he ever loan you money?

*A.* No, sir.

*Q.* How were you politically, you and Mr. Theodore Dumont—friends, politically?

*A.* Yes, sir.

*Q.* As well as otherwise?

*A.* Yes, sir.

*Q.* Were you ever collector of the township of Summit?

*A.* Yes, sir.

*Q.* When?

*A.* In 1881.

*Q.* For how long were you collector?

*A.* Two years.

*Q.* You gave bonds to the township, did you?

*A.* Yes, sir.

*Q.* Who were your sureties?

By Mr. Smith—I object to all this as not proper cross-examination of the witness, irrelevant and immaterial.

*A.* Mr. Morrison, my father and Mr. Smythe.

*Q.* Did they make up a shortage in your accounts to the township?

*A.* No, sir; they did not.

*Q.* Were you short in your accounts?

*A.* Yes, sir; at the time of the expiration of my office I was about $1,100 short; I had it invested in my business, and I could not get it at that time.

*Q.* About the time when Mr. Treat was living in Summit—the last part of the time—what were your own habits? [Objected to for same reasons as before.]

*A.* I think they were just the same as they are now.

*Q.* They have rather improved, haven't they?

*A.* No, sir; I don't think I am any better now than I was then.

*Q.* Were you addicted to the habit of drinking at that time?

*A.* No, sir; I don't think I was; I don't think there is any gentleman that can say they ever saw me under the influence of liquor in my life.

*Q.* You don't drink at all, do you, now?

*A.* No, sir; not at all.

*Q.* You did drink at that time?

*A.* Yes, sir; not to excess, though, at any time.

Redirect.

*Q.* You have been asked about money due from Mr. Treat; has he frequently promised to pay it?

*A.* Yes, sir.

*Q.* Has he ever kept his promise?

*A.* No, sir; he gave me his notes one after the other.

*Q.* You have paid up all that money—the $1,100—to the township, have you?

*A.* Yes, sir; myself, personally.

Re-recross.

*Q.* When did you pay it up?

*A.* When I went out of office; I did not pay it at that time; I paid it inside of three months afterwards?

*Edward J. Muldowney,* a witness produced and sworn on the part of the proponent, testified as follows:

Direct examination by Mr. Smith.

*Q.* Where do you reside?

*A.* Summit, New Jersey.

*Q.* You have lived there how long?

*A.* I have lived there sixteen years, I think it is; I was born at Chatham, New Jersey, two miles away.

*Q.* Are you acquainted with Frederick J. Treat?

*A.* Yes, sir.

*Q.* What was his reputation in Summit for truth and veracity?

*A.* I don't think it was very good.

*Q.* From your knowledge of his reputation, would you believe him under oath?

*A.* From my knowledge of his reputation?

*Q.* Yes, for truth and veracity?

*A.* No, sir.

Cross-examination by Mr. Curtis.

*Q.* Do you mean that?

*A.* I do mean it, Mr. Curtis.

*Q.* That you would not believe him under oath?

*A.* No, sir; not from his reputation; I would not believe him under oath.

*Q.* Is not that reputation simply that he cannot pay his bills; isn't it generally that?

*A.* Well, that has something to do with it?

*Q.* He has been unfortunate and could not pay his bills; not even small ones; he had to sell out on that account, didn't he?

*A.* He sold out, and moved away from Summit in the night time, I have heard; I don't know how true that is; that is not testimony.

*Q.* Do you know how he got into such a financial condition?

*A.* No; I dc not.

*Q.* He was regarded as a pretty good fellow in Summit, wasn't he

*A* He was regarded in this way, that he seemed to go down hill mighty fast; and a man who came around Saturday night and borrowed $2 to get something to eat for his family, and getting a good salary, and came to a man that sold newspapers to borrow a couple of dollars from him.

*Q.* Does he owe you anything?

*A.* No, sir.

*Q.* Has he paid you?

*A.* Yes, sir.

*Q.* That was after he became acquainted with Theodore Dumont, that he began to go down hill, wasn't it?

*A.* I suppose he was acquainted with Theodore Dumont at that time; I have frequently seen him with Theodore Dumont riding.

*Q.* He was an associate of Theodore Dumont's at that time?

*A* I suppose he was.

*Q.* Apparently an intimate friend of his?

*A* I should think he was.

*Q* You saw them frequently together?

*A.* I have seen them drive up on Sunday morning in a carriage together; I think that is the only time I ever saw them, that I can call to mind now, that they were together.

*Q.* You knew he was a friend of Dumont's?

*A.* I have seen him there; I supposed he was a friend of Dumont's; I don't know how intimate a friend he was with him.

By Mr. Riker.

*Q.* You have not seen Mr. Treat in the neighborhood of Summit for the last year or two?

*A.* I saw Mr. Treat come to Summit one morning about, I think it was, last fall; he came to Summit on the seven-ten train in the morning, and he wanted to see Mr. Patrick Kelly without——[Interrupted.]

*Q* I don't care to go into that; I want to know whether you have seen him?

*A.* I have seen him once.

*Q* Only once within the last year or two?

*A.* Within the last year I have seen him.

*Q.* He has not lived in Summit within the last year and over, as I understand?

*A.* Not from me, sir.

*Q.* That is a fact?

*A.* I don't think it is; I think he has been away more than a year and a half.

*Q.* How long has he been away from Summit?

*A.* To the best of my knowledge, he has been away two years, sir.

*Q.* And he has not been in Summit to your knowledge but once during those two years?

*A.* Only once that I know of, that I have seen him.

*Q.* Do you know, from your personal knowledge, where he has lived?

*A.* I think he has lived in South Orange.

By Mr. Riker—I now move that the evidence of this

witness, in regard to the character of Mr. Treat for truth and veracity, be stricken out.

*Q.* When Mr. Treat lived in Summit, where did he live—what portion of it?

*A.* I think the name of the street is Elm street.

*Q.* Where did you live at that time?

*A.* I lived in a house adjoining the depot.

*Q.* How far was his house from your house?

*A.* Well, I should call it about four blocks, counting New York blocks.

*Q.* You and he were members of the same political party?

*A.* Well, if Fred Treat voted the Democratic ticket, I did too, on state occasions.

By Mr. Curtis.

*Q.* You were in the same crowd together?

*A.* I never associated with Fred Treat, or anybody else.

By Mr. Riker.

*Q.* I understand you are a man that has no associates; you don't make any?

*A.* Well, I don't know as I associate with anybody any more than any other man.

*Q.* What has been your business?

*A.* I have been in the grocery business for two years, and I have been in the wholesale clothing trimmers' business for two years, and I have been in Summit, New Jersey, this last three years.

*Q.* The last three years you have been in what business, in Summit?

*A.* At the newspaper business; newspapers, books, stationery, and that line of goods generally sold on railroads, by the Union News Company, or the American News Company.

*Q.* You stated that you lived next to the station?

*A.* Yes, sir.

*Q.* How long did you live there?

*A.* I lived there about two years, I think.

*Q.* Where did you live before that?

*A.* Well, I was a short time home; probably before I lived there I was six months at home.

*Q.* Where is your home?

*A.* Summit, New Jersey?

*Q.* I mean what part of Summit?

*A.* Chestnut avenue, with my father.

*Q.* Where were you before that?

*A.* I was in New York.

*Q.* As I understand you, you think that during the time that you and Mr. Treat both lived in the township of Summit, that his reputation for truth and veracity was not very good?

*A.* I do, sir.

*Q.* What persons have you conversed with respecting Mr. Treat's reputation for truth and veracity prior to his leaving Summit?

*A.* None at all, sir.

*Q.* What persons have expressed an opinion to you in regard to his leaving Summit?

*A.* Nobody, sir.

*Q.* What persons have ever, in your presence, and prior to his leaving Summit, questioned his truthfulness?

*A.* Nobody.

*Q.* Who has questioned his reputation for truth and veracity, in your presence, since he left Summit?

*A.* Since he left, who has questioned it?

*Q.* Yes.

*A.* Nobody has.

*Q.* I don't understand you to say that you would at all times discredit Mr. Treat's testimony under oath, do I?

*A.* Well, I gave you my answer as the general reputation of Fred. J. Treat——[Interrupted.]

*Q.* No; the question to you is, whether you would believe him under oath; whether I am to understand that you would disbelieve, personally, Mr. Treat under all circumstances, under oath?

*A.* I would not, under all circumstances.

*Q.* You then think there might be circumstances under which Mr. Treat might deviate from the truth, under oath?

*A.* I do; yes, sir.

*Q.* But, ordinarily, you would expect him to tell the truth, under oath, would you not?

*A.* It is general reputation you mean?

*Q.* No; answer my question; wouldn't you, personally, expect him, under ordinary circumstances, to tell the truth?

*A.* I would.

Redirect.

*Q.* As I understand, under ordinary circumstances you would expect him to tell the truth, but, from his general reputation in the place, you do not think he would; is that it?

*A.* No, sir.

*Q.* Do I understand that way?

*A.* Yes, sir; I think the testimony is right, the way I understand it.

*Q.* Where do you live now in Summit?

*A.* Springfield avenue.

*Q.* That is how far from the station?

*A.* One block, sir.

*Q.* How long have you lived there?

*A.* Since the first of November, 1886.

*Q.* You do not mean, when you say that you do not remember Mr. Treat's truth and veracity being discussed by any persons before he left Summit, that you never heard it mentioned, do you? [Objected to as improper redirect examination, and as being leading.]

*A.* I have knowledge of Mr. Treat's truth and veracity being called to account about some political meeting—some political dodge, or something else, that I know nothing about personally.

*Q.* Have you heard his reputation discussed for truth and veracity since he left Summit?

*A.* No, sir.

By Mr. Riker—I now move to strike out the testimony of this witness respecting the reputation of Mr. Treat for truth and veracity, and such parts of his testimony which relate to whether he would believe him under oath.

*Edward B. Kelly*, recalled for further cross-examination.

By Mr. Curtis.

*Q.* What is your business?

*A.* I am on the police now.

*Q.* How long have you been there?

*A.* About six weeks—in the neighborhood of five weeks.

*Q.* What was your business before that?

*A.* I was in the livery business previously.

*Q.* How long?

*A.* About a year.

*Q.* In the employ of your father?

*A.* Yes, sir.

*Q.* About a year?

*A.* Yes, sir.

*Q.* Prior to that you were in the grocery business?

*A.* Yes, sir.

*Q.* Doing business in your father's name?

*A.* Yes, sir.

*Q.* And prior to that under your own management?

*A.* Yes, sir.

*Q.* It is a fact, I think, that you were short in your accounts as township collector, and your father —— [Interrupted.]

By Mr. Smith—I object to the question as not proper cross-examination.

*Q.* As a matter of fact, when you were short in your account, you father, who was one of your sureties, borrowed money on bond and mortgage to make it up?

By Mr. Smith, to the witness—You need not answer these questions unless you want to.

*Q.* Do you object to answer that?

*A.* No, sir; I did borrow money from my father for two months, until I could repay it.

Redirect by Mr. Cranstoun.

*Q.* You borrowed money yourself?

*A.* Yes, sir.

*Q.* You mean to say that your father carried on the business, and you merely managed it?

*A.* That is all.

*Q.* You did not carry on the business in your father's name; you managed the business for your father?

*A.* Yes, sir.

Adjourned until Saturday, June 11th, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., June 11th, 1887.

Examination of witnesses in the above-entitled matter continued, pursuant to adjournment.

Appearances as before.

*Theodore S. Dumont*, sworn in rebuttal.

Direct examination by Mr. Smith.

*Q.* You are one of the proponents of the will in question, are you not?

*A.* I am.

*Q.* Where do you reside?

*A.* Brooklyn.

*Q.* What is your business?

*A.* Railroad agent.

*Q.* How long have you been engaged in that position?

*A.* In this position, nineteen months.

*Q.* Did you state with what road?

*A.* I am general eastern agent of the Florida Railway and Navigation Company.

*Q.* Previous to the date of your father's death, did you reside at all in Summit?

*A.* For about three years.

*Q.* After his death, during the lifetime of your mother, did you reside there?

*A.* I did.

*Q.* How long?

*A.* Consecutively, right straight along until my mother died; I cannot say I lived there; I merely stopped there; I never liked Summit, and never liked the people of Summit, and I told my mother the day she died, that when she died I would not stay in Summit a day, and, God help me, I never will.

*Q.* Your brother William, in his testimony, speaks of an interview with your father just prior to his death, when you were present, and in the presence of your mother, do you remember the occasion?

*A.* Perfectly.

*Q.* State what took place, and what was said at that interview, as you remember, or at that time, as you remember?

*A.* The whole appearance of the room, and situation of every person in it, is just as fresh to my mind now as when it occurred; my father generally slept on the left-hand side of the bed; he was lying on my mother's side; my mother was sitting in a chair by the bedside; William H. was sitting in a rocking-chair between the windows, behind the foot of the bed, and I was standing, resting my arms on the foot of the bed; it was on Sunday; father said, "Willie, I want to speak to you;" mother got up and moved her chair back in order to make room for him, and father said, "Willie, if this thing ends fatal to me, remember your mother is in your charge," to which he

replied, "Father, set your mind perfectly at rest, she shall never want for anything as long as I live."

*Q.* Your brother, in his testimony, says that your father used the word "care" in speaking at that time?

*A.* The words were just as I repeated them; the word was "charge," exactly as I repeated it; the scene is impressed upon my mind so that it can never be erased.

*Q.* Do you recall the occasion when your brother William was sent for to come on, and did come on from the West, to take a position in your father's office?

*A.* Perfectly.

*Q.* What connection, if any, did you have with his coming on?

*A.* I had been urging them to bring him on for some two or three years; my eldest brother, Robert, was my father's partner, and he was very ill with the Bright's disease, and as he has told me repeatedly, he never left his office in the afternoon for years, without settling everything, as he might never come back again, and I had been for some two or three years urging them to take him on; he was living in Cincinnati, or rather he was managing to live——[Interrupted.]

*Q.* Your brother William?

*A.* Yes, sir; he was not living; the highest salary he got there was $60 a month, and whenever I went to Cincinnati, he was complaining; finally, Bob's health got so bad that we discussed the matter —— [Interrupted.]

*Q.* Who?

*A.* My brother, father and myself, about bringing William on, and learning the business; he was a man over thirty years old, with no knowledge of the custom-house brokerage business, or any business; he had been in the navy for years, and finally it was decided that Bob would not live but a very short time, and father was getting old, and as father expressed it, "We must keep the business in the family," and it was settled to bring William on; I

sent him a pass for himself and family, and I met him myself at the depot on his arrival.

*Q.* Was there any talk in the family as to the reason why it was desirable for him to enter into the business with his father? [Objected to as irrelevant and immaterial.]

*A.* It was distinctly stated at the time he was brought here to learn the business; in the event of father's and my brother's death, or father's inability to do the business, he was there, as father expressed it, to take care of the business for his mother and sister.

*Q.* After he had gone into your father's office and became interested in the concern, was there any talk then in the family as to his connection with the business, as a reason why he was there? [Objected to.]

*A.* When he first came on here, he had no interest in the business; he thought he was coming in as a partner when my brother was a partner, but my brother said he would not have any interest as a partner; he was paid a larger salary than any man in there; there were others who had been there a long time, yet they gave him more money to give him a living for himself and family; eventually, on Bob's death, he became a partner, and he was to stay there to help his mother and sister; my brother paid him $25 a month of his salary to keep his mouth shut; we looked upon him as a kind of a pauper in the family; he hadn't the ability to earn his living, and the family had to take care of him.

By Mr. Riker—I object, and move to strike out the answer as irresponsive.

*Q.* As I understand you to say, you have heard your father state that the reason why your brother was taken into the concern was for the purpose of keeping the business for your mother and sister, have you ever heard your father so express himself in the presence of your brother William?

*A.* Repeatedly.

*Q.* Where?

*A.* I can locate one place; I have heard him say it in the library, at Summit, when William H. Dumont was living home, before he was married the second time; I heard father say, "William has got to be a very good business man; if anything happened to him, he would be there to look after his mother and sister."

*Q.* That you have heard him say?

*A.* Or words very similar to them, in his presence.

*Q.* Have you heard it said at other times when William was not present? [Objected to for same reasons as before.]

*A.* I have heard father say it fifty times.

*Q.* What did you understand from your father's saying to William, at the time you have referred to in the previous part of your examination, that he put his mother in his, William's, charge?

By Mr. Riker—I object to the question, as it makes no difference what he thought, or what construction he put on it.

*A.* It could have only one meaning; it referred entirely to the business; William H. took it so, and said mother should not want for anything as long as she lived.

*Q.* Did your mother so understand it? [Same objection.]

*A.* She did.

*Q.* Did she, in any conversation or conversations with you afterwards, say that she so understood it? [Objected to.]

*A.* She did.

*Q.* Do you remember any particular time, and what she said? [Same objection.]

*A.* I asked her the question what she understood by father's remark about putting her in his charge—in William's charge—and she said it only had one meaning, it meant the business.

*Q.* Your brother William, in his testimony, testified

that after your father's death there was a conversation that took place between yourself and him relating to your mother, do you remember that?

*A.* Relating to my mother?

*Q.* That there was a conversation that took place?

*A.* Do you refer to the conversation that took place the morning of my father's death, about the business?

*Q.* I suppose so; was it the day your father died?

*A.* The day my father died.

*Q.* There was a conversation between you and your brother?

*A.* Yes, sir.

*Q.* In relation to what?

*A.* The business.

*Q.* Where did that conversation take place?

*A.* In the cars, going from Summit to Hoboken.

*Q.* State what the conversation was?

*A.* When we drove to the depot we invariably—I don't know of an instance that I can recall when the train was on time—we got to the depot a minute ahead of the train; we knew what the horse could do, and generally timed ourselves so as to get there a minute before the train; we took the carriage, and brought down with us the nurse that had been with our father; I don't suppose we stood on the depot platform a minute before the train came along, and the nurse stood alongside of us; when we got into the car the nurse sat two or three seats back of us; after I had been sitting there a few minutes, I said, "Will, what interest are you going to give mother in the business?" he said, "Not a damn cent;" I said, "Then I will fight;" I said, "You know by all truth and justice and honor, mother ought to have an interest in that business; she has enough without it, but that don't make any matter;" well, we talked there a minute or two; finally, he said, "How much will you be satisfied with?" I said, "I don't know what your business is worth; you and father have kept me blinded as to what your business is; I don't know what

you are making; what can you afford?" he said, "How would $150 a month suit you?" I said, "Can you afford it?" he said, "Yes;" I said, "It will be satisfactory, and I promise that any claim I have on the business, or Nettie has got, I will sign off, and I will pledge myself for her."

*Q.* What did he say to that?

*A.* "All right;" I asked him if he could afford it, and he said, "Yes;" I said "that it would be satisfactory;" I said, "I will sign off and see that Nettie does;" then we discussed things about the funeral arrangements; he was to go to the cemetery, and I was to attend to the newspapers, &c.

*Q.* Did that conversation commence in the cars?

*A.* Every word of it.

*Q.* Was there any part of it, and if so, what part, on the depot platform before you started?

*A.* Not the least word; the only person—it was an unusual train for people to go down on, I don't think any of the business men in Summit ever go down on it; it is a train in the neighborhood of ten o'clock, and the only person that I can recollect of being on the platform at all was the nurse, and he stood about two feet from us.

*Q.* Have you stated all the conversation, at that time, that took place in relation to this matter?

*A.* Everything, to the best of my recollection.

*Q.* Did you have any further or other conversation with him on this same subject?

*A.* Yes, sir.

*Q.* How long after this first conversation did that take place?

*A.* Well, that first conversation took place on the morning of the 4th of January; I think my father was buried on the 7th or 8th, and it was about the first or second day after my father's funeral; when I got to my office in the morning in the mail—I saw a letter in the mail——[Interrupted.]

*Q.* From whom?

*A.* William H. Dumont; I opened it, and it commenced in this way——[Interrupted.]

*Q.* Never mind now; you found a letter from your brother?

*A.* Yes, sir.

*Q.* What became of that letter?

*A.* Torn up; I guess I looked upon it as so much waste paper and threw it away.

*Q.* Who was the letter addressed to?

*A.* "Theodore S. Dumont, General Eastern Agent Florida Railway and Navigation Co., 336 Broadway, New York. Personal."

*Q.* You are quite positive as to the direction?

*A.* Everything; I know every letter he ever addressed me, in every respect.

*Q.* What, as you remember, were the contents of the letter?

*A.* Well, I can almost remember the contents word for word.

*Q.* As you do remember them?

*A.* "DEAR THEO.—Referring to our recent conversation, I hereby notify you it is null and void; I do not recognize your right to speak for my mother, and when she is well enough to talk, I will see her myself about the business. Yours truly,

"W. H. DUMONT."

*Q.* Did you have an interview with him subsequent to that?

*A.* Yes, sir.

*Q.* About how long after you received the letter?

*A.* The next morning.

*Q.* Where was that?

*A.* On the ferry-boat; when I went on the ferry-boat; he came on the same train and went on ahead of me; he was in the carriage-way——[Interrupted.]

*Q.* That was in the carriage-way of the ferry-boat?

*A.* Yes, sir; I walked on the boat and went over to him and said, "Well, Will, I have got your letter."

*Q.* State what the interview was at that time.

*A.* I said, "Well, Will, I have got your letter; that is all right; I am perfectly willing to leave it as it is, provided you leave the business as it is;" I said, "When mother is able to talk, anything she agrees to is agreeable to me;" I said, "I am only talking for her now, when she is not able to talk for herself;" he said "he would do nothing of the kind;" he said "Father's interest ceased on the 1st of January;" I then said, "Well, I am going to have something to say about that; I am Robert Dumont's son, as well as you are;" I said, "We will see about the firm's name;" he said "I don't care anything about the firm name; my new shingle is ordered, and I am going to put it up next week;" I then asked him if he was going to give mother anything out of the business, and he said "Not a damn cent;" I said, "Well, William, all I have got to say is, that I am worth ten dollars to your one, and I will spend every dollar I have on earth to defend her rights;" he said "She has got enough without it;" I said, "That don't matter, if she has a million a year;" then I said, "Do you suppose I am going to leave her at your mercy?" he said "She has got to be;" I said, "No, by God," and walked away, and I have not spoken to him since; I supposed at that time, when I was talking to him, that I had the law with me, but when I saw my brother-in-law the next day, he said a surviving partner, if he did not wish to give his mother something out of it, the law would not compel him to.

*Q.* You supposed at that time that your sister and mother had some right in the business?

*A.* I did, until John T. Foot told me differently at the Brevoort House.

*Q.* Did your brother, in the conversation that you have just mentioned, use the expressions as you have stated them?

*A.* Just exactly, word for word; I have never forgotten them, nor I will never forgive them.

*Q.* Did you, during that conversation, say to your brother that you would send your lawyer after him and ruin him, or any words to that effect?

*A.* I do not see how a man —— [Interrupted.]

*Q.* Answer the question?

*A.* No, sir; never; what I was going to say, I don't see how any man that had any business sense could say that another man would see that his lawyer would ruin him, because he had more money than he did; I never made such a remark, and never thought of such a thing.

*Q.* Did you communicate these conversations to your mother?

*A.* I did.

*Q.* When?

*A.* When she got down stairs and was around the house again; about the latter part of January some time.

*Q.* How much of the conversations did you communicate to her? [Objected to.]

*A.* As near as I can recollect, word for word.

*Q.* Did you afterwards, that is, after the time you have just spoken about, have any further conversation with your mother upon this same subject?

*A.* Yes.

*Q.* When was it, if you remember?

*A.* At the time I had my first conversation, when I told her about Will, I said, "I suppose he will be out when he gets ready to see you?" and when I came home one evening, after dinner—it was our usual custom for she and I to go into the library after dinner, and be alone there, unless we had company, until about 9 o'clock, and then Mr. and Mrs. Robbins would come down from upstairs (they used to go upstairs right after dinner)—I went into the library, and she said, "Will has been here to-day——" [Interrupted.]

By Mr. Riker—You simply asked the time?

*Q.* Yes, I asked you the time—how long after the other?

*A.* I guess it was probably three or four days, not many—inside of a week.

*Q.* Now state the circumstances, and what the conversation was?

By Mr. Riker—I object to the conversation.

*A.* She told me, "Will has been here to-day;" I said, "What did he have to say?" she said, "He told me that I had no rights whatever in the business; that it all went to him, and that, while he would be very glad to make good any deficiency in my income, he could not agree to give me any fixed sum;" she said, "I told him that I would not take any money from him under those circumstances; that I had lived to be over seventy years old without taking charity yet, and if my income was not sufficient to support me in my present style, I would sell this place and seek less expensive quarters;" he said, "she should not look upon it as charity, as he was her son;" she said, "I don't care; if I have any rights, I want them, and if I hadn't any, I want nothing more from him."

*Q.* Did you, subsequent to that time, have any further or other conversation with your mother on that same subject?

*A.* Not one word; the conversations ceased there and never resumed; my mother knew——[Interrupted.]

*Q.* Never mind, now; strike that out as not responsive; do you remember the time of the transfer of the securities from your brother William to your mother?

*A.* Perfectly well.

*Q.* Was that before or after the interview between your mother and William?

*A.* After.

*Q.* What, if anything, had you to do with the transfer of these securities?

*A.* Nothing, whatever; shall I say what she told me about it?

*Q.* No; not unless the question is asked you; when did Mrs. Foot die?

*A.* 1865.

*Q.* She was your sister, was she not?

*A.* She was my oldest sister.

*Q.* She left one child, I think?

*A.* If I remember correctly, when she died her baby still lived, and they were buried the same day; she only left one child that lived, and that was Robert Dumont Foot.

*Q.* What became of him after his mother's death?

*A.* My mother gave Bertie, at least, my sister gave Bertie to my mother, so I was told, on her death-bed, with the consent of Mr. Foot, or in the presence of Mr. Foot, at any rate.

*Q.* And where did Robert Dumont Foot, or Bertie, as you call him, reside?

*A.* He always lived with my mother; in the summer, my father and mother and younger sister used to go out to Morristown, Mr. Foot's place, and in the winter, Bertie lived at home with mother.

*Q.* Do you remember the occasion of Mr. Foot's giving your mother the use of the house in New York?

*A.* I do.

*Q.* Do you know what was the alleged reason for so doing? [Objected to.]

*A.* I do.

*Q.* What was it?

*A.* To assist my father and mother.

*Q.* What has Mr. Foot's reputation in the family been as to his wealth? [Objected to as immaterial.]

*A.* He has always been looked upon as a very wealthy man; when he first married my sister——[Interrupted.]

*Q.* I mean Mr. Foot, the father of Robert.

*A.* John T. Foot, my brother-in-law?

*Q.* Yes; have you heard his wealth talked about in the family? [Objected to.]

*A.* Yes, sir; in the family and out of it.

*Q.* Have you heard an estimate of his wealth given? [Same objection.]

*A.* Yes, sir; some years ago, when I was living in Cincinnati, Foot was then the head of his house; he was in the whiskey trade--the wholesale whiskey trade—and whiskey men were making fortunes in those days, and I have heard people talking about Foot's wealth, and I have heard it estimated he was worth from five to fifteen millions.

*Q.* Have you heard Mr. Foot himself speak of his wealth? [Same objection.]

*A.* I have—not speaking of his wealth; Mr. Foot has spoken to me on two occasions of different securities he owned very largely of, and asked my opinion of them.

*Q.* Was his wealth known to your mother? [Same objection.]

*A.* Oh, yes.

*Q.* Have you ever heard your mother refer to it? [Same objection.]

*A.* Indirectly, yes; I recall one instance particularly some years ago, when I was living in Summit and John T. was at Morristown, and there was a big break in Baltimore and Ohio stock the day before, and Foot drove from his place the next day before breakfast to ask me about the row; and if I remember aright, he did not stay to breakfast, but drove off in a little while; I remarked to my mother, "That is the misfortune of having too much money, owning stock that is worth 170, and having to ask a boy what the trouble is;" I don't think Mr. Foot would have acted upon my judgment in any way, but he liked to hear my opinion about things.

*Q.* Did your mother ever express herself in your presence as to the account sent her by your brother William after your father's death?

*A.* She did.

*Q.* When and where was it, if you remember?

*A.* In the library at Summit, after dinner; we were alone; she took a letter out of her pocket —— [Interrupted.]

*Q.* About how long after the account was sent her?

*A.* I could not give you any idea; it was within a reasonable time; when the account was sent her she spoke to me about it the night she got it.

*Q.* It was the night she got the account?

*A.* Yes, sir.

*Q.* State the circumstances, and what was said by her at that time? [Statement by the mother objected to.]

*A.* After we had gone into the library, she put her hand into her pocket and pulled out a letter, and said, "Here is a letter I got from Will to-day, with an account; I want you to look at it;" I looked at it, and said, "Mamma, I cannot tell anything about this account; you refuse to let me have his books examined, and he can render you any account he wants to, and you have got to accept them," and she said, "I think he has got to be pretty mean; he wants to give me nothing out of the business, and he has charged me with the funeral expenses and the mourning bonnets."

*Q.* Did you, after that, have any further conversation with her upon this same subject?

*A.* No, sir.

*Q.* What would you say your father's annual expenses averaged?

*A.* Well, I have no means of knowing, but, judging by what I saw of the style of living at the house, and the number of servants they kept, &c., I should think it cost my father in the neighborhood of $4,000 a year, and perhaps more

*Q.* Did your mother expend much on her own account?

*A.* She would not average for her own use above $25 a year, nor didn't for ten years, perhaps longer, but we will say from $25 to $50; I don't believe for herself she spent $25 a year.

*Q.* Did she spend money on any other member of the family that you know of?

*A.* Before my sister was married, she spent a great deal of money on her, and both before and after my sister's marriage, she was pretty extravagant on Bessie.

*Q.* Who was Bessie?

*A.* The daughter of William H. Dumont; the youngest daughter by his first wife; my mother took her when she was about two years old, and clothed and educated her, and provided for her in every way until my father's death; just before my father's death, my mother fitted her out for school at considerable expense, for mother told me she told Bessie to get anything she wanted, and she got a dozen of this thing and a dozen of everything.

*Q.* While you were living in the family at Summit, did you pay any board?

*A.* Not board directly, for mother always said she would never take board from her own children.

*Q.* What do you mean by "not directly?"

*A.* If I took the cost of the various articles that I took into that house, I paid bigger board than I ever paid in my life, and I have boarded at some first-class boarding-houses; from the day I agreed to stay there—my father was a man that was pretty close in his personal expenses; in fact, he was mean; he smoked the vilest cigars he could get, and he was very fond of his whiskey and water, and brandy and water at dinner, but he would not buy it, and champagne was his idol; I told my father, "If I am going to stay here, I will agree to keep the house stocked with all the liquors you want," and I took home champagne, brandy, whiskey and barrels of ginger ale and lager beer, imported lager beer, Scotch ale by the cask.

*Q.* How about cigars?

*A.* I never gave him cigars except on holidays; sometimes I gave him a present of a box of cigars, and very often he would say "Theo., give me a good cigar."

*Q.* How about other household things?

*A.* I don't think there was a room in my mother's house, at the time of her death, that hadn't some article or articles of furniture in them presented by me; the parlors were loaded with them; I bought all kinds of furniture; I gave her pictures, and I gave her dresses for five years before she died; she had all the silk stockings she could stick away, and there are full five boxes of them now that have not been touched; I paid $5 for cambric handkerchiefs for her; she never expressed a wish—I have gone so far, if I had a scarf pin on and mother admired it, I would take it out of my scarf and give it to her.

*Q.* You have furnished things in that way that equalled what your board would amount to?

*A.* Decidedly; big board; I was going to add to that that I spent about $500 or $600 for horses and carriages for the family, too, and furnished crockery, glassware and table linen.

*Q.* And supplies for the table, too?

*A.* In the winter time I was always bringing down game; I had friends in the west and they sent me game; I sent home ducks, sometimes two or three dozen at a crack, and oranges box after box.

*Q.* Did your father have any securities or property of his own, that you know of, before your brother's death?

*A.* No, sir; I don't think father ever had a dollar in his own name since he went into the custom-house brokerage business; I think he lost the last dollar he had on earth when he went into the Henry Clay Insurance Company.

*Q.* When was that?

*A.* When he first started the custom-house brokerage business, he owed his butcher, baker and candlestick maker.

*Q.* Do you know when the Rock Island stock was bought that has been spoken of?

*A.* If my memory serves me, I think it was bought a few months after my brother Bob's death, from the first

insurance money that they got; I won't be positive, but is my recollection.

*Q.* The insurance money got from your brother Robert?

*A.* Yes, sir.

*Q.* Was that Rock Island stock, as you know of, increased subsequently by further purchases?

*A.* No, sir; it was increased by stock dividend one hundred per cent.

*Q.* Given to the holders of the stock?

*A.* Yes, sir; they paid eight per cent. and declared a stock dividend of one hundred per cent. and made it seven per cent. stock; my father was talking about selling the stock; he was buying another piece of land in Summit, and he was talking about selling the stock, and I said, "Why don't you sell your New York Central stock and keep your Rock Island stock," and he did so, and in less than a year this Rock Island stock just doubled itself up.

*Q.* You say that you said to him, "Your Rock Island stock;" do you mean by that it was his stock?

*A.* No, sir; it was mother's; we always spoke of things that way, because my mother had absolutely nothing to say; he never claimed the stock at all; the dividends were paid to her; it was paid out of my brother's insurance money; it was all left to her.

By Mr. Riker—I understood the witness to say "payable."

The witness—Paid or payable; the checks came from the treasurer's office payable to the order of Mary B. Dumont.

*Q.* Did you ever hear it stated by your father what your brother Robert's estate amounted to?

*A.* $20,000.

*Q.* Did you ever hear it stated what was paid out of it?

*A.* I know exactly.

*Q.* On account of your brother's debts?

*A.* I know exactly; not in dollars and cents, because I don't know what his funeral expenses were, but outside of

his funeral expenses, and doctor's bill and druggist's bill, John T. Foot had two notes of his for $2,000 apiece, which were given many years previously; if Bob had lived one month longer, one note was outlawed and another would be outlawed; the amount of that note was $2,900.

*Q.* That was paid out of it?

*A.* That was paid; I believe I was paid $100; I had bought, at my brother's request, a seal skin sack for my sister, which he was to pay for, and I think $100 of that was unpaid; I got that.

*Q.* That was all that was paid out of the money that you remember?

*Q.* Yes, sir; every cent; he had no debts; he was like me.

*Q.* Did your brother own any real estate?

*A.* Yes, sir; he owned a piece of land in Morristown.

*Q.* What became of that, do you know?

*A.* That was put in trade with W. H. De Forest when my mother bought that place in Summit.

*Q.* Your brother, in his testimony, speaks about a will made by your mother in 1881; do you know what has become of that will?

*A.* I believe it is in his possession; I would give $1,000 to find it.

*Q.* When did you last see it?

*A.* The day I handed it to my father in my office, to take down and put in the safe deposit company.

*Q.* Did you ever say, in the presence of Miss Swords, that your brother William was making $10,000 a year?

*A.* I never did; I didn't know what he was making.

*Q.* Did you say it at that time in the presence of any other person? [Objected to.]

*A.* I never said such a thing in my life; I had no idea what he was making; I might, probably, have said that the business was worth $10,000; I don't know; I might have said that.

*Q.* You may have said that in Miss Swords' presence?

*A.* Yes, sir.

*Q.* After your mother took charge of the securities that were given her by your brother, subsequent to your father's death, who managed the same?

*A.* Nobody.

*Q.* Who took charge of the securities?

*A.* She did.

*Q.* In what way; what did she do with them?

*A.* Well, the first I saw of the securities was when she came up in a carriage to my office with Mr. Robbins, and he got out and came in the office after me, and drove me to the safe deposit company, which was on the corner of Leonard street, and I was on the corner of Worth street; she had a bundle of securities under her arm, and I went into the safe deposit company and engaged a box for her; I had a box there for a couple of years before that, and I introduced them; she registered her name and engaged a box; we were then shown in one of the private offices, and a young man brought out her tin box out of the safe deposit vault—brought out a tin box and gave her the keys; I took the securities then and checked them off from the list that father gave her; I checked off the amounts by the list, and said: "They are all here;" she said "all right," and she put the securities in the box, and I put the box under my arm; she went into the vault with me; I locked the box and I handed her both of the keys.

*Q.* Who kept those keys afterwards?

*A.* She did always, I never had that key, or either of them, in my possession from that day, except when we would go into the safe deposit company, she would hand me the key to go in and unlock and bring out the box into the private office; with the exception of that, I never had the key in my posession for an instant, until just before the 1st of December, when one night, sitting in a chair, she took her pocket-book out; she always carried one of the keys in her pocket-book, and she took it out of her pocket-book and handed it to me, and said, "I have

not been to New York for so long; there must be considerable securities there, and you had better go and get them; and you had better keep the key, for I don't think I will ever get them again;" one night after that she said, "That other key of the safe deposit company, if you will open that box, which is in the right-hand corner of the shelf;" she said, "turn the box upside down, the key is between the bottom of the box and the lid of the box;" I raised up the box and found the key there, and I took it out, and she said, "You had better keep it; I will never have occasion to use it again."

*Q.* How long was that before her death?

*A.* Probably three days—three nights; I don't think I went to New York after that until after her death; I guess that was the last night she was conscious.

*Q.* Did you use the key of the safe deposit company between that time and her death?

*A.* The day she first gave me the key, which was in November, or about the 1st of December, I went there and cut off the coupons and disposed of them, and after that I never went to her box in any way, shape or form, until I went there with Mr. Robbins to get her will, and I have the evidence of the gentleman in charge to sustain me.

*Q.* You say you disposed of the coupons?

*A.* Yes, sir.

*Q.* How did you dispose of them—of the proceeds that you received?

*A.* Disposed of them, and deposited the proceeds.

*Q.* Where?

*A.* In the American Loan and Trust Company, where she kept her account.

*Q.* In her account?

*A.* Yes, sir.

*Q.* Deposited to her credit in her own account?

*A.* Yes, sir.

*Q.* Previous to the time you mention, who got the coupons for your mother from the safe deposit company?

*A.* After she put them into her own box, I always went there with her to get them.

*Q.* Who got them?

*A.* She got them; she would hold the bonds, while I held the scissors and cut off the coupons.

*Q.* In whose name was her bank account kept?

*A.* Mary B. Dumont.

*Q.* Who signed the checks that were drawn on that account?

*A.* She signed them; no one else could; there was no power of attorney in that bank.

*Q.* What, if anything, did you do in relation to drawing checks for your mother?

*A.* I always drew the checks at her request, and at no other time; I would fill in the body of the check and she would sign it.

*Q.* She would frequently request you to do so?

*A.* Once or twice, and I think always; she always wanted $100 at a time for herself; she always wanted me to bring her $100 at a time—$40 in small bills, $10 in silver and $50 in fives.

*Q.* Where was the check-book kept?

*A.* In her desk—not her desk, either, but in the general desk in the house, in the library; the check-book always laid there.

*Q.* Do you know what your mother's income was after your father's death?

*A.* I do not.

*Q.* Did she ever talk to you about her income?

*A.* She used to say to me sometimes, "Am I living beyond my income?" I said, "No, spend everything you want;" I said, 'That is what the money is here for;" I did say to my sister that she was going beyond her income, but I was not going to let her know it; I suppose she asked me that question once a month, "Am I living beyond my means?" and I said, "No, mammy, you don't begin to live up your income."

*Q.* But, as a fact, she was going beyond it?

*A.* She was going beyond it; there was no question about it.

*Q.* Do you know Frederick J. Treat, and have you heard his testimony in this case?

*A.* I used to know him; I don't know him now; I have heard his testimony.

*Q.* From what time did you know him?

*A.* I got acquainted with him sometime, I think, in the year 1883.

*Q.* Did he ride out with you sometimes in your carriage?

*A.* He used to go out with me in my buggy very frequently.

*Q.* Previous to June, 1884, and after your father's death, did he ride with you, and if so, how many times?

*A.* Between my father's death and June, 1884?

*Q.* Yes.

*A.* Not once.

*Q.* When did he ride with you?

*A.* Always, every Sunday after he commenced riding in June, 1884.

*Q.* He commenced riding in June, 1884?

*A.* Yes, sir.

*Q.* And after that he rode with you nearly every Sunday?

*A.* Yes, sir.

*Q.* How do you fix the commencement of his rides as in June, 1884?

*A.* Because I never missed a Sunday to take Mr. Chapman until we had our quarrel, and that took place the day after the freeholder's meeting here, the second meeting, which was in June, and the following Sunday Mr. Treat went riding with me.

*Q.* After you commenced to ride with Mr. Treat, or he with you, did you ride on any other days of the week than Sunday?

*A.* Well, during the months of July and August, I should say they were; I had a very bad affection of the eyes, and I never dared to trust myself out of the house after dark anywhere, either in a carriage or on foot, unless I had some one to guide me; about the first two months of the year I never came out earlier than the five-twenty train; I used to go home and get my dinner; I used to get through about half-past seven, during those two months, while it was daylight; I ordered my horse brought around to the door while I was eating dinner; I generally asked my mother to go riding with me, and generally she would go; and if she did not feel well enough and thought she did not care to go, I would get in the buggy and drive around, and I sometimes asked Benjamin Boulanger, and sometimes drive around to Treat's, and he would get in the buggy with me, but I would have to get back before dark.

*Q.* Other than an occasional ride, then, in July and August, if at all, did you ride with him on any other day other than a Sunday.

*A.* No, sir; and nobody else, except on Sunday, except these occasional rides in the evening; as near as my memory can recall it, I think Mr. Treat went riding with me on three occasions in the evening that way, and that is as near as I can remember, and I have searched my memory very carefully.

*Q.* After your father's death, and previous to June, 1884, did you have any conversation with Mr. Treat in the cars between Summit and Hoboken, and upon the ferry-boat crossing over to New York, in relation to your family affairs or your mother?

*A.* No; not with him or any one else.

*Q.* Did you have any conversation with him in the cars, or on the ferry-boat mentioned, in June, 1884, in relation to those matters?

*A.* I never discussed my mother's matter with any living soul; I think on one occasion——[Interrupted.]

*Q.* I asked you that one question, and you are now answering something else?

[Last question read.]

*A.* Never, with him or any one else.

*Q.* What opportunity was there for conversation with Mr. Treat on the train or on the ferry-boat crossing the river?

*A.* Not the slightest, for private conversation; I was never alone with him.

*Q.* What do you mean by saying "no private conversation," and that "you were never alone with him?"

*A.* In the first place, I mean by private conversation, when one man wants to say anything to another of a private nature; Mr. Treat was never alone with me; when we were in the cars, he was always a player in the set of whist, and if I was playing I was one of that set, and what I said to one the rest heard; when we went on the boat, Treat was a bank messenger, and he had to be at the bank at nine o'clock, and he made a bolt for the boat; that train was very often late, and he would rush right from the train to be sure of getting the first boat out; that was his usual custom; if we had ample time for the boat, he generally stuck with the party, which consisted of Mr. Chapman, Mr. McConnell and myself, and we would all go aboard the boat chatting together; when the boat approached the New York side, Treat would leave the party and go out to the front part of the boat, and get on the dock as soon as the boat touched the dock, and go up the street, and we would go up leisurely.

*Q.* Do you know of any conversation with Mr. Treat at any time on the train, other than while engaged in the game of cards?

*A.* Never, sir; to the best of my knowledge, he never sat alone with me in his life on the train.

*Q.* Do you know of any conversation alone with him on the ferry-boat, at any time?

*A.* I have no recollection of being alone with him on the ferry-boat; certainly, we never was in the morning.

*Q.* As to the afternoon?

*A.* It was very rarely that I ever saw him in the afternoon; he used to go in the four-thirty, and I went in the five-twenty; he had just got his place at Summit —— [Interrupted.]

*Q.* When he did go out in the four-thirty, what was done then by Mr. Treat and yourself?

*A.* When he went on the four-thirty there was nothing done.

*Q.* As to playing cards, I mean?

*A.* We used to have a card set at Summit, and I introduced Treat into the party —— [Interrupted.]

*Q.* No.

*A.* About card-playing on the train?

*Q.* Yes?

*A.* What did he have to do with it; he was not known as a player on the five-twenty; he belonged to another set, the four-thirty or four-twenty, or whatever it was.

*Q.* The train that Mr. Treat went up on was usually the four-thirty?

*A.* The four-twenty, I think, or four-thirty.

*Q.* And you always went with the five-twenty?

*A.* Invariably; unless I went in a later train.

*Q.* Did Mr. Treat occasionally go up on the five-twenty train?

*A.* Occasionally.

*Q.* When he went up on this train, what was usually done by him on the train?

*A.* He always tried to get in some game of whist on the train.

*Q.* What did you do?

*A.* I always played whist, except a short interval after my father's death, when I didn't do anything.

*Q.* How frequently did you see Mr. Treat in the evening?

*A.* Very rarely, except a night when we were going to have a game of whist.

*Q.* That was about how frequent?

*A.* About once a week.

*Q.* At your mother's house?

*A.* There was one time, before my father's death, in the fall, after he came to Summit to live; I invited him over once when he lived at Chatham; I had a very valuable hunting dog; my eyes are so bad I cannot do any shooting, and Treat once asked me to loan him the dog for woodcock shooting; that was in the summer of 1883; he had him there a few weeks and he sent him back; I don't know whether the dog went back to Budd's or William H. Dumont's, and in the fall of 1883 he borrowed him again, and shortly after he borrowed him he came to my house and said the dog was lost, and I drove all over Summit one Sunday trying to find him; a gentleman brought the dog to my house; he found him in New Providence; he had my name on his collar; he said the dog followed him from the Methodist church to Treat's house, and I think twice after that, in the evening, I walked over in the evening with my niece to his house to see if the dog was all right; I believe that was the only time I was at his house, except in my buggy, and then I did not get out.

*Q.* You say you met him at cards once a week; I ask you whether it was at your mother's house?

*A.* I say about once in three weeks; it was at my mother's.

*Q.* At other times it was at the houses of one or the other of the other members of the set?

*A.* Yes, sir.

*Q.* When, after your father's death, did you first meet Mr. Treat at your house, do you remember, to play cards?

*A.* I think it was probably in the neighborhood of three months; I cannot remember distinctly, but I know

before I played any cards there, I played on the train some little time, and I finally asked my mother if she thought there would be any impropriety of my resuming the card parties at the house, and she said, "Not the least."

*Q.* Mr. Treat says, in his testimony, that you told him one time that you had made a demand on William to give your mother an allowance of $5,000 a year during her lifetime, of the business—of the firm's business—and that he refused to do it; state whether any such conversation as that was had?

*A.* Not one word of it; nobody has even accused him of having $5,000——[Interrupted.]

*Q.* Did any such conversation as that take place?

*A.* Nothing at all; I never made a demand upon him for any amount whatever; the amount came from him; I always told my brother, in both conversations I had with him——[Interrupted.]

*Q.* Never mind what you told your brother; that is not what I asked?

*A.* No, sir; I never had a conversation with him about a demand one way or the other, or any amount.

*Q.* Mr. Treat also testifies that in one of the conversations you said to him "that he [your brother] was a God-damned cur and refused to do it"—that is, give $5,000—"and had gone and taken another man into partnership with him who was no relation to him, in preference to your mother;" state whether any such conversation as that took place?

*A.* None, whatever.

*Q.* Mr. Treat also testifies that at one of the conversations with you, that you said "that since your father died your mother looked up to you in all things, and she did nothing without she consulted you;" state whether you had any such conversation as that with him?

*A.* I never did, for it would have been a lie.

*Q.* Mr. Treat also testifies that at the same or some other conversation than the one just referred to, you said

to him, "that everything you said, your mother did;" state whether any such conversation as that was held with him at any time?

*A.* I never had such a conversation; that would have been another lie if I had said it.

*Q.* Mr. Treat also says in his testimony, that on one occasion, in conversation with you, when you were excited and under what he supposed was financial difficulties, that your mother—that you said that your mother said "that if it was financial trouble, you knew that you had her affairs and knew how much balance there was, and if you wanted it you could use it;" state whether any such conversation as that took place between you and Mr. Treat, at any time?

*A.* No such conversation ever occurred; I don't suppose there has been a time in the last five years that my check has not been good at the bank for $20,000, or if it was not in the bank I could raise it in half an hour; I could pledge my securities for it.

*Q.* Mr. Treat also testifies that in one of the conversation between you and him, in speaking about the value of your brother William's business, that you told him that it was worth $12,000 or $15,000 a year; state whether any such conversation as that took place between you and Mr. Treat at any time?

*A.* I could not have said it, because, as I said before, I knew nothing of its value whatever; I was always kept completely in the dark.

*Q.* Did you have any such conversation as that?

*A.* I did not.

*Q.* Mr. Treat also says in his testimony that, at a conversation between yourself and him, you said to him that your father always said that your mother would put her head under the block for you, to save you, or some such remark as that—that he always believed your mother would put her head under the block for you; state whether

any such conversation as that took place between you and Mr. Treat at any time?

*A.* No such conversation, because I never for one moment thought my mother considered me my mother's favorite child.

*Q.* Mr. Treat also says in his testimony, referring to the same conversation as the one just referred to, "that you said," in relation to this statement of your father, "that you believed that your mother would do that;" state whether any such conversation as that took place?

*A.* It never did; I think my mother loved all her children about alike; I don't think she would have gone further to serve one than she would another; I think, if she had any favorite, it was Bertie Foot, her grandson.

*Q.* Mr. Treat also testifies that at one of the conversations with him, referring to how your brother William would feel after your mother's death, that you said to him "that he," meaning your brother William, "would be very much disappointed;" state whether any such conversation as that took place between you, if you remember, at any time?

*A.* I remember but one conversation with Mr. Treat in which anything was said whatever.

*Q.* When was that?

*A.* It was one Sunday, when he and I had driven up to Morristown, coming back in my buggy, as I have said before about my eyes, I cannot see anything a little ways from me, and he made the remark, "Here comes Bill with his family;" I said, "I am glad of that, I want to see how his wife and daughter are going to act—to see if they have taken up his quarrel;" when we came alongside of each other William Dumont raised his hat, and Mr. Treat and I both raised ours; his wife and daughter turned their heads the other way; after they had gone by I remarked to Treat, "There goes a damn fool, if there ever was one;" I said, "His ungrateful conduct to my mother he lives to regret;" I said, "My will was made, and I think if

I should pop out now, I would leave nearly $100,000, the bulk of which would go to his two daughters, Mamie and Bessie; by his actions he compelled me to change my will, and mother has changed hers; if he had given her what he said he would, it is not probable she would live at the outside over two or three years, and what he gave her would come back to him anyhow; besides, he will loose what more he would have got;" that is as near what I said as my memory serves me, and that is the only conversation I recollect with Mr. Treat about my mother's will.

*Q.* When was that?

*A.* One Sunday afternoon, coming from Morristown.

*Q.* In 1884?

*A.* No, 1885.

*Q.* Was that the only time, or the only conversation that you ever had with Mr. Treat in relation to your brother's business?

*A.* To the best of my recollection and belief, it was the only time I ever spoke to any one about my mother's will until last year.

*Q.* Mr. Treat testifies that at one of the conversations between yourself and him, that you said "that your mother had made a will, and that there would be no luny business about; that they had had Doctor Risk as one of the witnesses, the doctor that attended your mother most of the time while in Summit, and during her last sickness;" state whether you had any such conversation with Mr. Treat at any time?

*A.* I don't think anybody would accuse me of speaking disrespectfully of my mother, and speaking in that way "of being luny," I think would be disrespectful.

*Q.* Did you have any such conversation as that with Mr. Treat at any time?

*A.* No, sir.

*Q.* Did you know that Doctor Risk was going to be a witness to the will?

*A.* I hadn't the most remote idea of it.

*Q.* Did you speak to Doctor Risk about it previously?

*A.* I never spoke to him about that will.

*Q.* When did you first know that Doctor Risk was a witness to the will?

*A.* When I saw his name at the foot of the will as a witness.

*Q.* When Mr. Treat played cards at your house, how long did he usually arrive previous to the other members of the club?

*A.* Sometimes the others were there before he arrived, or one of them, up to the time Mr. McConnell used to play; McConnell was always there before him, because he came on the train and staid over night with me; previously to that time, Mr. Boulanger lived across the street from the house, and after I had my dinner I would tell the man not to unhitch the horse, and after I got my dinner the man would drive over for Treat.

*Q.* Where was he ushered when he came in the house?

*A.* Always in the library, or else sat on the front porch.

*Q.* When Mr. McConnell was there, was he present with the other members of the family?

*A.* No, sir; Mr. McConnell was recognized as an equal —— [Interrupted.]

*Q.* I say was he present with the family?

*A.* Always.

*Q.* Were you and Mr. Treat there, too?

*A.* Mr. McConnell was my guest, and I staid at the table until he got through, and we went out together.

*Q.* What would your mother do after dinner the evenings that cards were played at the house?

*A.* She would always see that the room was fixed for the card-table, and the refreshments set out; when she got through with that she came into the library.

*Q.* She was not present when you were playing cards?

*A.* Never.

*Q.* What did she usually do when she came into the library?

*A.* Took a seat, and took up the *Evening Post* and read it, or the *Commercial.*

*Q.* Was her eyesight such that she could read a paper?

*A.* Always, with her glasses; she told me several times, when I did not come out nights, but staid in town, that she always missed her evening papers.

*Q.* How was her eyesight as to reading writing?

*A.* Well, her eyesight—she was an old lady, she had ordinary eyesight for an old lady; she could read her letters just as well as I could, as far as that was concerned; she was indifferent about her letters because they all referred to family matters; when Miss Swords was there she would say, "Shall I read this, Mary?" and she would say, "Yes," and she read it, but when Miss Swords was not there she read her own letters; I don't think any one read Miss Swords' letters to my mother; she always read them herself.

*Q.* When did you first commence to drive with Mr. Treat to Newark?

*A.* I commenced in May, 1885; I first went to see this doctor on the 9th of May——[Interrupted.]

*Q.* Which doctor do you refer to?

*A.* The doctor that has had my case in charge ever since—Doctor Wackergaen; I went there first on the 9th of May, 1885, and it was the following Saturday, or the Saturday week following, that he performed his first operation; on the next day, Sunday, I was in great agony; I was kept awake almost all night; I was in terrible agony; I had never driven to Newark, and finally about eleven o'clock I said to mother—mother was worried about me—I said, "Mother, I cannot stand this pain any longer, I have got to get into New York if I have to drive there;" I ordered my horse up and got my buggy, and went over to Treat's house, and told him, "Fred, I want you to go with me for a drive to Newark; I have got to to see my doctor;" I didn't know what time the trains left, and I drove up to the depot and saw a guide to see

what time I had to be in Newark; I went to Treat particularly to see him about the trains; he said there were trains about every hour; I saw the newsman and saw what time they would start, and we started and drove to Newark; we just missed one train on the Pennsylvania, so we then started over to the—no, I guess we missed a train on the New Jersey Central and started to the Pennsylvania, and there would not be a train along for three-quarters of an hour, and I walked along the platform, and he staid there with me until the train came along, and he told me the next morning that he told his wife that he was conscience stricken because he did not go with me.

*Q.* From that circumstance you are positive that was the time you first drove with him to Newark?

*A.* Positively.

*Q.* That is the first time you drove with him to Newark?

*A.* Yes, sir; I want to make a correction in my testimony; I said I had never driven to Newark; I remember having driven through Newark with Mr. Chapman, but never stopped.

*Q.* Mr. Treat, in his testimony, says "that prior to his acquaintance with you he was not in the habit of visiting race-courses or betting on horse-races, and that the first time that he visited a race-course was with you and Mr. Chapman;" state whether that is true or not?

*A.* He never went to a race-course with me in his life; I have met him once or twice on the race-tracks, accidentally, but he never went with me.

*Q.* Did you ever go to any race-courses with Mr. Treat and Mr. Chapman together?

*A.* No, sir; I say Mr. Treat never went in my company to a race-course in his life.

*Q.* Or with you alone, or you and Mr. Chapman?

*A.* Never.

*Q.* Or anybody with you?

*A.* He never went with me; a great many have gone

with me; I have been going to the race-track for the last ten years.

*Q.* What, if anything, did you do to induce Mr. Treat to bet on horse-races?

*A.* That is a peculiar question; I don't know what I ever did to induce him; he asked me once—he said he had never been to a race course, and said he desired to see one, and he asked me if I would not loan him my badge when I was not going; I told him he could have it any day except Saturday; one night he asked me to loan it to him, which I did; he went down early next morning; I didn't see him the next morning at all; he told me he was going the next day down to Sheepshead Bay, and the next morning I went into the barber's; I said, "Phil, are you going to the track to-day?"—he never went on a Saturday, but he used to go pretty frequently—and he said "yes"——[Interrupted.]

*Q.* That is Phillip Martin?

*A.* Yes, sir; I said, "There is a young fellow going down that I loaned my badge to; he is a poor man and he never has been to the track;" I said, "Don't let him bet if he wants to;" I said, "If he goes down alone you don't know what he would do; I would feel safer if he was in the hands of a man who knew the ropes;" I said, "If you have no objection you would do me a favor to take him;" he said, "Certainly;" I told him what I had done, and said, "You go down and see him and make your arrangements;" he said he would do so; I didn't see him again until the next morning; the next morning I met Treat at the depot, and I said, "How do you like horse-races?" he said, "I won $290;" I said, "I am devlish sorry to hear it;" I said—I didn't know until Mr. McConnell told me that he was going to bet; Mr. McConnell said he was going to take $20 down, and he would bet the whole of it; I said, "If he wins, the devil always prompts a young gambler to win the first time;" I said, "If he wins, if he is not careful, it will be his ruination;" when he told me the next

day, I said, "I was sorry to hear it, and as a good gambler knew when to quit, as he was ahead, he had better stop, or he might not win another cent."

*Q.* Did you ever go to a pool-room with Mr. Treat?

*A.* Never.

*Q.* Or ask him to go?

*A.* Never; I used to talk to him and expostulate with him about going to pool-rooms; pool-rooms was a thing I seldom went into myself; perhaps once in one or two weeks, I would go in and see what odds were on certain horses, and I would hear that Treat was lying around pool-rooms all the time, and I expostulated with him, and said, "If the bank gets on this thing, they will fire you as quick as lightning;" he became the most infatuated fool on horse-racing I ever saw in my life.

*Q.* Mr. Treat says that you are of a very vindicative character in your hatreds, both with your brother and other people, with the least provocation; what have you to say to that?

*A.* I would like Mr. Treat or my brother to find anybody, man or woman, that I ever injured; I admit I am excitable; I say some things in a moment of passion, but when my passion cools, it goes out of my mind, and I have never in my life, intentionally, injured anybody but what in my cool moments I have gone to them and begged their pardon; I have made it a rule of my life that a man does not lower himself who says he is wrong when he is wrong, and no man comes to me and asks me to forgive him but what he gets it; I can go to my grave to-day and say I have never injured man or woman to my knowledge, and I feel that some people in this world have been benefited by my living.

*Q.* Mr. Treat testifies that he had a conversation with you, regarding your mother's will, soon after your father's death, and that you told him at that time that your mother was in a precarious condition, and that she could not talk with you about the will that day; state whether any such

conversation as that was had with Mr. Treat, then or at any other time?

A. Neither then or at any other time.

Adjourned until Friday, June 17th, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., June 17th, 1887.

Examination of witnesses in the above-stated matter continued, pursuant to adjournment.

Appearances as before, with the exception of Mr. Curtis.

*Theodore S. Dumont*, direct examination resumed.

By Mr. Smith—I notice, in examining the testimony of Mr. Theodore S. Dumont, taken at the last hearing, that there are some errors on the part of the stenographer in reporting the testimony of Mr. Dumont, which we desire to correct now, before proceeding with the rest of the examination.

By Mr. Riker—What are they?

By Mr. Smith—On page 544, at the top of the page, "I said then I will fight;" I said, "You know by all truth and justice and honor, mother ought to have an interest in that business; she has enough without it, but that don't make any matter." What he said at that point was, "William said she had enough without it;" I said, "That don't make any matter." As it appears now, it appears as if it was all said by Mr. Theodore Dumont. The whole conversation is given as his, whereas there were two.

By Mr. Riker—I have no doubt the testimony in regard to that is as Mr. Dumont gave it. I don't know whether he intended to say it, but he did say it.

By Mr. Smith—I supposed you would say that, therefore, I think it would be best to ask him the questions.

[Mr. Smith then proceeded to re-examine the witnesses on the testimony taken at the last hearing.]

*Q.* In the testimony as taken by the stenographer, in one part of the testimony relating to the conversation between your brother and yourself, after your father's death, on the cars, the testimony, as taken by the stenographer, reads thus: "I said then I will fight;" "I said you know by all truth and justice and honor, mother ought to have an interest in that business; she has enough without it, but that don't make any matter;" please state whether that was the way you remember giving your testimony at that time or not, and if not, how it was given?

By Mr. Riker—I object to the question——

*A.* To the best of my recollection, I gave it exactly as it occurred; he said, "She has enough without it"—— [Interrupted.]

By Mr. Riker—I object to the questions, on the grounds, first, that his memory in regard to what he said is not material; and, second, on the ground that it was agreed that the stenographer's notes should be taken as a true transcript of the testimony in this case.

By Mr. Smith—Counsel for proponent, before the witness answers the questions, denies that it was ever agreed that the stenographer's notes should be taken as infallible or as correct; it is always subject to errors.

*Q.* Now, Mr. Dumont, you can state what you said before?

*A.* I said that, to the best of my recollection, I stated it exactly as it occurred; he said "that she had enough without it."

*Q.* And you answered, what?

*A.* "I don't care if she has a million a year; in truth, honor and justice, she has an interest in that business."

*Q.* You have already stated that?

*A.* Yes, sir.

*Q.* He answered, "She has enough without it?"

*A.* "Without it;" yes, sir.

*Q.* In a further part of the testimony given by you, the stenographer, page 546, has in the answer to the question, "Who was the letter addressed to?" answered by you, "Theodore S. Dumont, General Eastern Agent Florida Railway and Navigation Company, 336 Broadway, New York; personal;" do you remember whether that was the answer given by you at that time?

*A.* It was not, sir.

*Q.* What was it? [Same objection.]

*A.* "General Agent Great Western Dispatch."

*Q.* You desire to correct your testimony in that respect, do you?

*A.* Yes, sir.

*Q.* On the same page, counsel for proponent states that the question, as it appears here, "As you do remember them," was not asked, but that the question that was asked in that connection was, "State the same as you do remember them?" and I ask to have the record corrected in that particular. On page 547, in answer to the question, "State what the interview was at that time?" a portion of your answer, as taken by the stenographer, is as follows: "'Do you suppose I am going to leave her at your mercy?' he said, 'She has got to be;' I said, 'No, by God,' and walked away;" do you remember whether that was as you stated it at that time or not?

*A.* It was not.

*Q.* What did you say? [Same objection.]

*A.* I said, "Do you suppose I am going to leave mother at your mercy?" he said, "By God, she has got to be;" I replied, "Not as long as I am above ground," and walked away.

*Q.* And if it was so given by you and so reported by the stenographer, you desire to correct it in that respect?

*A.* Yes, sir.

*Q.* On page 557 of the testimony, in answer to the question "How about other household things," the stenographer has reported you as saying, "I paid $5 for cambric handker-

chiefs for her;" state whether that was as you gave it at that time? [Objected to.]

*A.* It was not.

*Q.* What did you say in that connection?

*A.* I said, "$18 from the importer's."

*Q.* Also, in the same connection are these words, "She never expressed a wish, with a dash; I have gone so far," do you remember whether that was all the answer you gave in that connection? [Objected to.]

*A.* No; what I said was "She never expressed a wish that I did not gratify."

*Q.* If you did state it as taken by the stenographer and reported, you desire to correct it in that respect, do you?

*A.* I do, sir.

*Q.* On page 563 of the testimony as reported, you are given in the report of the stenographer as saying, "I have not been to New York for so long; there must be considerable securities there;" do you remember the word "securities" used by you at that time or not? [Same objection.]

*A.* I don't think they were; if so, they were not as I intended; I meant "coupons."

*Q.* If you stated "securities" at that time, you desire to correct it?

*A.* I do, sir.

*Q.* So as to read "coupons?"

*A.* I do, sir.

*Q.* On page 573 of the testimony, in answer to the question, "Mr. Treat says in his testimony that you told him one time that you had made a demand on William to give your mother an allowance of $5,000 a year during her lifetime, of the business—of the firm's business—and that he refused to do it; state whether any such conversation as that was had?" you are reported as answering, "Not one word of it; nobody has even accused him of having $5,000;" do you remember whether that was the answer as you gave it at that time? [Same objection.]

*A.* It was not.

*Q.* What word should be inserted there to make it as you gave it, as you remember?

*A.* I said "that no one had ever accused me of making a demand for $5,000."

*Q.* Page 576 of the testimony, in answer to the question relating to a statement made by Mr. Treat in his testimony, says that at a conversation between yourself and him, you said to him that your father always said your mother would put her head under the block to save you, &c., you are given in the report of the stenographer as answering, "No such conversation, because I never for one moment thought my mother considered me my mother's favorite child;" what error is there in the testimony as you gave it? [Objected to.]

*A.* I said my father never thought me mother's favorite child.

*Q.* If you so gave it at the time, you desire to correct it now?

*A.* Yes, sir.

*Q.* On page 577, in answer to the question as to a conversation between you and Mr. Treat, on the way to or from Morristown, you are given as having said in the testimony that you gave at the last hearing, "My will was made, and I think if I should pop out now, I would leave nearly $100,000, the bulk of which would go to his two daughters, Mamie and Bessie; by his actions, he has compelled me to change my will, and mother has changed hers;" do you remember what part of that is erroneously reported, and what correction you desire to make, if it was incorrectly reported?

*A.* I said, "They would have got the bulk of this property, and that by his actions, he had compelled me to change my will."

*Q.* On page 579 of the testimony, in answer to the question as to when Mr. Treat played cards at your house, as to how long he usually arrived previous to the other mem-

bers of the club, your answer states, among other things, that you told the man not to unhitch the horse, "and after I got my dinner the man would drive over for Treat;" that is the way it is reported; did you give it so or not? [Same objection.]

*A.* "After he got his dinner."

*Q.* Referring to the man?

*A.* Yes, sir.

*Q.* Your brother, in his testimony, has given the alleged contents of a will made by your mother in 1881, I think; you heard his testimony, did you not?

*A.* I did.

*Q.* Do you remember ever seeing the will—the alleged will in question?

*A.* I do, distinctly.

*Q.* When?

*A.* When it was drawn and when it was signed.

*Q.* What became of it then?

*A.* I gave it to my father in my office at 229 Broadway; I sealed it up, put sealing-wax on it in three places, and sealed it with my double ring; one seal of my ring has my initials on, and the other has our family crest on, and I gave it to my father, who took it with the stated object of putting it in the safe deposit company.

*Q.* Have you ever seen it since?

*A.* I never set my eyes on it from the day father took it out of my office.

*Q.* Have you any knowledge of what became of it?

*A.* Not the slightest.

*Q.* You remember reading the will before it was taken by your father from your office?

*A.* I do, sir.

*Q.* Do you remember what its contents were?

*A.* Perfectly.

*Q.* Substantially, if not in words?

*A.* Perfectly.

*Q.* Please state, so far as you remember?

*A.* The first portion of the will gave my father an interest in everything; at his death the household goods, furniture, pictures, silver—household goods generally—were given to my sister absolutely.

*Q.* Sister whom?

*A.* I only had one then, Miss Nettie Dumont, or Miss Henrietta S. Dumont, now Mrs. Robbins; the next portion of the will gave Henrietta S. Dumont a life interest in the whole property until she married or died; the next was, that after her marriage or death the estate was to be equally divided among the then remaining children or their living issue.

*Q.* The children of whom?

*A.* Mrs. Robbins, William H. —— [Interrupted.]

*Q.* The children of whom?

*A.* Her children.

*Q.* Whom do you mean?

*A.* My mother's children.

*Q.* Was anything, as you remember, said in that will in relation to your mother's grandchildren?

*A.* There was not a grandchild referred to in any way, shape or form; each child's portion was to go to their living issue; there was no issue at that time but William H.'s.

*Q.* You mean in case either of them died before the distribution of the property?

*A.* Yes, sir.

*Q.* If Mrs. Robbins married, the property then was to be divided equally, as I understand, between all your mother's children?

*A.* Of the living children at that time.

*Q.* And if either of them were dead, then their issue was to receive the share of the parent that was dead?

*A.* Yes, sir, if there was any issue at that time; my sister was not then even engaged to be married, and I had been married sixteen years; hadn't a child; there was no

grandchild of her living children, but three of William H.'s.

*Q.* Then, upon the marriage of your sister, the property under that will would have been divided between whom?

*A.* Between William H., myself and Mrs. Robbins.

*Q.* Your brother was then dead—your other brother?

*A.* Oh, he had been dead for some years.

*Q.* At the last hearing, you testified in relation to your mother's bringing the securities that had been got from your brother, up to the safe deposit company, to be placed there by her; do you remember your testimony in relation to that?

*A.* I do, sir.

*Q.* And that you checked the securities which she had with her on a list that she had brought; do you remember in whose handwriting the list was, that you referred to?

*A.* Yes, sir.

*Q.* Whose?

*A.* William H. Dumont's.

*Q.* Had you seen the list before that time?

*A.* I cannot say positively that I had.

*Q.* Do you know where the list came from?

*A.* My mother had it; my father —— [Interrupted.]

*Q.* Did she bring it with her that day?

*A.* Yes, sir.

*Q.* Do you know how and when she got it, from your own knowledge?

*A.* Well, I don't know what you call "your own knowledge;" I said to my father only a few months, if I remember correctly, it was in the fall previous to his death, in conversation one evening, I said, "Father, I think it is no more than right that you ought to get a list of those securities of mother's and give it to her; I don't make any reflections upon Will in the matter, but I think it is safer to let two people know about them; I don't know about them and mother don't know about them, and I think you ought to get a list of the securities belonging to mother

and give it to her;" I think it was the next night, certainly within a night or two, he said, "You can rest your mind about those securities now, I have brought your mother a list."

*Q.* Did he say that it was a list of her securities?

*A.* He did, sir; I asked him if he did not think it was right that she ought to have a list of her securities.

*Q.* Is that the list that she brought with her at that time to the safe deposit company? [Objected to.]

*A.* She told me that it was the list that father had given her.

*Q.* [Paper shown witness.] In whose handwriting is that?

*A.* William H. Dumont's.

*Q.* Is that the paper in question that you have just referred to?

*A.* That is the paper in question; I can identify it by my checks—my memorandums here.

*Q.* Which are your checks?

*A.* These along here are my checks. [Indicating.]

*Q.* Along the margin in lead pencil?

*A.* Yes, sir.

*Q.* When where those checks placed there?

*A.* They were placed there the day that she brought the securities to the safe deposit company; I checked the securities up on this list.

*Q.* To see whether those that she had corresponded with the list?

*A.* Yes, sir; there are some notations in my handwriting on there. [Indicating.]

*Q.* These dates in lead pencil?

*A.* Yes, sir.

*Q.* There is nothing on there put there—no ink was put there by you?

*A.* No, sir; only these pencil notations.

*Q.* Was the small paper that is pinned on the larger one so attached at that time?

*A.* Yes, sir; there are some more notations on that of mine made at the time; I took those notations of July and August, and those things in lead pencil on the paper, from the securities, to know the dates and the months when the interest, &c., was payable.

*Q.* And afterwards what became of this list?

*A.* My mother took it away with her. [Said paper offered in evidence, and marked *Exhibit for proponent, June 17th, 1887.*]

*Q.* The securities that she brought there—how were they done up?

*A.* My impression is that they were together in a bundle, and a string tied around them.

*Q.* In one package?

*A.* Yes, sir.

*Q.* Do you remember whether your mother had more than one package of papers that day?

*A.* I didn't see but one.

*Q.* Was the package unfastened in your presence?

*A.* Yes, sir.

*Q.* Did you check off the papers that were in the package with the list that you have stated here?

*A.* I did, sir.

*Q.* Were there any other papers in the package that you remember, excepting those that corresponded with the list?

*A.* Not that I remember; I am very confident of it.

*Q.* Do you remember seeing any paper—any envelope marked as your mother's will, or any will, in that package?

*A.* No, sir; I did not.

*Q.* Was there any such?

*A.* No, sir; the will, as it left my office, was in one of my own official envelopes, and I would have recognized it at once if it had been there.

*Q.* What was the feeling existing between Miss Swords and yourself?

*A.* Well, Miss Swords—I have never been a favorite of hers any time in my life, although I was born in her father's house.

*Q.* What was the feeling as to friendliness between you?

*A.* Well, I treated her with the respect due to my mother's sister, in my mother's house; when she was away from my mother's house, I never saw her.

*Q.* What was it on her part?

*A.* When I met her at my mother's house, she always treated me very friendly; she used sometimes to make very unkind remarks about me and my way; I was too rough for her.

*Q.* How did she happen to be at your mother's house for so long a time after your father's death?

*A.* Well, whenever mother was under the weather, she would always like to have Aunt Nettie there, and we always used to send word to Aunt Nettie to come.

*Q.* Was there any objection on the part of any of the family to your Aunt Nettie coming there?

*A.* There was, very decidedly.

*Q.* By whom?

*A.* Mrs. Robbins.

*Q.* What was the feeling that existed between your Aunt Nettie, or Miss Swords, and Mrs. Robbins, as to friendliness?

*A.* Very bitter on both sides; I don't think they ever exchanged a word except it was to have a row.

*Q.* What was the feeling that existed between Miss Swords and your brother William?

*A.* Exceedingly friendly.

*Q.* Miss Swords, in her testimony, testifies that you said to her at one time "that she heard you say at one time that your brother William was making $10,000 a year," and then when the question, "Did he give you the source of his information?" was asked her, she replied "No, excepting once, when he (meaning you) said he knew all about

their business—that was a short time ago—through a boy in his office;" do you remember any such conversation as that with Miss Swords?

*A.* Partly true; the conversation I stated was—I never told anybody that he was making $10,000 a year, because I didn't know what he was making; but I did say in the presence of Miss Swords—the whole remark came about by her saying that his business had fallen off so, and I said, "That is all bosh;" I said, "A boy in my office is a brother of a boy in his office, and I said to him the other day—I asked him if Gus ever said how business was going since father's death, and he said that Gus had said that they had not lost any customers, but business was dull;" that was the only remark I ever heard from my boy since my father's death.

*Q.* That was all, if anything, that was said to Miss Swords on the subject?

*A.* Yes, sir.

*Q.* Was any of the conversation in the presence of your mother, do you remember?

*A.* No, sir; it was not in the presence of my mother.

*Q.* Do you remember any conversation with Miss Swords, or other members of the family, in relation to your brother's business, or your brother, in the presence of your mother, and if so, when? [Objected to.]

*A.* To the best of my recollection, I never referred, directly or indirectly, to my brother's business or his affairs to my mother, or in my mother's presence, at any time after our conversation in the library, which I have stated; the subject was distasteful to me, and painful to her, and I knew it.

*Q.* Do you remember having talked, at any time, about those matters that I have just asked you in relation to, in the presence of Miss Swords, or other members of the family, when your mother was not present? [Objected to.]

*A.* I have spoken of it in the presence of my sister and her husband a great many times, and I think it very prob-

able that Miss Swords was present at some of those conversations; I think Miss Swords thinks she remembers it in the presence of my mother, but I know positively what my feelings have been all along about it, and I know that they did not occur in the presence of my mother; she has heard them when I was talking to my sister.

*Q.* Miss Swords, in answering the question, "Do you know whether or not Mr. Theodore S. Dumont was at the house of Mr. Robert Dumont, in Summit, prior to his death, more frequently or less frequently than afterwards?" answered, "He was there more after his father's death;" state, please, how far that was true?

*A.* It is entirely untrue; it was a very rare thing for me—in fact, I have thought that matter over, and I do not recollect a single business trip that I made from the time I went to live at Summit.

*Q.* That was when?

*A.* In 1881, I think it was; either 1880 or 1881; I went once, the fall before father's death; in 1883, I went for a trip through Colorado, New Mexico and Old Mexico; I was gone about three weeks, and with that exception I don't think that I was out of the house a night twice a year.

*Q.* That was previous to your father's death?

*A.* Yes, sir.

*Q.* How was it after your father's death?

*A.* Well, I was there almost every night until along in about 1885, and then for a time; I used to spend Sundays in New York or Brooklyn with Mr. Lyon, at his house; we used to exchange visits; I would stay one Sunday at his house and he would spend another with me; I was not away but very little until 1885.

*Q.* Did you go on any trips to Florida or away from home before your mother's death?

*A.* No, sir; I just got back from a trip to Florida; I got here on Monday morning and she died the following Thursday.

*Q.* Then you did go away before her death?

*A.* I went twice to Florida between father's death and mother's death.

*Q.* And was absent at those times, how long each time?

*A.* The last time I left New York on a Monday night and I got back the next Monday morning; the time before that I was gone, I left here on the 13th or 14th of November and got back on the 4th of December.

*Q.* You spoke, in your testimony at the last hearing, about getting the key of the safe deposit company from your mother, or her giving it to you for the purpose of getting coupons at that place; how many times did she give you the key, or did you take it from her?

*A.* I never took it in my life; she always kept the key in her pocket-book; she gave it to me once in her room.

*Q.* That was the first time?

*A.* Yes, sir; I cut the coupons off and brought her back the key the next night, and she put it into her pocket-book.

*Q.* That is the time you referred to in your other testimony?

*A.* Yes, sir.

*Q.* The next time you got the key, or she gave it to you, was the time that you spoke of, shortly before her death?

*A.* I think it was the Tuesday night prior to her death; it was either Tuesday or Wednesday night; she was sitting in her big arm-chair and I was sitting in a chair alongside of her, and she took out her pocket-book and handed me the key.

*Q.* Did your mother go on any trips from home after your father's death?

*A.* Yes, sir.

*Q.* When?

*A.* She went the first time in July.

*Q.* Of what year?

*A.* 1884.

*Q.* Who went with her?

*A.* I did.

*Q.* Anybody else?

*A.* Mrs. Dumont.

*Q.* Mrs. who?

*A.* Mrs. Dumont, my then wife.

*Q.* Where did you go?

*A.* Our prospective journey was to go and visit Bessie at Montreal; I took her to the Thousand Islands and spent several days there, and then went to Montreal and spent three or four days there.

*Q.* Any other trip?

*A.* Yes, sir.

*Q.* When?

*A.* Well, she always spoke about how much she enjoyed that trip, and said she had enjoyed it more than any trip she ever made in her life; after she came back she commenced to get weak, and one night when sitting on the porch I said, "Mammy, I will tell you what I think would do you and me good;" I said, "Let us go down for a couple of weeks to Coney Island;" and she rather remonstrated about making an expense, and I said, "You have nothing to do with the expense; I want you to go as my guest; I want you to go with me; I think it will do you and me, and do both of us good;" and we staid at the Brighton Hotel; I think we came back on the 13th of September; on the Montreal trip I paid all the expenses.

*Q.* Did you ever hear what the cost of the house at Summit was?

*A.* Yes, sir; I have heard it stated; I have heard it talked about in the family. [Objected to.]

*Q.* Did you ever hear it stated what was the amount of property received by your mother from your grandfather? [Objected to.]

*A.* I heard it stated a great many times, that she got a little over $10,000; I have talked with my cousin, who was one of the heirs-at-law, and he says he will swear to his portion, and he got the same thing.

*Q.* You have heard it stated between $10,000 and $11,000?

*A.* Yes, sir.

*Q.* Do you ever remember hearing your mother say what the amount was?

*A.* I cannot say that I ever did.

*Q.* Or your father?

*A.* Yes, sir; at that time, the time referred to, I was living in New York—at the time my grandmother died, and I knew about the settlement of the estate.

*Q.* Your impression now is that he said a little over $10,000?

*A.* Yes, sir, about $10,000; I want to correct one thing there; I said I have talked with my cousin; I have not talked to him; I have been told what he said; I had somebody to go and see him, though.

*Q.* Miss Swords, in her testimony, speaks about copying some writing made by your mother; she says, in referring to your mother, "she then told me that she wanted me to copy some writing—write something for her the next day; some allusions was made about some disposition of furniture and some other articles about the house;" and she also, in referring to the same matter, said subsequently to the foregoing "that she [meaning your mother] told me that she wanted me to do some writing for her; her eyesight was not good; she asked me to write;" and she also, in further speaking about the same subject, says "that this writing was made last June"—speaking from the time the witness was testifying—"and that she, at that time, wrote or copied some writing of Mrs. Dumont's which was illegible;" you heard that testimony of Miss Swords, did you not?

*A.* Yes, sir.

*Q.* Do you remember seeing any such paper as she spoke about in that connection at that time?

*A.* The only thing I know about the paper —— [Interrupted.]

*Q.* Do you remember ever seeing any such papers as she spoke about?

*A.* I saw some papers the night of my mother's funeral.

*Q.* You remember seeing some such papers, do you?

*A.* Yes, sir.

*Q.* Do you know what papers Miss Swords referred to there?

*A.* Yes, sir.

*Q.* [Two papers shown witness.]—Are those the papers spoken about by the witness, Miss Swords, in her testimony? [Said papers produced and handed to the counsel of the caveator.]

*A.* Yes, sir.

*Q.* Please state in whose handwriting the paper which I now hand you is?

*A.* My mother's.

*Q.* Please state in whose handwriting the other paper, that I now hand you, is?

*A.* Miss Swords'.

*Q.* Miss Henrietta Swords?

*A.* Miss Henrietta Swords.

*Q.* Your mother's sister?

*A.* Yes, sir.

*Q.* When did you see those papers last; how soon did you see those papers after your mother's death?

*A.* The night of her funeral.

*Q.* Where?

*A.* In the library, at Summit.

*Q.* Were they read at that time?

*A.* They were, sir.

*Q.* Produced there and read, were they?

*A.* They were, sir.

*Q.* Do you know whether they were enclosed in an envelope?

*A.* They were, sir.

*Q.* [Paper shown witness.]—Is that the envelope?

*A.* That is the envelope.



New Jersey State Library

*Q.* Was it opened the night of your mother's death?

*A.* No, sir; the night of my mother's funeral.

*Q.* And the two papers you have spoken about first were taken from that envelope, were they?

*A.* Yes, sir; if I remember right, Mr. Cranstoun opened the envelope.

By Mr. Smith—The papers in question having been referred to and testimony in relation to the same having been taken on the part of the caveator, and the papers being now produced, counsel for proponents asks counsel for the caveator to offer them in evidence.

By Mr. Riker—Counsel for caveator refuses at this time to offer the papers in evidence.

By Mr. Smith—Counsel for proponent asks what is the reason for refusing to offer them at this time?

By Mr. Riker—I do not understand that it makes any difference what my reasons may be now; still, I am willing to give my reason if you insist upon it.

By Mr. Smith—Generally, where they refuse to offer testimony or object to it, the reason is generally stated.

By Mr. Riker—I do not think it is a proper question to ask me.

By Mr. Smith—Does counsel for the caveator decline to give any reason at this time?

By Mr. Riker—Counsel for caveator, at this time, declines to give his reasons for refusing to offer them in evidence.

[Said papers marked for identification—the one in the handwriting of Mrs. Mary B. Dumont, as testified to by the witness, marked for identification, "X;" and the one testified to as being in the handwriting of Henrietta Swords, marked for identification, "Y;" and the envelope referred to by the witness as containing the same, marked for identification, "Z."]

*Q.* Mr. Dumont, your mother's will was made on the 11th day of April, 1884; previous to the making of the

said will did you have any conversation with your mother about the same? [Objected to.]

*A.* I did.

*Q.* How many conversations?

*A.* Only one.

*Q.* State when and were it was? [Objected to.]

*A.* It was in the library at Summit.

*Q.* How long before the will was made?

*A.* As I remember, about ten days or two weeks, I think; perhaps three weeks.

*Q.* State the circumstances of, and what the conversation was? [Objected to.]

*A.* One evening in the library, mother and I were sitting there alone, as was our usual custom; the conversation turned on Bessie; she was then away at school in a convent at Montreal; she made the remark, "After I am gone, I am afraid Bessie will have a very hard time of it; she will have no friend but you [meaning me]; she is as dear to me as one of my own children, and I think I shall do something for her;" I said, "In what way, mammy?" she replied, "I think I ought to make a new will, and provide something for Bessie;" I said, "That would not be a bad idea;" she said, "How much do you think I ought to give her?" I said, "In my will I have given her $5,000; you can do as you please;" she then said, "In getting the business, I think, Willie has had his full share, and I think the most of what I have should go to Nettie and you; will you have a new will drawn?" I said, "No, mammy, I will have nothing to do with your will whatever; this property is all yours to do with as you please; you can spend it, give it away, or burn it up, and I think if you go to make a will it would not be right or proper for you to counsel or advise with me or any one else; you should be governed entirely by what your heart and judgment dictates;" I then said, "I met Sanford Greves on the train the other night, and I think he is staying here at his aunt's—you know him—and the next time I

meet him I will tell him that you want to see him in regard to drawing your will;" she said, "Very well."

*Q.* Was that all the conversation at that time in relation to the will, as you remember it? [Objected to.]

*A.* To the best of my recollection, it was every word that was said.

*Q.* Did you, subsequently to that time and before the date of the making of the will, have any other conversation with your mother upon this subject? [Objected to.]

*A.* Not one word.

*Q.* Did you, on the day of the making of the will, have any conversation with her in relation to it? [Objected to.]

*A.* After the will was made?

*Q.* No; I ask on the date of the will?

*A.* No, sir; never spoke of it.

*Q.* Was this conversation that you have testified about, the first and only conversation that you had with your mother in relation to this matter? [Objected to.]

*A.* The first, last and only one.

*Q.* Was it alluded to by her at any time after it was made? [Objected to.]

*A.* Was her will, or conversation?

*Q.* The will.

*A.* No, sir; I do not recollect her mentioning the will to me at all after it was made; I don't think she ever referred to it to me.

*Q.* You knew it after it had been made?

*A.* Yes, sir.

*Q.* How long after?

*A.* I knew it either the night or the day it was made, or the next day; I don't remember whether it was the same night it was made, but it was the next night after I came home afterwards.

*Q.* What did she say then in relation to it? [Objected to.]

*A.* After we had gone into the library, as usual, she took her seat; I was sitting there; finally she took a paper

out of her pocket, and I think she said, Sanford Greves—she may have said Mr. Greves, but I think she said Sanford Greves—"has been here to-day, and I have made a new will; I wish you would take it to New York with you in the morning and lock it in your safe until I come to town, when I will put it into my own;" the will, if I remember correctly, was not in an envelope; I said, "Well, I suppose I had better put it into an envelope and seal it up;" she said, "Yes;" I said, "Shall I read it?" she said, "If you care to;" I read it, and said I would attend to it, and put it into my pocket.

*Q.* What did you do with it then?

*A.* Took it to New York the next morning and locked it up in the safe deposit company.

*Q.* Then what became of it?

*A.* The next time that she came into town she went to the safe deposit company, and I took it out of my box and gave it to her, and she put it into her box.

*Q.* How did you happen to ask Mr. Sanford Greves to go up to Summit in relation to the will?

*A.* Well, it must have been anywhere from a week to two weeks after my mother's conversation before I saw Sanford Greves, and one day he came into my office on some other business, and then I remembered this promise to my mother, and I said to him then, "Sand., you are stopping at your aunt's in Summit, now;" he said "No, but I go up there quite frequently; I am not stopping there;" I said, "I told mother that you were stopping there, and she wants to see you about drawing a will for her," and so he said "the next time he was going up he would go on an early train, and stop at the house and see mother," and it was several days after that before she told him about his being there.

By Mr. Riker—I move to strike out the answer as being irresponsive.

*Q.* Did you go to Mr. Greves at any time and ask him to go up?

*A.* No, sir; that was the only conversation I had with Mr. Greves on the subject.

*Q.* It was sometime after your mother had spoken to you about it?

*A.* Yes, sir; a week or ten days, fully.

*Q.* What did Mr. Greves come into your office for at that time; had you sent for him in relation to the matter of drawing this will?

*A.* No, sir; I had a friend whom I had loaned some money to—$1,000—and who had died in the lunatic asylum, and his estate did not pan out very well —— [Interrupted.]

*Q.* Well, he came in to see you about some business of yours?

*A.* Yes, sir.

*Q.* When did you first know that Mr. Greves had been to Summit to draw the will?

*A.* When my mother told me.

*Q.* The night in question that you have just spoken about?

*A.* Yes, sir.

*Q.* How long after the will was drawn did you see Mr. Greves—before you saw Mr. Greves again, or before you saw Mr. Greves?

*A.* I don't know; the next time I saw him, you can locate it from the bill—by his bill; the next time I saw him he came into my office and wanted to see me about some business, and I asked him how much I owed him for my mother's will, and he told me, and I paid him; you have got the bill there; I don't know what the date was.

*Q.* [Paper shown witness.]—Is that the bill that you have just referred to?

*A.* Yes, sir; that is the bill, but I don't see that it is got the date on it.

*Q.* Was that bill brought by Mr. Greves with him, or written in your office?

*A.* I know it was written in my office; at least, I am very confident it was.

*Q.* The amount that you paid him was out of whose money?

*A.* Well, at the time it was out of my own, because I had none of my mother's money, but I charged it to her.

*Q.* Did she subsequently pay you the amount?

*A.* Yes, sir; she paid me at the end of the month.

*Q.* Were you in the habit of making payments, and rendering her an account at the end of the month?

*A.* Yes, sir; every month since I lived at Summit.

*Q.* And you received a check or payment for the whole amount at the end of the month?

*A.* Yes, sir.

*Q.* It was included in the next monthly statement—what you paid for drawing the will, was it?

*A.* Yes, sir.

*Q.* And paid to you by your mother?

*A.* Yes, sir; I made these monthly payments during my father's lifetime, as well as my mother's.

[Said paper offered in evidence, and marked *Exhibit*—for proponents, June 17th, 1887.]

*Q.* The property at Morristown that was exchanged for the Summit property, who did that belong to?

*A.* Belonged to my brother, Robert S. Dumont.

*Q.* Upon his death, it went by his will to whom?

*A.* To my mother.

*Q.* At the time the transfer was made, then, it was your mother's property?

*A.* Yes, sir; my mother's property then.

*Q.* Do you know, and if you do not, say so, what the valuation was upon that property in exchange of the Summit property—of the Morristown property for the Summit property?

*A.* I heard at the time, and my impression is, that it was taken at $2,500, and De Forest sold it for $3,000 very shortly afterward; I will not be positive about those fig-

ures, but I know De Forest sold it within a month or so for more money than he took it for.

*Q.* And you think it was about $2,500?

*A.* I think so.

*Q.* At the time that your brother wrote the letter, after your father's death, that you have spoken about, at 326 Broadway, what business were you engaged in at that time?

*A.* Railroad.

*Q.* What position?

*A.* I was general agent of the Great Western Dispatch and South Shore Lines.

*Q.* After your mother's will, that is in question in this suit, was taken to the safe deposit company, when did you next see it—when was the first you next saw it?

*A.* After she put it in to her box?

*Q.* Yes.

*A.* I used to see it every time I went there with her.

*Q.* When did you first hear it read again?

*A.* The night of her burial, the 13th of December.

*Q.* When you saw it there—you say you saw it every time you went in there with her—how did you see it then?

*A.* I saw the envelope with my endorsement upon the back of it—"Last Will and Testament of Mary B. Dumont."

*Q.* Who got the will after your mother's death from the safe deposit company?

*A.* I went there with Mr. Robbins, opened her box and took out the will and handed him the will, and locked the box up.

*Q.* Did your brother William have any notice of your going there to get the will?

*A.* No, sir.

Adjourned until Tuesday, June 21st, 1887, at ten o'clock P. M.

ELIZABETH, N. J., June 21st, 1887.

Mr. Curtis not being present the examination was adjourned until Saturday, June 25th, at ten o'clock A. M.

ELIZABETH, N. J., June 25th, 1887.

Appearances as heretofore.

Examination of witnesses continued, pursuant to adjournment last had.

*Theodore S. Dumont*, continued.

By Mr. Smith.

*Q.* At the last examination the following question was asked you, "Do you remember having talked at any time about those matters that I have just asked you in relation to, in the presence of Miss Swords or other members of the family, when your mother was not present?" your answer was, "I have spoken of it in the presence of my sister and her husband a great many times, and I think it very probable that Miss Swords was present at some of those conversations; I think Miss Swords thinks she remembers it in the presence of my mother, but I know positively what my feelings have been all along about it, and I know that they did not occur in the presence of my mother; she has heard them when I was talking to my sister;" who did you refer to when you answered "she has heard them when I was talking to my sister?"

*A.* I referred to Miss Swords.

*Q.* You testified that in 1885 an operation was performed on you; what was that operation for?

*A.* I was operated on for a stricture, which I have suffered from ever since I was a boy twelve years old.

Cross-examination by Mr. Curtis.

*Q.* What is your business?

*A.* A railroad agent.

*Q.* How long have you been such?

*A.* In my present position?

*Q.* No, a railroad agent.

*A.* About twenty years.

*Q.* Where did you first begin your experience as a railroad man?

*A.* In New York city.

*Q.* In what connection?

*A.* Agent for the Parkersburg and Cincinnati Transportation Company.

*Q.* How long did you remain in the employ of that company?

*A.* About a year.

*Q.* What was your next employment?

*A.* I was contracting agent of the Dimond Line.

*Q.* How long did you remain in such position?

*A.* I was there nearly two years, I think it was; possibly it may have been two years; about two years.

*Q.* What was your next employment?

*A.* Contracting agent of the South Shore Line.

*Q.* How long did you remain in the employ of the South Shore Line?

*A.* About thirteen, fourteen or fifteen years, somewhere along there.

*Q.* Down to what date?

*A.* The 1st of November, 1885.

*Q.* From the South Shore Line, into whose employ did you go?

*A.* My present one.

*Q.* The Florida Company?

*A.* Yes, sir.

*Q.* Have you ever been connected with the Erie Railroad in any respect?

*A.* Indirectly, all the time I was in the South Shore Line; the South Shore Line ran over the Erie Railroad part of the way.

*Q.* You were a freight agent, were you not, a general freight agent?

*A.* No, sir; I was agent, general eastern agent and general agent; contracting agent first and then agent, and then general eastern agent, and then general agent.

*Q.* For the railroad?

*A.* For the line.

*Q.* Your office is in New York?

*A.* It is.

*Q.* Where have you made your residence during the past ten years, from time to time?

*A.* The last of it has been at Summit.

*Q.* That is the year 1881?

*A.* Either 1880 or 1881, I forget which.

*Q.* To date?

*A.* No, not to date; I left Summit last December.

*Q.* Prior to the time that you moved to Summit, where did you reside?

*A.* I boarded in New York.

*Q.* Where?

*A.* Well, various places.

*Q.* Please name some of them?

*A.* I cannot give the numbers; I boarded the last place in New York on East Twenty-third street, between Fourth and Lexington avenues.

*Q.* Do you remember the year?

*A.* I left there when I went to Summit; it was the last place I boarded at.

*Q.* How long did you board there?

*A.* The winter previously.

*Q.* Where did you board prior to that?

*A.* I boarded—I went for a short time with Mrs. —; it was on the same block; I only went there for a short time.

*Q.* And prior to that where did you board?

*A.* Prior to that I boarded with Mrs. Dennison, on Twenty-third street, between Third and Fourth avenues.

*Q.* How long?

*A.* Off and on for five years.

*Q.* What years were those?

*A.* Well, I don't know—well, I cannot tell without searching my memorandum; before I went there I do not think I was with her that winter; prior to going there I had been with this same lady at Twenty-third street; she was then at Ninth street; I staid there part of the winter, and went from there to West Twenty-third street, with an old gentleman who kept the hotel on Cortlandt street; I staid there about a year and a half, and then prior to that I had been to Mrs. Dennison's and her sister, Mrs. Boyd, I think, about three or four years, and they lived at Twenty-fourth or Twenty-third street.

*Q.* I asked you to fix the year?

*A.* I could not fix the year.

*Q.* Approximate, if you can?

*A.* I came in from the St. James Hotel, and I went to —that was 1870—let us see; where was I living when Bob died; I think I went there the same year my brother died; I think in 1872.

*Q.* Prior to 1872, where did you live?

*A.* Well, I had lived at different boarding-houses; in the summer I used to go to the country, and in the winter time I boarded at different boarding-houses in New York.

*Q.* You had no special home, except in boarding-houses?

*A.* That is all.

*Q.* And that covers the entire period that you lived in New York?

*A.* Yes, sir; I say that since I lived in New York, and since I have grown to be a man and married, and since I came from Cincinnati, I went to my cousin's in Englewood and staid two or three weeks with him—I have told you the various boarding-houses I lived in.

*Q.* What cousin?

*A.* John L. Dumont.

*Q.* When did you return from Cincinnati?

*A.* 1866 or 1867; 1866, I think it was—the fall of 1866.

*Q.* Were you in business in Cincinnati prior to the time of your moving to New York?

*A.* Yes, sir.

*Q.* How long?

*A.* I went there in 1863.

*Q.* So, that you were in business in Cincinnati three years?

*A.* Yes, sir.

*Q.* In the railroad business?

*A.* No, sir.

*Q.* What business?

*A.* Well, for about a year and a half I was clerk for Brown & Co.; they were the largest grocery house in the country at that time, and I left there to go into business myself; they endorsed my notes for $5,000 capital.

*Q.* You went into business in Cincinnati for yourself?

*A.* I did; when I came in the firm, it was McCune, Dumont & Co.; afterwards McCune & Dumont.

*Q.* When were you married?

*A.* I was married about two weeks after I was twenty-one years old.

*Q.* Where?

*A.* In Chicago.

*Q.* Were you living in Chicago at the time?

*A.* No, I was not living there; I had been out there searching for something to do; I went there, I think it was in June, and I was married in October; I left there the night I was married for Cincinnati.

*Q.* What year was that?

*A.* It was in 1863.

*Q.* What was your first wife's name?

*A.* Hall; her brother has bee n postmaster of Branford, Connecticut, for twenty-eight years—a man pretty generally known and generally respected.

*Q.* Did you ever, at any time, make your home with Mr. Foot?

*A.* Never; well, I say, never made it my home; I came

home from the army in 1862, I think it was, and there were times when it was very unpleasant in Cincinnati at that time, and my sister was anxious and worried in Cincinnati, and my brother-in-law bought her a house in New York, and moved the family on, and she induced my father and mother to sell their furniture in Jersey City, which was my home, and come over and live with her, and of course I went with the family; I suppose I could call it home; I used to take my meals there, and slept there some, although not very much.

*Q.* When was that?

*A.* I think that was in 1862.

*Q.* That was before you went to Chicago?

*A.* Yes, sir; I left from that house to go to Chicago.

*Q.* You have, in your business career, been successful, have you not?

*A.* I have; I don't complain.

*Q.* I mean financially successful?

*A.* I mean so, too.

*Q.* You have been married a second time, I believe?

*A.* I have.

*Q.* When?

*A.* Shortly after my divorce.

*Q.* When was that?

*A.* My divorce was granted the 29th of September, 1865.

*Q.* How soon after your divorce were you married the second time?

*A.* For private reasons of my own, I decline to answer.

*Q.* Was it within a month after your divorce?

*A.* For private reasons of my own, I decline to answer any question about it; my wife has nothing to do with this case, nor my marriage, and I decline to answer anything about it.

*Q.* Was it within two months after your divorce?

*A.* I decline to answer.

*Q.* Was it within three months after your divorce?

*A.* I decline to answer.

*Q.* Was it within six months after your divorce?

*A.* I decline to answer.

*Q.* Where were you married the second time?

*A.* I decline to answer any question about my wife or my marriage.

*Q.* Tell me the names of your mother's family?

*A.* Tell you the names of my mother's family?

*Q.* Yes, sir; your sisters and brothers?

*A.* Living?

*Q.* Those living and dead.

*A.* Well, there was Thomas; there was Robert S.; there was Mary S.; there was William H., Theodore S., George S. and Henrietta S.

*Q.* How many sisters did your mother leave at the time of her death?

*A.* One.

*Q.* And her name was?

*A.* Henrietta.

*Q.* Swords?

*A.* Swords; yes, sir.

*Q.* She is the lady who has heretofore testified in this case?

*A.* The same one.

*Q.* How frequently did Miss Swords visit you or your mother in the lifetime of your father and mother?

*A.* Not as often as she did afterwards.

*Q.* Not as often as she did after your father's death?

*A.* Exactly.

*Q.* How frequently did she come there after your father's death?

*A.* Whenever mother was sick I would generally send her word, and she would come out; and I have asked her to remain until mother got better, on two or three occasions.

*Q.* Your mother usually sent for her when she was sick?

*A.* She did not send for her; I would suggest to her that I was going to send for Aunt Nettie, and generally did it.

*Q.* Your mother was quite fond of her?

*A.* Very fond of her.

*Q.* They were fond of each other?

*A.* I suppose so; Miss Swords always pretended to be towards mother, and I know my mother was fond of her.

*Q.* Miss Swords had no other near relative, had she?

*A.* Male relatives?

*Q.* Near relatives.

*A.* She had two or three sisters-in-law, and she had any quantity of nieces and nephews.

*Q.* But none so near as your mother?

*A.* No.

*Q.* That would perhaps account for the tie between them?

*A.* Yes, sir; Miss Swords would refer to that tie to my mother; that she had no one else left but her brother and sister, and her brother died in the spring——[Interrupted.]

*Q.* What was his name?

*A.* Thomas Swords.

*Q.* Did he live in New York?

*A.* Yes, sir; he kept house in Twenty-third street; he was a colonel on the retired list of the United States Army; there was nobody in his family but himself and wife.

*Q.* There was a room set apart in your mother's house for Miss Swords?

*A.* There was.

*Q.* It was called "her room."

*A.* Yes, sir.

*Q.* Was it furnished with her own furniture?

*A.* I don't know; I believe it was, but I don't know anything about it; I have heard her speak of a set of furniture up there that she said she bought, but that is all I know about it.

*Q.* That was called her room just as your room was called yours?

*A.* Yes, sir; only with this difference, that if I was not there my room was never occupied; Miss Swords' room, when she was not there, was looked upon as a spare bedroom; it was Aunt Nettie's room, but used for what it was wanted to be used for.

*Q.* Can you recollect how frequently Miss Swords came to your mother's house to visit her after your father's death?

*A.* In the last year of mother's life she was there a good deal, prior to that time two or three times a year.

*Q.* How long were her visits?

*A.* That depended a good deal upon how mother was.

*Q.* Give us some idea.

*A.* I could not, to save my life; I think she came there one or two days before my father's death, that is, as I recollect it, and she staid there then until the latter part of January, when she engaged rooms in New York, on Madison avenue, and I know at that time I begged her very hard to stay; I said mother was lonely, and it was mother's house, and she had a right to say who would be in it and who would not; I begged her to stay, but she declined to do so, and I don't think she came out again—I don't know when; that was the year after father's death; I don't think she came out again until the next summer; I paid no attention to her coming or going, and consequently I have no recollection.

*Q.* She was an active member of the family when she was there?

*A.* Too much so.

*Q.* I don't understand that answer; will you explain it?

*A.* In the first place, Miss Swords always boasted that she was going to be independent, and would insist upon paying $1 a day for her board to my mother, for she told me, "When I come here only one day, I pay your mother $1;" she was speaking constantly of that; in the first place,

she put herself outside of being a member of the family by paying board; and in the second place, she took liberties which I do not think a member of the family would be justified in doing, I heard my mother say that once, when my mother was showing her some Alderney butter, she said, "Phew, it smells so; look at this nasty dirty kitchen."

*Q.* Then, as I understand you, that she presumed a little upon her relation to the family?

*A.* I think she presumed a great deal in the remarks that she made.

*Q.* Can you give an illustration?

*A.* I remember during my mother's sickness she would constantly, every once in a while speak of fish; she was very fond of fish, and the rest of us did not care for fish, yet mother would say to me once in a while, "I wish you would get fish for Aunt Nettie;" and I said, "Mother, there is no fish in the market but blue fish, and that is worth twenty-five cents a pound;" she said, "Well, get it anyhow, Aunt Nettie wants it;" she would make remarks about me, and I remember one time in my father's lifetime, my sister had a lady guest there, it was one Sunday at dinner—I was not living there then—and my father and myself were discussing some Wall street matters; among other things, Jay Gould's name came up, a man who has been a kind of a patron of mine, and Miss Swords, although she is intimate with Mrs. Gould's family, and has been since a girl, she is bitter against Mr. Gould, because she don't know anything about him; I made the remark, "That people who are running down Jay Gould are fools; they go into Wall street to get his money and he gets theirs;" I know when I go there I know I am playing against great odds; if I get on the right side I win, but if I don't I lose; as I said, we were talking, and the name of Jay Gould came up, and Miss Swords said, "I don't see how your mother can sit at this table and listen to you; I talked like a thief, and she said that it was bad enough to be my aunt;" I told her she was no more ashamed of the relationship than

myself, and I left the table, and did not speak to her again.

*Q.* When was that?

*A.* About four years before my father's death; that was before I went there to live.

*Q.* Did any of these imprudent remarks of Miss Sword's, that you have described leave any friction at all?

*A.* I generally used to answer them in that way; they did not cause any friction, but we did not speak a word, and it worried mother a good deal; I met her sometimes and did not speak, so one day I wrote her a letter; I told her "that I had no respect nor love for her, but when I met her in my mother's house it gave my mother pain to know that I was unfriendly to her sister, and did not speak, and that I wanted to do anything I could towards my mother's happiness, and that when I met her there I would treat her with the respect due to my mother's sister."

*Q.* How did your mother treat this remark of Miss Swords?

*A.* She did not say anything that day; she was excited; I left the table and went up into my room, and after awhile mother came up, and I told mother that it was a fine thing if her son had to be insulted at the table by her sister; she said she was sorry for it; she did not think Aunt Nettie meant anything by it; she was her only sister, and she did want me to leave the house, nor Aunt Nettie either.

*Q.* Was your mother present at the conversation?

*A.* She was; we were all present; it was at the table.

*Q.* Did your mother make any reply?

*A.* No.

*Q.* Did—she did not resent the remark?

*A.* Not at all.

*Q.* Did you afterwards chide your mother for not resenting the remark of Miss Swords?

*A.* I did not; I never chided my mother in my life; I said I thought it was a great pity, when I came to make her a visit, to be insulted at her own table in the presence of a stranger.

*Q.* Have you given your best recollection about the conversation that took place between Miss Swords and yourself?

*A.* Yes, sir; I remember her saying that I talked no better than a thief, and she said it was bad enough to be my aunt, and she did not see how my mother could listen to my talk.

*Q.* Didn't you provoke her by some remark of yours?

*A.* I was talking to my father; when I was out there my father's seat was at the head of the table; mother's seat was always to my father's left, and I was talking to him; I never talked to Miss Swords any more than necessary, you can rest assured on that point.

*Q.* Then this was an interruption on her part?

*A.* Yes, sir; if you spoke of Jay Gould in her presence it was like shaking a red flag in the presence of a mad bull; her youngest brother got bitten very badly on the stock market and he attributed it to Jay Gould, and said he was a scoundrel and a thief, and whatever he said Miss Swords repeated.

*Q.* Is he the one who died?

*A.* No; he was the last one who died; he was her youngest brother; he died before my brother did.

*Q.* Didn't you make some unpleasant reflection upon him in that conversation?

*A.* I don't think I did; I have no recollection; I remember the conversation was entirely with my father; I know my mother did not blame me in the matter, for she said, "She did not want me to leave the family nor her sister either."

*Q.* Didn't you refer to her brother in some unpleasant way?

*A.* I don't think I did, because the conversation was between my father and myself about stocks; I don't know what her brother would have to do with it; I never knew about the transactions with her brother in my life.

*Q.* I mean, did not you refer to one of her brothers,

perhaps her brother George, at that time, after she had spoken to you in an unpleasant way?

*A.* George Swords was at that time—I considered him as good a friend as I had, although I knew he had been always my father's enemy; George Swords lost all his money, and became a pauper and a drunken loafer, and was in the station-house time after time; if he had not died he would probably have been prosecuted for forgery and thievery—it was discovered after his death; when he died, he fell off the stoop when he was drunk; I spent all night to get political friends to go and keep the information from the public; at that time his son had just died; before that, two years before his death, I paid his life insurance, so that his mother had something after his death.

*Q.* You have said, somewhere in your testimony, that in moments of passion you were excited?

*A.* Yes, sir, very often; this conversation, I remember, was between my father and myself, and Jay Gould's name came up, and that is the way she came to speak about it.

*Q.* Didn't you say something to this effect, that Jay Gould was more honorable than her brother?

*A.* I possibly might have said it.

*Q.* You don't know whether you did or not?

*A.* I could say so with truth and candor, for George did prove himself a thief, and forged names on checks; a friend of mine saved him from being committed to the island because he was drunk.

*Q.* Did Mrs. Robbins ever resent those imprudent remarks of Miss Swords?

*A.* Not against me; she and Miss Swords had their own private quarrels.

*Q.* I mean that?

*A.* Of course they did; mother and I often used to discuss it; I believe in the last few months of my mother's life —— [Interrupted.]

By Mr. Smith—Never mind that.

By the witness—I said she did; yes, sir.

*Q.* Did your mother act as a mediator between Mrs. Robbins and Miss Swords?

*A.* That I don't know; she used to talk to both of them.

*Q.* She did what she could, as a peace-maker, between them, as far as you know?

*A.* As far as I know, she did.

*Q.* I understand you to say that you did not talk with Miss Swords more than you could help?

*A.* No; the last year of my mother's life, she used to be there with my mother, and I talked to her more in the last year than I did before.

*Q.* Mr. William Dumont's daughter, Bessie, was a member of your mother's family part of the time?

*A.* She was, up to the time of my father's death.

*Q.* And was not afterwards?

*A.* No; she used to come there on visits when she came back from school.

*Q.* How old was she at that time?

*A.* Well, I think —— [Interrupted.]

*Q.* At the time of your father's death?

*A.* I think she was seventeen this month—that would have made her fourteen the June after father's death.

*Q.* After your father's death, she made her home with her own father?

*A.* She was for a year and a half after my father's death at school in Montreal, and did not come home at all.

*Q.* But when she did come home?

*A.* Yes, sir; I suppose she called it her home, and she came down to Summit to visit.

*Q.* She was a favorite of yours, was she not?

*A.* A very great favorite.

*Q.* A very sweet child?

*A.* I used to think so.

*Q.* A rather attractive child?

*A.* I used to think so; she was to me.

*Q.* When did she go to Montreal to school?

*A.* I think she left Summit on the 27th of December, 1883.

*Q.* That was before your father's death?

*A.* Yes, sir.

*Q.* Did his other daughter make her home in Summit?

*A.* Never.

*Q.* With your father or mother?

*A.* Well, I say, never; I don't know but what she called it home prior to her father's second marriage; when she came back from boarding school, she came out to Summit; she might have called it home; she had no other home.

*Q.* Did you live at home while your brother William lived at home?

*A.* I did not.

*Q.* And it was not until after his second marriage that you made your home there?

*A.* It was not.

*Q.* Your father was not a very active man, physically, was he?

*A.* I don't know what you call an active man; within two or three years of the time of his death, probably a year, he could go up the steps of the custom-house as lively as any other man; I saw my father very rarely; he made it a rule to stop at my office night and morning, and except then I did not see him but very rarely; I did not go into his office once a year, or once in two years.

*Q.* He was a heavy man?

*A.* Yes, sir.

*Q.* And it was not very easy for him to get about?

*A.* He apparently did as long as there was any necessity for it; I have heard many comment on father's activity.

*Q.* How old was he when he died?

*A.* He would have been seventy-eight the next June; he died in January.

*Q.* Do you know what the relations were between Wil-

liam, your mother and your sister at the time you lived at home?

*A.* I know they were, up to within a very short time of his marriage, exceedingly friendly and kindly; I know there was some trouble between them just before his marriage, but I didn't know what the reasons were for two or three years afterwards; I asked once what the matter was, and they referred me from one to the other and I got no reply.

*Q.* When was your sister married to Mr. Robbins.

*A.* Four years ago last February.

*Q.* 1883?

*A.* 1883.

*Q.* Did your father make it a practice to discuss business at home?

*A.* Very rarely; his own business he never discussed.

*Q.* He was radical about that?

*A.* So far as I was concerned.

*Q.* I mean so far as others were concerned?

*A.* Yes, sir; I have no recollection of his speaking of his business; I have heard him say it was dull or he was going to be very busy, that is all.

*Q.* During his lifetime was it his practice or habit to confer with you in regard to what investments he would make?

*A.* Never; I don't think he ever consulted me in his life.

*Q.* He made investments on his own judgment?

*A.* During my brother's lifetime I guess he did not have much to say about it; I guess Bob did it; I think mother had more reliance upon Bob than anybody else, and, after Bob's death, I think my father used to consult with John T. Foot; I know I have heard him speak of consulting with John T. Foot and Judge Lathrop, who was a brother-in-law of John T. Foot.

*Q.* Did he consult your mother about the investments?

*A.* Not that I know of; I never heard him; I don't know anything about it.

*Q.* She was not versed in those matters?

*A.* Not at all.

*Q.* Prior to his death she did not know what investments were made with the money, did she?

*A.* Yes, she did, because, as I stated the other day, my father brought her a list of the securities.

*Q.* I mean aside from that list, and up to that time, she did not know.

*A.* No, I don't know what she knew; I don't know what my father told her when they were alone; I used to hear them sometimes speak; I used to know that she had Rock Island and Lackawanna, and things of that kind, because it was discussed sometimes at the table, and she knew that she owned that place.

*Q.* Did she keep a bank account prior to your father's death?

*A.* No, sir; I don't believe my mother got a cent of money, unless it was given to her by one of her brothers, from the day she was married to my father's death; it didn't come from my father.

*Q.* Then, so far as your mother was concerned, your father kept his own counsel about his business?

*A.* Entirely; I think mother did not know anything about business.

*Q.* Your mother was of a domestic turn of mind rather than of a practical business turn of mind?

*A.* Very—domesticated.

*Q.* You say that Miss Swords paid board to your mother when she came there?

*A.* Yes, sir; I have heard her say that she did not stay one day that she did not pay board; if she came to spend the day she paid my mother a dollar.

*Q.* I believe Mr. and Mrs. Robbins did also, after their marriage?

*A.* After they were married? I know nothing about it; I was not present at the conversation; my sister said that Mr. Robbins did not want my sister to come there, but my

mother wanted my sister to come there, and Mr. Robbins said he wanted to be independent and wanted to pay board; and my mother referred my sister to my father, and she and my father had a talk, and my father set the price of the board; I was not present at the conversation.

*Q.* And as far as you know, that relation continued up to the time of your mother's death?

*A.* As far as I know; the money was not paid to me and I never saw it paid, but I heard mother frequently remark about getting Mr. Robbins' board.

*Q.* What was the relation existing between Mr. and Mrs. Robbins and Miss Swords?

*A.* Mr. Robbins always treated her as a gentleman; he did not have much to say to her; naturally, he took his wife's part.

*Q.* Was your father fond of Miss Swords?

*A.* I think he was, very; I remember one instance when my father got very angry with her, and told her he was going to be master of his own house; but that is the only time I ever heard my father have a spar with her at all; generally, he was apparently very fond of her.

*Q.* Did you ever have any other conflict with Miss Swords than the one you have spoken of?

*A.* I have.

*Q.* When?

*A.* I don't know as you could call it a conflict; when I was first married.

*Q.* I mean after your father's death?

*A.* No, I did not; because after I wrote her that letter, I never treated her in any other way than I agreed to, out of respect to my mother's sister.

*Q.* What were your relations with your father during his lifetime, while you lived there?

*A.* Always very friendly; mother used to say that father missed me terribly when I staid in town; I have had father, when I came home late at night, to come into

my bedroom and sit and talk to me when I was undressing.

*Q.* Did you not have an occasional jar with him?

*A.* We might sometimes have had a few words, for a moment, and it was all over; he and I were never angry five minutes at a time; I don't recollect of but once out there; we had some little jar once at breakfast, and I left the table and went to New York, and when I came home at night I brought him the paper and talked with him.

*Q.* Didn't you, on one occasion, have a discussion with your father which resulted in your leaving the table and going to your room?

*A.* No; I said, so far as my recollection was, I left the table once and went to the train; I don't remember of leaving the table and going to my room after any discussion with my father.

*Q.* Did your mother make any investments after your father's death?

*A.* No.

*Q.* Did she change any investments after your father's death?

*A.* She sold some of them.

*Q.* What were they?

*A.* West Shore bonds and Erie bonds; both of them looked very rotten, and I told her so; I though they were going still lower, and she told me I had better sell them; she went over to New York with me one day and took them out of the safe deposit company, and that is the only change in any form.

*Q.* What did she do with the money?

*A.* Deposited it.

*Q.* Did she invest it in other securities?

*A.* She did not.

*Q.* What was the amount realized from the sale of those bonds?

*A.* Somewhere about $1,700 or $1,800 for the whole thing.

*Q.* Did you advise her to make the change?

*A.* I told her that I thought they were going a good deal lower.

*Q.* You called her attention to that?

*A.* I did.

*Q.* The result justified your advice, I presume?

*A.* No; it did not.

*Q.* The bonds did not go lower?

*A.* They did, but they have since gone a good deal higher.

*Q.* At that time they did go lower?

*A.* Yes, sir; considerably lower; I think, if I remember correct, I sold the Erie bonds at about 50, and they went down to about 41, and the West Shore about 40, and they went down in the neighborhood of 30.

*Q.* How frequently did William Dumont visit your mother's house after your father's death?

*A.* I guess pretty regularly, about once a week; I very rarely saw him there myself; he knew I went out riding Sunday afternoons, and he came on Sunday afternoons when I was away; I was there sometimes when he was there; sometimes he drove over in the evening during the week.

*Q.* You did not see him then?

*A.* Once in a while, if I was sitting on the porch and he drove in, I would get out of the way.

*Q.* You did not speak to him?

*A.* I did not.

*Q.* You have not spoken to him since your father's death?

*A.* I spoke to him once by mistake; I came down stairs, I think, during my mother's sickness; Bertie Foot was there; I had asked Bertie Foot to ask his father a question in the morning, and when I came into the room I made some remark to him, and he turned his face and I saw him, and I said, "Excuse me," and I walked out; I had a conversation with him after my father's death, but not after the conversation on the ferry-boat.

*Q.* Did your mother consult him about business after your father's death?

*A.* I don't think she did; I have no means of knowing, because I was not present at their interviews.

*Q.* Do you know whether she ever consulted Mr. Robbins about business?

*A.* I do not.

*Q.* So far as you know, did she?

*A.* Not as far as I know; there was no business to consult about that I can see.

*Q.* When did your mother make her first will?

*A.* About 1871.

*Q.* And that is the will that has been referred to as the first will?

*A.* It is not.

*Q.* When did she make the will which was made in your office?

*A.* Either 1880 or 1881; I don't remember exactly which; my impression is it was 1880.

*Q.* Were you present at that time?

*A.* When she signed the will?

*Q.* Yes, sir.

*A.* I was; she signed it at my desk.

*Q.* Who else was present?

*A.* My father, Mr. Sampson and Mr. Cambrelling.

*Q.* Those are the names of the witnesses?

*A.* Yes, sir; the names of the two witnesses.

*Q.* Who drew that will?

*A.* Judge Birdsall.

*Q.* D. C. Birdsall?

*A.* That is the man.

*Q.* He is now in Connecticut?

*A.* He is.

*Q.* Conducting a newspaper?

*A.* He is.

*Q.* Was he at that time your attorney as well?

*A.* No; I had no special attorney; I had an acquaint-

ance with him, and I used to meet him at the club a good deal, and met him down town, and he was at that time counsel for Jay Gould, and I got many points from him about stocks.

*Q.* Did he come to your office at your request?

*A.* No; I met him at the club; he used to drop in my office once in a while to see me as a friend.

*Q.* I mean, how did he happen to draw the will in your office?

*A.* He didn't draw it in my office; I suppose he drew it in his office.

*Q.* How did he happen to draw the will?

*A.* My mother asked me to have it drawn, and I gave it to Dan Birdsall.

*Q.* Were you living at home at that time?

*A.* I was not.

*Q.* Mr. Birdsall was at that time practicing law in New York?

*A.* He was.

*Q.* Did your father at the same time have a will prepared?

*A.* No, sir; father said he had nothing to leave; it was all my mother's.

*Q.* How long before the will was executed was it that you handed the draft to Mr. Birdsall?

*A.* Well, I don't remember; probably it may have been the very night of the day it was given to me; it was given to me in the morning before I left Summit for New York; I was not staying there then; I think it was Sunday—Monday morning; I spent Sunday there, and the next time I met the judge at the club, I said to him, I said, "Judge, my mother wants to make a new will; I have got the draft of it here; will you draw it for me?" he said, "Certainly;" I gave him the draft, and he put it it into his pocket, and a few days after that he brought it to me.

*Q.* Prior to the making of that will, did you know that your mother contemplated making it?

*A.* No; I did not know it until the day before.

*Q.* You made some inquiry about it then?

*A.* We were talking about it, and speaking about father; mother was worried about Nettie; Nettie was getting along in years, and was not married, and I casually made the remark; I said, "I think, ma'my, if I were in your place, I would see that Nettie is well provided for; I said, "Will is down with father, and I can look after myself, and I don't think her income is more than sufficient to keep her in her present style;" I said, "If she should get married, I don't see why she should have any more of the estate than either Will or I;" and she said she was glad I had spoken about it; she was thinking about it a great deal, and she would talk with father, and the next morning she gave me a draft of the will.

*Q.* In whose handwriting was the draft?

*A.* I don't remember.

*Q.* At the time she had this conversation with you, did she immediately prepare the draft of the will?

*A.* My conversation with her was on a Sunday afternoon; I remember that distinctly; she and I were sitting on the porch, and she gave me the draft of the will the next morning, prior to my departure for the train.

*Q.* You were not present when the draft was made?

*A.* I was not.

*Q.* It was done between that time and the next morning?

*A.* It was.

*Q.* Was the draft substantially in accordance with this conversation?

*A.* It was, as I repeated it the other day; she gave father a life interest in all her property; at his death, the furniture, pictures, plate and household goods generally, went to my sister absolutely; and then the income of the whole estate went to my sister as long as she remained unmarried or until her death, and either event happening, the property was to be divided among the then living children, or their living issue.

*Q.* Your mother's living issue?

*A.* Yes, sir.

*Q.* How did your mother know when to come into New York to execute the will?

*A.* I was out after that; the next time I went out—I used to go out generally about once a week—and the next time I went out I took the will with me, and she read it and showed it to my father, and she said the next time she came to New York she would come to my office and execute it, and I took it to New York and locked it up.

*Q.* Do you know how that will modified or changed the prior will?

*A.* Yes, sir.

*Q.* In what respect?

*A.* The prior will gave my sister one-half of the whole estate, and one-quarter to William H. and myself.

*Q.* It did not make any provision for your father?

*A.* It gave him a life interest.

*Q.* Subject to the life interest then, the property was divided one-half to your sister, and the other half between your brother and yourself?

*A.* That is it, exactly.

*Q.* And that first will was made in 1871, you think?

*A.* Yes, sir.

*Q.* The reason why, you say, your mother was desirous of making another will was because of the fact your sister was unmarried and unprovided for?

*A.* That is it, exactly.

*Q.* When was the first will made?

*A.* In 1871.

*Q.* Where were you at that time?

*A.* I was in New York.

*Q.* Was that made before or after your brother Bob's death?

*A.* Before; the will was drawn by him; the first I knew of it, he spoke to me about it one Sunday; he said he had drawn up a will for mother, and told me what the contents

were, and he said, "I had no selfish motive about it; I shall never live to participate in it; it would be divided among her remaining children;" Bob was one of them at that time, but he said he would not live to receive any of it, and he did not.

*Q.* How long after this conversation with your brother Bob was the prior will executed?

*A.* I don't know when it was executed; he told me on a Sunday the will was made and drawn, and that is all I know about it; I never saw the will, from that time on until ten years—to the time of the making of the new will; that is the first I ever saw it.

*Q.* Where was it deposited?

*A.* I don't know where my mother had it.

*Q.* When she executed the second will, that was produced?

*A.* It was.

*Q.* At the time of the making of the second will, was the first will discussed?

*A.* She merely brought it in with her that morning and told me to destroy it.

*Q.* I do not mean that; I mean before the second will was executed?

*A.* No; I said she never spoke to me about that will in any shape or form, except that conversation on Sunday, and she did not say anything about destroying it or where it was, until she brought it with her.

*Q.* Was not something said in that conversation, that you spoke of on Sunday afternoon, when you suggested making a will, regarding the existence of the will?

*A.* I did not say I suggested making the will.

*Q.* Well, was not anything said about the first will?

*A.* Nothing more than that; I remarked that Nettie would not have more than enough to support her in her present style.

*Q.* From the income which she had already?

*A.* Exactly.

*Q.* You say the first you heard of the first will was from your brother Bob?

*A.* Yes, sir; he told me about it; I can remember it distinctly; it was a Sunday afternoon.

*Q.* Your mother placed a great deal of reliance upon your brother Bob?

*A.* She relied upon him, I believe, more than she did on all the others put together.

*Q.* She had great confidence in his judgment?

*A.* Very great.

*Q.* He was a good business man?

*A.* He was so called.

*Q.* And was very much respected?

*A.* Very much, and beloved.

*Q.* Your father also placed reliance upon your brother Bob's judgment?

*A.* Very great; anything that Bob said was law and gospel.

*Q.* With your father and mother —— [Interrupted.]

*A.* Both.

*Q.* Was he, at the time of the making of the first will, an invalid?

*A.* He was.

*Q.* Suffering from Bright's disease at that time?

*A.* He was.

*Q.* When did your father and mother move to Summit?

*A.* I think about 1875; I am not positive as to the year.

*Q.* When was the house built?

*A.* The same time; they moved into it the same year it was built.

*Q.* Who furnished the house at that time?

*A.* My mother—I say my mother; father paid the bill, but mother collected the furniture; it was furnished very cheaply; it was only furnished as a summer house; they only intended to live there in the summer.

*Q.* When did they begin to live there—the year, I mean?

*A.* I think about 1878, if I remember correctly.

*Q.* Your father was senior warden of the Episcopal church in Summit, was he not?

*A.* He was in the last two years of his life, after the death of Mr. Edgar.

*Q.* He was very constant in his attendance at church?

*A.* Very, indeed.

*Q.* He was what is called a good churchman?

*A.* Yes, sir.

*Q.* He was very fond of the church?

*A.* Yes, sir.

*Q.* And a man who endeavored to live up to the professions he made?

*A.* I think so.

*Q.* Was your mother equally as much at the church?

*A.* She was not.

*Q.* She was not a member of it?

*A.* She was.

*Q.* She did not take the same interest in it that your father did?

*A.* She did not.

*Q.* Who was the business man of the firm when your brother Bob was alive?

*A.* That is a hard question to answer; I do not suppose I went into the office twice a year; Bob took charge of the books and cash department, and father the custom-house business; that is the way I understand it.

*Q.* Was Bob considered the man of the firm?

*A.* No; my father was considered the man of the firm; father had been in business a great many years.

*Q.* Who was the active man?

*A.* I should say both were; as I understand it, they had their separate departments.

*Q.* How long had they been in business together?

*A.* The old firm used to be Schuyler & Dumont; Schuyler died in 1868, and Bob went into the firm; he was originally the first one in the family in that business, and after father went into business with Smith Schuyler, Bob

said "there is not enough for two of us," and he got into a new business; he introduced Clicque wine into this country; in 1868 Bob went into the firm, and the firm was changed to Robert Dumont & Son.

*Q.* He was the man who practically knew more about the business than your father?

*A.* No; father had been in the business then a great many years.

*Q.* How old was your brother when he died?

*A.* I think he was in his thirty-ninth year, if I remember right.

*Q.* He was your oldest brother?

*A.* The oldest living brother; my oldest brother died when he was an infant.

*Q.* Older than yourself or your brother William?

*A.* Yes, sir; and older than Mrs. Foot.

*Q.* He was the oldest living brother of your family?

*A.* Yes, sir; he was.

*Q.* Will you please tell me again, distinctly, the difference between the will of 1871 and the will of 1881 or 1880, so far as it affected your sister, Mrs. Robbins?

*A.* Well, the will of 1871 gave her one-half of the entire estate; the will of 1880 or 1881 gave her the whole income of the estate as long as she was unmarried.

*Q.* The first gave her the half outright?

*A.* Yes, sir; absolutely.

*Q.* Do you know what the amount of the estate was in 1871?

*A.* I have not the slightest idea.

*Q.* You spoke of the income from the half being insufficient to support her?

*A.* Yes, sir.

*Q.* Had you some idea of the amount?

*A.* I had an idea that my mother's income amounted to $3,000 or $4,000 a year, perhaps $5,000; I knew, as far as my brother was concerned, he was taken care of, and I had some little money; I had a good position and got a

large salary, and I felt, and I knew, that my mother was always worrying; I have had her come into my office and sit down and cry, worrying over my sister.

*Q.* You have been able to command a large salary in your position?

*A.* I have, a good many years; I have probably had a larger salary than any man on Broadway in my present business.

*Q.* At the present time?

*A.* No, not at the present time.

*Q.* When was that?

*A.* My salary has been reduced at different times, the same as all railroad agents have been reduced; I don't suppose there has been one that has not been reduced; I refused $6,000 three times in 1883.

*Q.* When was it that your salary was the largest?

*A.* Well, in 1883.

*Q.* In whose employ were you then?

*A.* The Great Western Dispatch and South Shore Line.

*Q.* Did you, as the agent of those railroads, receive a complimentary pass over the railroads?

*A.* I did.

*Q.* You could travel almost anywhere in the United States?

*A.* Pretty nearly.

*Q.* With the passes?

*A.* I could.

*Q.* The passes were exchanged between the railroads?

*A.* No; railroads do not recognize exchange passes with a freight line, except such roads as were interested in that line.

*Q.* The Great Western Dispatch was a freight line which ran over a system of roads?

*A.* That is it.

*Q.* The Great Western Dispatch was a freight company made up of the officers and representatives of different railroad lines?

*A.* The railroads themselves, not the lines.

*Q.* Railroad companies?

*A.* That is the idea.

*Q.* Now, what companies were interested in that Great Western Dispatch Company?

*A.* Well, at different times different roads; during my administration there they ran over, I suppose, at different times, twenty different roads.

*Q.* Starting from where?

*A.* Starting from New York over the Erie road, always.

*Q.* And running from New York to where, over the Erie?

*A.* Sometimes to Buffalo, and connecting there with the Lake Shore, and at other times running to Salamanca, and connecting there with the Great Western, now the N. Y. P. O.

*Q.* These passes you speak of were annual passes?

*A.* Those that I had for my own road were annual passes.

*Q.* You got passes over other roads for local trips?

*A.* Yes, sir.

*Q.* By asking for them?

*A.* Yes, sir.

*Q.* That was a matter of courtesy that was always extended to you?

*A.* Always.

*Q.* During the period when you lived at home, what were the habits and life of the family from day to day?

*A.* I hardly understand your question.

*Q.* Well, you and Mr. Robbins were in daily attendance at your business in New York?

*A.* Yes, sir.

*Q.* Your mother and Mrs. Robbins would be left at home?

*A.* Exactly.

*Q.* Were you in the habit of returning regularly at a certain hour?

*A.* Very regular, as a regular thing; once in perhaps two or three weeks I staid in town, before my father's death, after my father's death I used to stay in town about two nights a week.

*Q.* It was your habit, as well as that of Mr. Robbins, to come out on what was known as the five-twenty train?

*A.* Always; pretty regularly.

*Q.* And he was quite regular?

*A.* When he was in my office, he came on that train with me.

*Q.* How long did he remain with you?

*A.* He went with me in the fall of 1880, and he left me, I think, in the spring of 1884.

*Q.* What was his busines after 1884?

*A.* After 1884?

*Q.* Yes.

*A.* Clerk for Dumont & Co, Spanish advertising.

*Q.* Where he now is?

*A.* Where he now is; yes, sir.

*Q.* Mr. Robbins, I believe, owns real estate in Summit?

*A.* I believe so.

*Q.* He owns a house on the boulevard, near yours?

*A.* So I have heard; I never saw the deed for it.

*Q.* What time was it your custom to dine?

*A.* As soon as we got to the house the bell was rung, almost as soon as we got there; we would go up-stairs and fix our toilets, and the bell generally rung when we were up-stairs.

*Q.* That was the dinner of the day?

*A.* Yes, sir.

*Q.* And after dinner, what were the habits of the various members of the family?

*A.* Mr. and Mrs. Robbins would generally, immediately after dinner, go up-stairs; Mrs. Robbins went up to relieve the nurse, so that the nurse could come down to her dinner; Mr. Robbins would smoke his pipe and sit there with my sister; mother and I would generally go into the library,

and about nine o'clock Robbins and his wife would come down, and after mother and sister went out, Mr. Robbins and I would sit there and play solitare.

*Q.* You and your mother sat in the library until they came down?

*A.* Exactly.

*Q.* And that would be about nine o'clock?

*A.* Yes, sir.

*Q.* During that interval did you and your mother discuss the affairs of the day?

*A.* Yes; we generally conversed—whatever happened to come up.

*Q.* Whatever was of interest, you talked about?

*A.* Anything I thought she would be interested in.

*Q.* And whatever she thought you would be interested in she talked about?

*A.* She was very apt to.

*Q.* Was that the time that you referred to her speaking of matters affecting the household?

*A.* She never talked to me about matters referring to the household; I never took any interest in matters referring to the household; there was only one attraction to me, and that was my mother.

*Q.* Whatever was of interest to her was of interest to you?

*A.* That is it, exactly.

*Q.* And there was a reciprocal feeling on her part, I presume?

*A.* I think so.

*Q.* Your mother's relations to you, during the time you lived in Summit, endeared her to you very much?

*A.* I think, perhaps—I have always been very dear to her, I think; I was kind of a roving boy, and I think I caused mother a good deal of worry; from the time I was fifteen years old I had been home very little, until I went out there the last few years of her life; I left home when I was fifteen to go to China.

*Q.* It was your desire, during the time you did live with her, to be specially devoted to your mother in her old age?

*A.* It was.

*Q.* Did you have any evidence on her part of the appreciation of that position?

*A.* Only she was very fond of me, and she used to kiss me every night when I went to bed, and I kissed her, and I kissed her every morning when I went out, and I kissed her when I came home.

*Q.* She looked to your comfort and happiness as much as she could?

*A.* In every way in her power.

*Q.* She was what perhaps would be called an indulgent mother to you?

*A.* Not only to me, but with all her children she has always been.

*Q.* And whatever domestic friction or family friction took place, she was a peace maker?

*A.* She tried to be.

*Q.* She was the one who had the pacific disposition of the family?

*A.* I don't recollect that I ever saw my mother angry.

*Q.* Was your father a person of an excitable disposition?

*A.* Very.

*Q.* And did he give evidence of that disposition sometimes in his own house?

*A.* He did.

*Q.* Would that sometimes result in family jars between him and other members of his family?

*A.* I don't know that I ever heard of a jar between him and other members of his family; father had his say; he would get excited and blow out, and everybody else kept their mouths shut, and he would soon get over it; his disposition was something like mine in that respect; it is like a flash of powder, and then it is over.

*Q.* Do you know in what estimation your father held your brother William as a business man?

*A.* I do.

*Q.* State it?

*A.* Well, I say I heard him make the statement, "Willie had got to be a good business man."

*Q.* He had confidence in his ability as a business man?

*A.* I think so.

*Q.* And his judgment?

*A.* I think he had at the latter years of his life.

*Q.* Do you know whether he placed any reliance in business upon William?

*A.* I think he placed a great deal of reliance upon him.

*Q.* What was your brother William's business prior to the time he came to New York?

*A.* Well, he had been in the revenue service, and afterwards the navy; after the war closed, I believe he had a position for a few months in Washington, in one of the departments, and finally he wrote to me, and asked me to get him a situation out there —— [Interrupted.]

*Q.* Were you then in Cincinnati?

*A.* Yes, sir; I was in business myself at that time, and had some influence, and I went to J. R. Mills & Co. and asked him to get him a position, and he said he would, and he gave him a position at $60 a month; I brought him out there, and he was there, I think, only a short time—a few months—when Mr. Mills told me that he was not satisfied with my brother, and I would have to get him another position; I went to another friend of mine—Mr. Hodson—and told him my brother was pretty hard up, and had a wife and child, and he said he would give him a position; I told him he could make him useful by sending him down the river; he went with Billy Hodson, and he was with him when I left Cincinnati.

*Q.* Do you know what his salary was before?

*A.* $60 a month; then he went with Wetshire & Houston—C—— & Hodson had gone out of business—and he got out, and I don't know who got the position for him, but he got it; I was out there the following summer, and

stayed at his house, and he complained very bitterly that he was hired as a salesman, and there had been a high river and the cellar was flooded with water, and he had been working at that; he was a regular porter; I said, "I would not stand it," and he said, "I have got to live;" I spoke to the head of the firm myself, and I said, "It is not right to hire him for a salesman and use him as a porter; you would not use me that way;" and he said, "Well, you and your brother are two different men;" then he went from there—they went out of business—and he started a brokerage concern, and he was petering along with that brokerage concern when he came on.

*Q.* Do you know what his salary was when he was with Wetshire & Houston?

*A.* He told me that he was getting his salary.

*Q.* He did not name the amount?

*A.* Yes, he said $60 a month; the same as he had received with Mills, and C—— & Hodson, and when he traveled he got his traveling expenses.

*Q.* He stayed with them until they went out of business?

*A.* I think so; that is the correspondence I had.

*Q.* And th t is the fact, that he was with the concern, and he stayed with them until they went out of business?

*A.* Yes, sir.

*Q.* And after C—— & Hodson went out of business?

*A.* He started the brokerage business.

*Q.* He was engaged in the brokerage business at the time he left there to come here?

*A.* He was.

*Q.* Did he first suggest the advisability of moving to New York?

*A.* Yes, sir; I sent him passes to come out, in 1868, to visit mother, and he was here at the time of Smith Schuyler's death, when they were forming a new concern, and he was anxious to get into the concern then, and my brother resisted it in every way; I remember one evening he came to my office, which was at that time at the Astor House,

and asked my influence to get him in, and I remember my asking him, "Will, suppose I use my influence and I get you in, and the time ever comes when I have to leave the railroad business, will you do what you can to get me in?" he said, "I will swear by any oath you name that if you want to come in I will do all I can to get you in, as long as I am there as an equal partner;" and I prevailed upon my father and brother to keep him there; he was never a favorite of my brother Bob.

*Q.* Now, how long after that did this plan of yours result in success?

*A.* I think it was about 1872; it may have been 1871.

*Q.* Who were the members of your father's firm at that time?

*A.* Father, mother and my brother Bob, and my sister Nettie, and I think at that time —— [Interrupted.]

*Q.* Do you understand the question; I asked you who were the members of your father's firm?

*A.* When?

*Q.* The time you are speaking of?

*A.* I said they were forming a new firm; the old firm had been Schuyler & Dumont, and Mr. Schuyler had just died, and my brother went in that year.

*Q.* So that the firm was from that time forward your father and brother Robert?

*A.* Yes.

*Q.* And it was about that time that these changes were made that this discussion arose?

*A.* Yes, sir.

*Q.* After the firm of Robert Dumont & Son was started who were in their employ?

*A.* I don't know; I know that this Albert Mann was in their employ, and another fellow they called Bob; he is out now.

*Q.* Who is Albert Mann?

*A.* He is a partner now of William H. Dumont & Co.; this Bob, he is dead.

*Q.* How old was he?

*A.* I don't know.

*Q.* What was he, a clerk?

*A.* Yes, sir.

*Q.* A young man?

*A.* I suppose that he was a man of thirty; I don't know what his age was.

*Q.* Who else?

*A.* I think this boy Gus; I think he was with them; there was another one who went out who had been with father from boyhood; he went out because he was not made a partner; Cooper, I think that was his name; I don't know what his last name was; he is a custom-house broker now.

*Q.* Were they doing a successful business—Robert Dumont & Son?

*A.* I don't know; I suppose so.

*Q.* Robert had had some business prior to that?

*A.* Yes, sir; he was secretary to Auditor Ogden in the custom-house.

*Q.* He had had acquaintance with business men in New York?

*A.* I think so.

*Q.* That position would necessarily bring him in contact with business men there?

*A.* That, I don't know; I don't know anything about it.

*Q.* That position specially qualified him to enter into that business?

*A.* He had been in the business before; he was originally, when a boy, in the custom-house business; he started in the custom-house business before my father went in it.

*Q.* At the time you were in Chicago, what was your business?

*A.* When I was in Chicago?

*Q.* Yes.

*A.* No business.

*Q.* How long were you there?

*A.* Only from the summer to the fall.

*Q.* What were your means of support at that time?

*A.* John T. Foot used to send me money to pay my board.

*Q.* How much?

*A.* No regular allowance; when I got out of money I would write to him, and he used to send me $50 at a time; I was paying $4 a week board.

*Q.* Wasn't that the time you were married?

*A.* I was married the day I left there.

*Q.* Your expense must have been more than $4 a week at that time?

*A.* I said my board was $4 a week.

*Q.* You had no business at the time you left there?

*A.* Yes; I had a situation when I got a dispatch from Cincinnati that they had a position for me, and I left the next day.

*Q.* So you did receive a remittance at that time?

*A.* I did all the time I was out there—by agreement.

*Q.* How long did that continue?

*A.* To the time of my leaving Chicago.

*Q.* Did they stop then?

*A.* They did, instantly.

*Q.* Were you entitled to draw upon Mr. Foot for any specific amount?

*A.* I was, according to agreement.

*Q.* What was his agreement?

*A.* If I would leave New York and go out West, he would provide for me until I got a situation.

*Q.* Then you went to Chicago pursuant to an agreement with Mr. Foot?

*A.* I did.

*Q.* What was the cause of your leaving New York in such way as that?

*A.* Well, I had come out of the army and was not doing anything, and rather inclined to going around with

the boys, and Mr. Foot thought I would do better if I went out West; and he wrote me a letter, a very pretty letter, which I have now, in which he stated that I had the ability to be anything that I wanted to be.

*Q.* He could have furnished you with money just as well if you remained in New York?

*A.* I would not be a pauper in his hands; I looked upon it as a square agreement; Mr. Foot was a bitter secessionist, and was bitterly opposed to my being in the army.

*Q.* Would you have been any more of a pauper in his hands by receiving money in New York than in Chicago?

*A.* Yes, sir; if I lived in New York and done nothing, but lived at home and had my living; true I had always had a home at my father's home, and consequently if I took money from him then I would have been a pauper, when I was still living on my father; I was only twenty years old at that time, and he thought if I got away from New York I would turn out better, and his judgment was right.

*Q.* Wasn't that agreement made in pursuance to some trouble you had with Mr. Foot?

*A.* I never had any trouble with him until after I went to Cincinnati.

*Q.* Didn't it arise from some indiscretion on your part?

*A.* No, sir; not that I ever heard of; I think it arose from a kindly interest on the part of Mr. Foot.

*Q.* Had you, prior to the time you went to Chicago, been living with Mr. Foot?

*A.* As I said, when I came home from the army I found father and mother located there, and those were the terms; and mother told me it was my home just as much as it ever had been.

*Q.* Was it not about this time that you were guilty of some indiscretion at his house at a dinner party?

*A.* I don't think I was ever at a dinner party at his

house in my life; I don't remember of being at one; they had several of them, but I don't think I attended one.

*Q.* Weren't you present one day at his house when there was a dinner party?

*A.* I was; but I don't remember of sitting down at the table at one in my life.

*Q.* Didn't you cause some trouble on one of those occasions?

*A.* Not that I recollect.

*Q.* Was your manner not violent?

*A.* I say I have no recollection of any trouble whatever.

*Q.* Do you recall any occasion at his house when there were other persons present at dinner, or lunch, or tea, when you were guilty of impropriety in your conduct?

*A.* I say I have no recollection of being violent, or having trouble with any member of the family, or anybody else, in John T. Foot's house, in my life.

*Q.* Didn't you on one occasion draw a revolver and flourish it?

*A.* I never carried a revolver in my life, except when I was in the army; never in my life.

*Q.* Was there any such instance as that, that took place there at Mr. Foot's house, or your father's?

*A.* Never, in either house; I never carried a revolver except when I was in the army.

*Q.* Your memory is positive on that point?

*A.* Positive; I did at one time get a permit from the superintendent of police in New York to carry a revolver if I wanted to, but I never carried it; I got the permit at the time the law was made there; I knew the superintendent and police captains, and of course I asked for one, and they gave it to me.

*Q.* You don't recall any occasion, prior to your leaving for Chicago, when you were a party to a disturbance of some kind, which created some annoyance in your family?

*A.* I have no recollection of any such occasion; as far as a revolver is concerned, I will swear positively that I

never carried a revolver in New York, or anywhere, except in the army and except in traveling.

*Q.* Do you recall any occasion when you displayed a weapon?

*A.* I do not; I can remember once when I was a little child about ten years —— [Interrupted.]

*Q.* I mean after —— [Interrupted.]

*A.* No, sir; I never drew a weapon upon my family or any member of it.

*Q.* I did not say upon your family; I say did you ever show a weapon?

*A.* I did not display a weapon, because I did not carry any.

*Q.* Do you not recall any such occasion, when Mr. John Swords was present?

*A.* I recollect but one occasion of meeting John Swords at my sister's house —— [Interrupted.]

*Q.* In Thirty-eighth street?

*A.* Yes, sir; Thirty-eighth or Thirty-fifth street; I think the first day my sister used her new horse she invited Uncle John and I to take a ride with her; I think that is the only occasion I ever saw him, except at those dinner parties; Uncle John was there; he was like an Ohio man—wherever you find a free feed you will find him.

*Q.* On your direct testimony, you identified a paper marked *Exhibit for proponent, June 17th, 1887*, and stated, I believe, that you checked it when you first saw it?

*A.* Yes, sir.

*Q.* I notice on that paper checks on the left-hand side, and checks on the right-hand side; will you please identify the checks you made?

*A.* Those are my checks, and I expect those are. [Indicating.]

*Q.* Indicate by stating the side?

*A.* Both sides, I think, my checks; in fact, I am very positive the first time I checked them was at the safe de-

posit company, and afterwards I got my mother a book—a blank-book—and drew those off in the blank-book to keep a record of the payment of the securities—of the coupons and dividends; that book, I suppose, Mr. Robbins has now.

*Q.* When did you check it on the left-hand side?

*A.* When I drew it off on the book.

*Q.* When did you check it on the right-hand side?

*A.* In the safe deposit company.

*Q.* And that was the time —— [Interrupted.]

*A.* The day mother brought the securities there.

*Q.* I notice on the right-hand side different kinds of checks; will you please explain those?

*A.* Well, these little things [indicating on the paper] are mere carelessness of my pencil; those two are to show when the things were sold.

*Q.* The crosses indicate when the things were sold?

*A.* Yes, sir.

*Q.* And there appears to be crosses opposite the entry marked, "New Jersey, West Shore and Buffalo?"

*A.* New York, West Shore and Buffalo.

*Q.* Yes; three bonds of $1,000 each?

*A.* Yes, sir.

*Q.* When were they sold?

*A.* I cannot remember when, some time when they were very low; they are not very high now; she had three $1,000 bonds, and I think I sold them for 40—between 40 and 50; I don't know which; if kept until now, they would only be worth about $1,600.

*Q.* Then the check was made the time they were sold?

*A.* Well, some time after; I cannot remember exactly when I made the check—the next time I saw the paper, probably.

*Q.* The check was made for the purpose of indicating that they were sold?

*A.* Yes, sir; that they hadn't any of them any more.

*Q.* And these [indicating] were made after they were sold?

*A.* The crosses were made after they were sold.

*Q.* Approximate the time, please, when they were sold?

*A.* I could not do it; if I could look at the stock market I could tell something about the time.

*Q.* Was it 1884 or 1885?

*A.* I think 1885.

*Q.* What part of 1885?

*A.* I could not remember; it was the time of the panic of 1885.

*Q.* That was in the summer, wasn't it?

*A.* No; I think it was in the spring.

*Q.* My recollection is that it was summer?

*A.* Some time about that time; you remember when West Shore broke from seventy to seventy-six; prior it was above par and then went down to forty.

*Q.* There appears to be a cross opposite "New York, Lake Erie and Western Railroad" —— [Interrupted.]

*A.* Second consolidated bonds?

*Q.* That was made at the time of the sale, or shortly after?

*A.* Yes, sir.

*Q.* By you?

*A.* Yes, sir; nobody ever saw that paper, I don't think, except mother and myself; she used to keep that paper in this book that I got for her; in fact, I have no recollection of seeing that paper a year before her death, because I did not refer to the book.

*Q.* Where did she keep the book?

*A.* In her desk.

*Q.* And were the Buffalo bonds sold about the same time?

*A.* I think one was sold before the other.

*Q.* Some considerable time?

*A.* About the same time; I don't remember; I have been thinking of it since you have been talking about it,

whether I sold that the very time or whether it was when they commenced to go down.

*Q.* You did not sell on a declining market?

*A.* I did the Erie; I don't remember whether I sold the West Shore on the declining market or after they went up.

*Q.* About the same time?

*A.* It was within a few months.

*Q.* And the amounts realized from the sale were deposited in the American Loan and Trust Company?

*A.* I think so; she had an account once at Gould, Barber & Swords, opened by William H. Dumont, and it was either deposited in one place or the other.

*Q.* Who sold these—what broker?

*A.* I don't know; I used so many brokers; I think the Erie bonds were sold at Gould, Barber & Swords.

*Q.* You attended to it?

*A.* Yes, sir?

*Q.* They were sold through one of your brokers?

*A.* Yes, sir.

*Q.* You dealt occasionally through brokers?

*A.* I dealt with a great many brokers.

*Q.* And you placed it with one of your brokers for sale?

*A.* Yes, sir; the New York, Lake Erie and Western bonds were not sold through a broker; they were bought by myself.

*Q.* And the money that you paid for them you deposited by check?

*A.* I deposited the money.

*Q.* For her?

*A.* Yes, sir.

*Q.* You acted as her agent?

*A.* Yes, sir; I never kept a dollar of my mother's money over night in my life, with one exception; when I went to Florida the first time, I left with my cousin an additional order; he was a member of the Stock Exchange, and, as a rule, they do not require a margin for a small

amount of stock from a broker; when I went away I said, "If the market goes off, buy me three hundred shares;" when I went off Lake Shore was about 89; I left him an order to buy at 83, and I said, "If you have to put up any money, tell Robbins to ask mother for a check for $1,500, and I will give it to her when I come home," which he did; I sold the stock out, and made a couple thousand dollars.

*Q.* Mr. Robbins did get the check and deposited it?

*A.* Yes, sir.

*Q.* When did Mr. Birdsall leave New York to go to Connecticut?

*A.* I don't know.

*Q.* About when?

*A.* I have not the slightest idea.

*Q.* Do you know when he started that paper there?

*A.* I do not; the first I knew he had left New York was since this contest, when I went to hunt him up.

*Q.* You spoke in your testimony before recess of some quarrel between your sister and your brother William before he was married; did you know the occasion for it?

*A.* I said I did not know for two or three years; I didn't know at the time; I knew there was some feeling between them.

*Q.* Do you know now?

*A.* I have been told.

*Q.* What is it.

*A.* Well, it is a private matter; I don't think it is a question that ought to be discussed.

*Q.* I ask you to state what it is?

*A.* Something about a lady; I think, if you are a gentleman, you would not ask anything about it; I don't know anything about it, and don't care anything about it; I scarcely knew the lady.

*Q.* Was it not some question affecting the family?

*A.* Not that I ever heard; not as the story was told to me, it was not.

*Q.* Who told it to you?

*A.* Mr. Robbins first.

*Q.* When did he tell you?

*A.* Some two or three years afterwards; after he had been married to my sister sometime.

*Q.* Since this contest began?

*A.* Oh, no; I guess it was about the summer that he was married; I remember his telling me one day on the ferry-boat.

*Q.* Was it anything personal to William?

*A.* Yes, sir.

*Q.* Did Mr. Robbins tell you the source of his information?

*A.* Well, I suppose, to a certain extent, he was one of the parties to—he was conversant with the circumstances; the lady in question was a relative of his.

*Q.* Was it a question affecting the relations between Mr. Robbins and your sister?

*A.* Nothing between Mr. Robbins and my sister at all.

*Q.* How long was Mr. Robbins attentive to your sister before he was married?

*A.* I could not swear; he had been coming there, I don't know how long; I used to go out there once a week, and Mr. Robbins had been hanging on for a good many years, but when they became engaged I don't know.

*Q.* He was attentive to your sister in 1879, wasn't he?

*A.* Yes, sir; attentive, although not engaged.

*Q.* When did he become engaged to her?

*A.* After he came with me sometime.

*Q.* 1883?

*A.* He came with me in 1880; he was married in 1883.

*Q.* How long afterwards?

*A.* I don't recollect when the engagement was announced; I think, probably, ten months or a year before he was married, if I remember correctly; I know that his engagement had not been announced at the time of my father's golden wedding.

*Q.* When was that?

*A.* In Februay, 1881.

*Q.* He was attentive to her at that time?

*A.* Yes, sir; just the same as he had been; mother used to say it would never amount to anything; I remember my mother said to me once that she did not think he had any more idea of marrying her than I had.

*Q.* When was that?

*A.* Some time along 1881 or 1882; I cannot recollect when.

*Q.* When did you first learn that he was engaged to her?

*A.* When it was announced.

*Q.* You didn't know it before?

*A.* No, sir.

*Q.* When it was publicly announced?

*A.* When it was publicly announced.

*Q.* Can you approximate that date?

*A.* I cannot.

*Q.* Do you remember the year?

*A.* No; it was about ten months or a year before they were married; I think it was some time in 1882.

*Q.* His intentions prior to that had been of a serious character?

*A.* He used to come over in the evening and sit on the porch when the family was there; I don't think they went out together, except to take a stroll; I don't think they went out in the evening.

*Q.* Then, as I understand it, their relations were very intimate and friendly?

*A.* Yes, sir; exactly.

*Q.* During the whole time?

*A.* Yes, sir.

*Q.* And it was not known to you or the family whether he intended to make a proposition of marriage to her or not?

*A.* I don't suppose any one knew.

*Q.* You would not have been surprised if he had?

*A.* Not in the slightest degree.

*Q.* From his attentions to her?

*A.* That is it, exactly.

*Q.* For two or three years before he became engaged to her?

*A.* That is it, exactly.

*Q.* He was then living on the Boulevard?

*A.* Yes, sir, he was; he lived up to the hill, too.

*Q.* At the time I speak of, he was living there?

*A.* Yes, sir.

*Q.* His attentions began when he was living there?

*A.* Yes, sir; because he became acquainted with her when he lived there.

*Q.* Did you first become acquainted with Mr. Robbins through your sister?

*A.* My sister or William H.

*Q.* At your house?

*A.* I don't recollect whether it was at the house—I don't recollect where I was introduced to him; probably it was at the house, but it might have been on the train or boat.

*Q.* Do you remember when you first became acquainted with him?

*A.* I do not.

*Q.* About what time?

*A.* I have not the slightest idea.

*Q.* Was it as early as 1878?

*A.* Oh, yes; I knew him before that.

*Q.* Was he a frequent caller at your mother's house upon your sister at that time?

*A.* I cannot say; I was not living there.

*Q.* But you frequently met him at your mother's house?

*A.* Yes, sir.

*Q.* As far as you know, that was the fact, wasn't it?

*A.* So far as I know, it was a fact; he used to come there; there was no engagement; in fact, my sister was

engaged to another man about that year, 1876, 1877 or 1878, for a short time.

*Q.* Do you remember whether or not the relations between Mr. Robbins and your sister were intimate and confidential in 1877 or 1878?

*A.* I could not say.

*Q.* How about 1879?

*A.* Yes; I should imagine they were very confidential.

*Q.* How did they address each other?

*A.* Always Mr. Robbins and Miss Nettie.

*Q.* They did not call each other by their first names?

*A.* They did not; not in my presence; what they did when they were alone, I don't know.

*Q.* When did you become intimately acquainted with Mr. Robbins?

*A.* Well, I don't know; I used to meet him there; I thought he was courting my sister, and I knew my sister was very fond of him, and in 1880 he was doing nothing, and I had a vacancy in my office, and I said, "Charlie, it is not much of a position, if you want it you are welcome to it until you can better yourself," and he took it.

*Q.* Wasn't he then in the employ of H. J. Libby & Co.?

*A.* No, sir; he had been out of there for a year, I guess.

*Q.* In 1880?

*A.* Yes, sir; he placed it in 1880 when he came with me, that is all I know; I cannot say from memory; I asked him when he came, and he said 1880; he had been out of Libby's then for considerably over a year.

*Q.* Wasn't he in the employ of the steamship company?

*A.* No, sir; he was doing nothing; he was around with George Campbell.

*Q.* Prior to that time he was in the employ of the steamship company?

*A.* Yes, sir; prior to the time of going with Campbell.

*Q.* He was an agent of the steamship company?

*A.* No, sir; he was cashier.

*Q.* Referring to *Exhibit for proponent, June 17th, 1887*, when was this delivered to your mother?

*A.* I think the fall before father's death; it was only a few months before his death; I think the fall before his death.

*Q.* Were you present when it came?

*A.* I was not.

*Q.* Who brought it down?

*A.* All I know about it was what father said; I did not see it delivered; I never saw it myself until after my father's death.

*Q.* How did it happen that this paper was delivered to your mother?

*A.* I suggested to my father one night—I don't remember how the conversation came up; I know I spoke to him one night and said, "Has mother got a list of her securities," and he said no; I said, "I don't want to cast any reflection upon Will, in any way, shape or form, but I think she ought to know what she has got; if anything happens she is the proper person to know;" a few days afterwards he said to me, one night in the library, that I could rest easy on that score, that mother had a list of the securities, and I could relieve my mind about that.

*Q.* Why did you say you did not want to cast any reflection upon your brother?

*A.* Because I knew he had charge of it; father never went to the safe deposit company, or at least he said he never did.

*Q.* Did you have any doubt about his properly accounting for them?

*A.* No; but still I think it is best for more than one person to know about such things.

*Q.* Who did you make that suggestion to?

*A.* My father.

*Q.* Was your mother present?

*A.* I don't remember; I don't think she was.

*Q.* Did you speak of it afterwards in her presence?

*A.* No; I never referred to it.

*Q.* After she received it did she not show it to you?

*A.* She did not.

*Q.* Who showed it to you?

*A.* She did.

*Q.* I asked you before if she did not show it to you?

*A.* I say she showed it to me the day she came in to get her securities; I never saw it before that day; to the best of my recollection, I never did.

*Q.* You do not know positively that this is the paper?

*A.* I only know that is the paper she brought in to me; the only way I can identify it is by the checks, because if you notice there I have put down the months the securities are payable; that I took off the securities themselves; I will swear to my checking; I don't recollect ever checking it but twice, once when in the safe deposit company, and once when I drew them off in this book.

*Q.* Don't you know, as a matter of fact, that this was delivered to your mother after your father's death?

*A.* I do not; I am positive it was not, for I never checked them off after my mother's death.

*Q.* After your father's death?

*A.* No; I said, all I know about it is that my father said he had given her a list; I never saw the list; she said that was the list father gave her; I think I said to her that morning that she came in, "Have you got a list of your securities?" and she said "yes;" I said, "You had better bring it with you so that I can check them off."

*Q.* Were you informed how serious the quarrel was between your brother and sister?

*A.* I cannot say it was a quarrel; it was a coolness; they were not as good friends as they had been, that is all.

*Q.* How long did it continue?

*A.* I think, to a certain extent, it has always continued.

*Q.* It was then somewhat serious in character, whatever it was?

*A.* No; it was as I told you; you will be the first man

to regret what it was about, for it would affect you more than it would me; I will tell you if you want it.

*Q.* I will ask you what it is; I am satisfied on that point; I only ask you of the seriousness of it?

*A.* No, I said it was not a quarrel; it was a coolness; they always spoke and conversed together; she used to call at his house.

*Q.* Have your sister's relations been friendly with Mr. Dumont's second wife?

*A.* Well, friendly enough to exchange calls; I don't think either one likes each other.

*Q.* It is a purely formal relation?

*A.* Yes, sir.

*Q.* When was your brother married the second time?

*A.* I think it was in 1879.

*Q.* He then moved away to the West?

*A.* He did; he went to Buffalo with his wife, and I gave him passes for himself and wife to Niagara Falls.

*Q.* Did you say that Mr. Birdsall was your attorney?

*A.* I did not.

*Q.* He had attended to some other matter of business for you?

*A.* He did not.

*Q.* I understood you to say he did?

*A.* He did not; he never attended to a business transaction for me in his life.

*Q.* He did not draw your first will then?

*A.* No, sir.

*Q.* Nor your second?

*A.* He did not.

*Q.* When did you make your first will?

*A.* A good many years ago; I cannot remember; I have made several wills in my life.

*Q.* How long ago?

*A.* Well, I guess I made my first will as much as ten years ago; perhaps longer; yes, it was longer ago than that; I guess I made my first will in 1870.

*Q.* When did you make your second will?

*A.* A year or two afterwards.

*Q.* A year or two after 1870?

*A.* Yes, sir.

*Q.* And you made another will?

*A.* Yes; three or four; I have made two within the last year.

*Q.* When did you make your third will?

*A.* I cannot recollect; I don't recollect how many I have made; I have made seven, eight or nine of them, I guess; I never paid for making one in my life; I always had plenty of legal friends to do it for nothing.

*Q.* Did you make a will in 1879?

*A.* I don't remember; I think I had a will made then; I don't know whether I made it in 1879 or later; I guess I made it later than that; I don't know whether it was the third will; it was one.

*Q.* The will that was executed in 1879, when did you revoke that?

*A.* I cannot remember; I had no occasion to keep account of the dates.

*Q.* Approximate it?

*A.* I could not.

*Q.* You had a will in 1881?

*A.* I did; I always have a will; since I first accumulated any money I never have been an hour without a will.

*Q.* Did you have a will in the year your father died?

*A.* I did.

*Q.* Is that will in existence?

*A.* It is not.

*Q.* When was it changed?

*A.* My father died in January, and I think I made a new will in February or else the latter part of January.

*Q.* 1884?

*A.* 1884.

*Q.* Is that will in existence yet?

*A.* It is not.

*Q.* When did you revoke it?

*A.* I told you I made another will either in January or early in February of that year.

*Q.* When did you revoke that will that you made in January?

*A.* 1884?

*Q.* Yes.

*A.* I think I revoked that will two years ago.

*Q.* Two years ago?

*A.* Yes, sir.

*Q.* Did you provide for William's children in that?

*A.* I did not; I provided for one of them to a certain amount.

*Q.* That is Bessie?

*A.* That is Bessie.

*Q.* That will stood for several years?

*A.* No; it stood—I think that will stood until some time in 1885.

*Q.* You made that in February, 1884?

*A.* Yes, sir; it stood until 1885 or 1886, I don't know which; I guess it was 1886; I changed that.

*Q.* How long did the will stand that you made in January or February, 1884?

*A.* I say it stood—I think it was until the fall of 1885.

*Q.* How long prior to that, I mean?

*A.* I think it stood a couple of years or so, if I remember; I cannot state positively, because if I changed my mind about what I wanted to do with my money, I made a new will.

*Q.* You think it stood for several years?

*A.* I think so; I don't remember exactly.

*Q.* Who did you provide for in that will?

*A.* I provided for a life estate to my wife —— [Interrupted.]

By Mr. Smith—Objected to as incompetent, and not proper cross-examination.

By the witness [continuing]—I left the bulk of it to Bessie, with a smaller amount for Mamie Dumont.

*Q.* And that was the will which you changed by the will of January or February, 1884?

*A.* It was.

*Q.* What was the occasion for your changing the will of January or February, 1884?

*A.* My brother's conduct to my mother.

*Q.* Who was the attorney that drew your will in January or February, 1884?

*A.* I don't remember; I have had so many wills drawn that I don't remember who did draw it; I know Philip Cooper, of Cooper & Jenkins, drew a will for me, and Lawrence & Wainer drew two wills for me.

*Q.* You do not recollect who drew that will of January?

*A.* The only ones I recollect are the last two; Lawrence & Wainer drew them both.

*Q.* And those, you say, were drawn within a year?

*A.* Yes, sir; one was drawn last year, and one this year; some of my wills I drew myself, taking the form from the will I had already made; Sanford Greeves drew one will.

*Q.* When was that?

*A.* I don't recollect; I am now thinking of the different lawyers that drew wills for me.

*Q.* He represented you in some other matters in 1884?

*A.* Yes, sir.

*Q.* Was not this one of the matters?

*A.* What?

*Q.* Drawing a will?

*A.* No, it was a matter entirely foreign, and opposite to making a will.

*Q.* When was the last time that you had a communication with your brother about your mother's interest, as you claimed, in his business?

*A.* On the ferry-boat.

*Q.* I ask you to fix the time?

*A.* I think it was about between the 13th and the 16th

of January 1884; I think about those dates; I think father was buried—no, it could not have been as long as that—father died on the 4th and was buried on the 7th; I think about the 11th or 13th.

*Q.* That was the last time?

*A.* Yes, sir.

*Q.* You have had no communication with him since?

*A.* Not one word.

*Q.* I presume your feelings have not changed toward him since?

*A.* Not in the slightest degree; I felt he had been unjust to my mother then, and I feel so now.

*Q.* The first time you spoke to him about the matter was on the day of your father's death?

*A.* Exactly.

*Q.* Almost immediately afterwards?

*A.* It was the same morning that father died; he was not there when father died; he got there perhaps half an hour after he died; it was going down in the train; I think the train left Summit about ten o'clock.

*Q.* How soon after that first conversation with your brother, did you speak to your mother about the subject?

*A.* As soon as she got down stairs and able to get about; I suppose a couple of weeks or so.

*Q.* Did he suggest to you that you speak to her?

*A.* He did not.

*Q.* It was a matter of your own volition?

*A.* Entirely.

*Q.* What did you say to him at that time?

*A.* Which time?

*Q.* The first time you spoke to him?

*A.* I asked him what interest he was going to give mother in the business; the reply was "Not a damn cent."

*Q.* Then what took place?

*A.* I said, "Then I will fight" —— [Interrupted.]

By Mr. Smith—The first time.?

*Q.* You are speaking of the first conversation?

*A.* Yes; I said, "I will fight," and we talked about some things; I forget about what the purport of the conversation was, and he said, finally, "How much will you be satisfied with?" I said, "I don't know what your business is worth, or what you can afford;" I said, "You know what you can afford better than I do;" he said, "How will $150 a month suit you?" I said, "Can you afford it?" he said, "Yes;" I said "I will be satisfied," and I said that "any claim I have I will sign off, and I will guarantee that Nettie will do the same thing."

*Q.* What claim had you on the business?

*A.* I thought at that time I had a claim, but found afterwards I was mistaken.

*Q.* Did you ever acknowledge your mistake?

*A.* I acknowledged it when Mr. Foot told me so; I said I wasn't aware of it.

*Q.* Did you go to William and acknowledge you had made a mistake?

*A.* Why should I go to him; I had no idea at the time of this conversation of not speaking to William on account of my mother; I supposed we would speak; the first time I saw him was probably a week after this conversation when I got into the train to go down——[Interrupted.]

By Mr. Smith—You told about that.

By the witness—All right.

*Q.* I ask you, if, after you found you were mistaken, you stated to William that you thought you had a claim on the business but found you were mistaken?

*A.* I did not say anything of the kind.

*Q.* You knew of the fact but you did not tell him?

*A.* I spoke to Mr. Foot about it; I never spoke to him, but I spoke to Mr. Foot.

*Q.* You felt, when you talked with William the first time, that you had some claim on the business?

*A.* The first and second time I did.

*Q.* In the meantime you had seen Mr. Foot?

*A.* I did not; I did not see him until after the second conversation.

*Q.* After you did see Mr. Foot you did not say anything to William about the mistake, did you?

*A.* I have never spoken to him since that.

*Q.* When did you have the second conversation?

*A.* On the ferry-boat.

*Q.* How long after the first interview?

*A.* As I remember, about ten days or two weeks—inside of two weeks.

*Q.* What took place at that time?

*A.* I went up to him—he was standing in the carriage-way on the ferry-boat; I got his letter the day before; I went up to him and said, "Well, Will, I have got your letter; it is perfectly satisfactory to me, provided you leave the business in *statu quo;*" he said, "I will do nothing of the kind;" I said, "Well, all right;" I said, "I am Robert Dumont's son as well as you are; I have got something to say;" he said "if I wanted the name I was entitled to it; he didn't want it; he had his new shingle ordered, and was going to put it up the next week;" I said, "Well, you know I have got ten dollars to your one, and I will spend every dollar I have on earth to defend mother's rights;" I said, "Whatever you agree on with mother it is perfectly agreeable to me; I am only talking for her now as she cannot talk for herself," and we had some other talk; we commenced to talk on the boat—it just got in—and I left him before we got into the slip.

*Q.* Where did you leave him?

*A.* The last remark was, he said she had enough without it; I said, "I don't care if she has a million a year; in truth, honor and justice she has an interest in that business;" I said, "Do you suppose I am going to leave mother at your mercy;" he replied, "By God, she has got to be;" I said, "Not as long as I am above ground," and I walked away."

*Q.* Did you use any profanity?

*A.* I did not; I thought of it then; I thought, our position is reversed, I am the cool one and he is the excited one; that struck me at the time, for I had never seen him so excited before; I was just as cool in that conversation as I am now.

*Q.* And in the execution of your purpose to spend $10 to his $1, what did you do?

*A.* As I said, I thought at the time I had some equity in the business, and I proposed to have it for my mother; I said to him that day, "Will, you know I have enough; I am not talking for myself, but for mother."

*Q.* What did you do in the execution of that purpose?

*A.* The next day I had a talk with Mr. Foot, and he told me that as a surviving partner he had the business, and I had nothing more to say.

*Q.* Did you consult a lawyer about it?

*A.* I did not; I was satisfied with John T. Foot's statement.

*Q.* Prior to this time, had you any conversation with your mother on the subject?

*A.* Not one word.

*Q.* Didn't you tell your mother that you had spoken to him about it?

*A.* I did not, until she got down stairs; mother at that time was very much depressed; she had a very hard cold, and I did not want to say anything to worry her.

*Q.* When did you first speak to her on the subject?

*A.* When she came down-stairs.

*Q.* How long was that after the second interview with William?

*A.* I think it was about perhaps two weeks—between two and three weeks, I think—the latter part of January.

*Q.* What did you tell her?

*A.* As near as I could recollect, I told her just exactly what occurred.

*Q.* Repeat the conversation?

*A.* I told her the conversation I have just repeated,

about the conversation I had with him on the train, in which he agreed to give her $1,800 a year, and afterwards I got this letter from him, and I think, if I mistake not, I had that letter at that time, although I won't be positive; I know I told her about it, and then stated, as he stated in his letter, "when she was well enough, he would come out and talk business with her," and there it rested until he did come.

*Q.* Have you stated all that took place between you and your mother at that time?

*A.* All that I can remember.

*Q.* How is your recollection on that point?

*A.* I think it is pretty fresh; I have given the substance of the conversation; I do not remember anything more; if I could recollect it, I would have stated it.

*Q.* But you have stated, as far as you can recollect, the substance of the whole conversation?

*A.* Yes, sir.

*Q.* How long was it?

*A.* It was in the library in the evening, when we were sitting there.

*Q.* Was it a few minutes, or protracted?

*A.* Yes, sir; it was to report the facts, as it were; after I told her he was coming out to see her, there was nothing further to discuss.

*Q.* Did you tell her what you said to William?

*A.* I did.

*Q.* You expressed your feelings on the subject to her?

*A.* That I don't recollect; I think I left the conversation as it was; I don't think I was particularly excited; I had two weeks to think of it; I merely repeated it to her as it was.

*Q.* I did not ask you if you were excited; I asked you whether you expressed your feelings on the subject?

*A.* I do not think I did; I knew it would hurt mother very much for one of her children to say anything against the other.

*Q.* Then you did repeat the whole conversation?

*A.* I repeated the whole thing that took place.

*Q.* Between you and William?

*A.* Yes, sir.

*Q.* The whole of it?

*A.* All of it.

*Q.* Did you try to conceal your own feelings on that subject?

*A.* No, sir; I never conceal my feelings at any time.

*Q.* Your feelings have not changed from that day to this, on that subject?

*A.* They have not.

*Q.* They have not grown any less with time?

*A.* They have not.

*Q.* You feel quite bitter on the subject?

*A.* No more than I did; only I thought he had been very unjust to my mother, and I think so still.

*Q.* You have the same strong feeling now that you had then?

*A.* Just the same.

*Q.* And you feel that it was gross injustice?

*A.* I did and do.

*Q.* And your feeling was so strong on that subject that you were willing to spend, at the time in question, your fortune to right it?

*A.* I would gladly have given to my mother every dollar on earth if she needed it.

*Q.* You would have followed your suggestion, if you could have done so, at the greatest personal sacrifice?

*A.* I would, sir.

*Q.* That would indicate some strong feeling?

*A.* My mother was the dearest thing on earth to me, and if I thought she was injured I would give my life if necessary to protect her.

*Q.* Why didn't you proceed to carry out your suggestion?

*A.* Because Mr. Foot said, as a surviving partner, he got the business, and I had no redress.

*Q.* You did not recognize his right?

*A.* I recognized his right as partner in the business, yes, but I supposed that my mother and my sister and myself had some equity in the business.

*Q.* Don't you think you were unjust to your brother on the subject, considering his rights?

*A.* I do not.

*Q.* And have never thought so?

*A.* No, sir.

*Q.* When was the next conversation you had with your mother on the subject?

*A.* After he had been out there.

*Q.* When was that?

*A.* Well, I guess—I think it was within a week of my first conversation.

*Q.* William had been out there in the meantime?

*A.* Yes, sir.

*Q.* How do you know that fact?

*A.* She told me of it.

*Q.* When?

*A.* The evening of the day he had been there.

*Q.* Before or after dinner?

*A.* After dinner.

*Q.* Where?

*A.* In the library.

*Q.* What did she say?

*A.* She said that Will had been out there and had a talk with her; I said, "What did he say?" she said, "He said I had no rights in the business; that the law gave him the business, and he was entitled to it all, but that as her oldest son, he would be glad to make up any deficiency in her income;" she said, "I told him 'I did not want that; if I had any rights I wanted them; I had never taken charity yet; that I had lived to be over seventy years old without taking charity, and I would not take it now;'" he said,

"She should not look upon it as charity;" she said, "If my income is not sufficient to support me in my present style, she would seek less expensive quarters."

*Q.* What did you say?

*A.* I don't remember.

*Q.* You were not silent?

*A.* I probably said something, but what I said I don't know; I hadn't much to say; I had formed my opinion of what he was going to do, and I hadn't much more to say.

*Q.* What did you say?

*A.* I have no recollection of what I said.

*Q.* Can you give the substance of it?

*A.* I cannot; I may not have said anything; I havn't a single recollection of what occurred afterwards; her statement to me I took in and reflected over it, and that is the reason I can remember it so well.

*Q.* Didn't you say what you would expect from him?

*A.* I may have; I say I have no recollection of one single word I said.

*Q.* Did the statement affect your views in regard to William in any respect?

*A.* How—his statement?

*Q.* The statement that your mother repeated to you?

*A.* Affect my views?

*Q.* Yes, sir.

*A.* No, sir; how would it affect my views?

*Q.* Did not the fact that he offered to make up any deficiency evidence his good will?

*A.* No; what I thought about that was, he would be glad to make up the deficiency and charge it to her estate; that is what I always thought about that generous remark.

*Q.* Did you give any expression of any such views at that time?

*A.* I don't think I did.

*Q.* Do you mean to say that your mother repeated the conversation that she had with William without conversing with you on the same subject?

*A.* I don't thing anything more was said about it.

*Q.* There was probably some discussion on the subject?

*A.* I think very little, if any; he gave his ultimatum, and that was the end of it; I knew there was no use of saying anything; I always accept the inevitable, whatever it may be.

*Q.* Who is the Mr. Foot to whom you refer?

*A.* John T. Foot.

*Q.* Where was he living at the time?

*A.* At the Brevoort House.

*Q.* Did you go to his house?

*A.* I did, at the Brevoort House; I saw him in the presence of his daughter, then Mrs. Streets; she is now Mrs. Cook.

*Q.* What did you say to him on the subject?

*A.* I told him what had occurred.

*Q.* Please repeat it?

*A.* I told him about Will refusing to give mother anything out of the business, and he said that he thought perhaps it would be right if William and I joined together in taking care of mother; I said, "I don't think, Mr. Foot, that she will require a great deal; if she does she is welcome to what I have; my income is more than I can expend;" I said, "What I would like to do is to give up Summit house entirely and bring mother to New York and take a flat, and, if she wants it, she can have Aunt Nettie come and live with her;" Mr. Foot said it would be a splendid idea, and he spoke something about my saying she did not need anything; he said, "I had no idea your mother was so well circumstanced;" I said, "Will told me some time ago that she would have an income of over $3,000;" he said, "I did not dream of such a thing; I thought your father and mother were both very poor."

*Q.* Did you tell him what you had said to William?

*A.* I did; I did not use the exact language because Katie was present.

*Q.* What advice did he give you?

*A.* He told me, as a surviving partner, he got the business, and I could not prevent it.

*Q.* Did he tell you what to do—make any suggestions?

*A.* He merely spoke about having Will render an account, and he afterwards called at the house and told my mother that, with her consent, if she desired it, he would be glad to go down and go over the books; and mother said she did not want to have any trouble about it one way or the other.

*Q.* So that led to the suggestion to your mother to have the books examined?

*A.* I think it was; I had two or three interviews with Mr. Foot on the subject.

*Q.* Did he advise you at that time in regard to your personal relations in this matter, as to what your duties were?

*A.* He did not.

*Q.* Did you ask him?

*A.* I did not.

*Q.* Was that the first interview that you had with Mr. Foot on the subject?

*A.* Yes, sir.

*Q.* You say you had two or three?

*A.* I think so; I know one day he stopped in my office when I was out, and he left me a note.

*Q.* When was that?

*A.* I have got the letter in the office.

*Q.* He left you a note?

*A.* Yes, sir.

*Q.* He didn't have any conversation with you?

*A.* No; I don't remember whether I saw him more than once or not, but I know two or three communications passed between us; I have got the letter now; I happened to find it in one of my pigeon-holes, in which he refers to our recent conversation; he first recommended that an administrator be appointed, and that is what this letter is about, in which he thinks it is best not to have an administrator appointed, as father did not have anything.

*Q.* You do not recall any interview with him after this first interview?

*A.* I do not think I had any personal interview.

*Q.* It was merely a correspondence between you?

*A.* Yes, sir; I don't think I wrote him at all; I think he stopped at the office once or twice and left me a note.

*Q.* Didn't you reply to that?

*A.* I don't think I did; I don't think they required it.

*Q.* What have been your relations with Mr. Foot for the last four or five years?

*A.* Very pleasant.

*Q.* He is the gentleman you speak of in your direct testimony as being very wealthy?

*A.* Yes, sir.

*Q.* And of ability?

*A.* He has made his own money.

*Q.* And of character?

*A.* I guess he has a good character.

*Q.* I ask your opinion of him?

*A.* I know nothing against his character.

*Q.* And as to his ability?

*A.* He has proven his ability, for the standard of success is success; he has made a success.

*Q.* You measure his success by the amount of money he has made?

*A.* Yes, sir.

*Q.* Which has been very great?

*A.* That is it, exactly.

*Q.* In the family he has been influential?

*A.* I do not think Mr. Foot—I think Mr. Foot could influence my father to do anything, but as far as the family is concerned, I do not think Mr. Foot has had much to say; he is a man of a great deal of reserve.

*Q.* How did you happen to go to him in this matter?

*A.* I knew that father looked upon him as the dearest friend he had on earth; he was my relative, and he was a man of large experience and large means, and my mother

was then in receipt of an income from him, and I thought he was the proper one to advise with; I didn't care to wash all my dirty linen in public.

*Q.* Although you consulted him for advice, you did not follow his advice?

*A.* He did not give any advice; after that first interview he recommended an administrator, and then left me a note not to do anything of that kind.

*Q.* But he advised you at that time that William had rights in that property which you could not disturb?

*A.* He did.

*Q.* Mr. Foot is your brother-in-law?

*A.* He is.

*Q.* By marriage with your deceased sister?

*A.* Exactly.

*Q.* You say your mother was in receipt of an income from Mr. Foot?

*A.* I did.

*Q.* What was it?

*A.* After he sold that house in Forty-fifth street, in which he had given her a life interest, he invested some money in bonds or stocks, and put it in the trust company, and gave her the income of it for life.

*Q.* Do you know how much the income was?

*A.* It changed very materially.

*Q.* Approximate it?

*A.* At first it was about $1,300 a year, if I remember correctly; I do not know personally; I only know what I was told, and then he changed the securities to something else; I think he put it into gas, and after awhile gas stopped paying dividends, and he then sold the gas and put it into something else; I don't know what the something else was, but he put it in the trust company.

*Q.* That continued during your mother's life?

*A.* Yes, sir.

*Q.* What became of it afterwards?

*A.* I don't know; I believe it goes to George Foot.

*Q.* The trust was created by Mr. Foot?

*A.* It was.

*Q.* How long did that trust exist?

*A.* At the time of the selling of the house.

*Q.* When was that?

*A.* I think that house was sold about 1883 or 1884—no, it was sold in 1884, because father was alive when it was sold; it must have been sold in 1882 or 1883.

*Q.* Did you know about the existence of the trust at time?

*A.* Only what I was told.

*Q.* The paper marked *Exhibit for Proponents, June 17th, 1887*, has a slip attached to it; was that on the paper when you saw it last?

*A.* To the best of my recollection it was; to the best of my recollection, these pencil-marks here I took off the securities in the safe deposit company, so as to know when to collect the payments.

*Q.* Look at the last entry on that paper; read it?

*A.* "New York Life Insurance and Trust Company, $1,316.24."

*Q.* Is not that the trust you have been speaking of?

*A.* It is.

*Q.* And $1,316.24 represents the income from that trust?

*A.* At that time.

*Q.* The annual income?

*A.* At that time.

*Q.* The annual income at that time?

*A.* Yes, sir; it was payable January and July.

*Q.* What time was that?

*A.* That was in February, I think.

*Q.* 1884?

*A.* Yes, sir.

*Q.* How long did that income from that trust continue?

*A.* She had the income, I believe, one time—once or twice, perhaps; I don't remember whether it was once or twice; I have an indistinct recollection that once or twice

there was nothing paid at all; it was in gas, and gas didn't pay any dividends.

*Q.* I am speaking of the dividends from January, 1884?

*A.* I understand; I never collected it in my life.

*Q.* Was the investment changed?

*A.* I say it was changed.

*Q.* In 1884?

*A.* Yes, sir.

*Q.* By whom?

*A.* Mr. Foot; I think the first—I was told the money was first put in the Chicago and Alton, and afterwards changed to gas, and afterwards changed to something else, what it was I don't know.

*Q.* What was the investment at the time of your mother's death?

*A.* I don't know; Mr. Robbins used to collect the check from the trust company; he used to have to get an order from her, and he used to take the order down there and collect the check and take it back to mother, and mother would give it to me to deposit in the bank.

*Q.* The trust company would forward to your mother the checks?

*A.* Through Mr. Robbins; he had to bring an order from her.

*Q.* Would they notify your mother when there was a certain income due her.

*A.* No, sir.

*Q.* How was she aware when the income was due?

*A.* Mr. Robbins, I think, kept track of when the income came due, and got a blank from the trust company and got mother to sign it.

*Q.* He received the check and handed it to your mother?

*A.* Yes, sir.

*Q.* And she handed it to you?

*A.* Sometimes I would endorse it and deposit it on account of Mary B. Dumont; I think I always endorsed the checks in that way.

*Q.* And you say you deposited it in the American Loan and Trust Company?

*A.* I think, every time; I think the account was changed from Gould, Barber & Swords in 1885.

*Q.* From them or to them?

*A.* From them.

*Q.* The deposits that were made prior to that time were made with Gould, Barber & Swords?

*A.* Yes, sir.

*Q.* In the same way you have described it?

*A.* Yes, sir.

*Q.* Where was your mother's bank account kept?

*A.* I told you—Gould, Barber & Swords.

*Q.* Her bank-book?

*A.* In her desk.

*Q.* When you made a deposit you would take the bank-book and have the deposit marked on it?

*A.* I would.

*Q.* Where was her check-book kept?

*A.* In the same place; in her desk in the library.

*Q.* Who wrote up her check-book?

*A.* I did.

*Q.* Who drew the checks for her?

*A.* I did.

*Q.* You generally attended to those details for her?

*A.* There were no details; generally, when she wanted a check, I would draw it and she would sign it.

*Q.* Such details as you have mentioned?

*A.* Yes, sir; when she wanted her bank-book written up they would write it up, and I would give her the check-book and checks, and she laid them in the desk.

*Q.* Do as any business man would do under the circumstances?

*A.* Yes, sir.

*Q.* That was due to the fact that your mother had no one else to do it for her?

*A.* Yes, sir; she had.

*Q.* Who?

*A.* Mr. Robbins and my sister.

*Q.* Did Mr. Robbins do it?

*A.* No, sir; I don't know that he did.

*Q.* Did your sister do it?

*A.* No, sir; not that I know of.

*Q.* Your mother was suffering from depression, was she not, after your father's death?

*A.* Unquestionably.

*Q.* As well as some other physical ailments?

*A.* No other ailments at that time but a cold.

*Q.* Did she suffer from rheumatism?

*A.* I never heard her complain of it.

*Q.* How long was your father sick before he died?

*A.* About a week; he was out the last time on Christmas day, at church, and he died on the 4th of January.

*Q.* Was his illness serious?

*A.* It was pneumonia.

*Q.* It was severe during the whole time was it?

*A.* Well, he was out on Christmas day, and I think the 28th of December he had this bad cold; after dinner that night, father was sitting in his big chair in the library, and I did not like his breathing, and I asked mother what she thought of him, and she said she thought he was better; I said, "I don't like that breathing; I am going to have a doctor;" and I told the girl to go over, and tell Doctor Risk to come over, and father was sitting in the library; father said, have you got a cigar to treat the doctor with, and I said, "Yes, and I will treat you, too;" and I went upstairs and got a cigar, and gave the doctor one and father one, too, and father put his into his pocket, and he went and laid down on the lounge; Doctor Risk told him to go to bed, and he did not see him again until the next day.

*Q.* He did not get up after that?

*A.* He did not.

*Q.* How long prior to that was it that the conversation

took place; when was it that the conversation took place between your father and William, in your presence?

*A.* About what?

*Q.* In regard to taking charge of the business?

*A.* That was years before; it was before William was married, and lived at the house.

*Q.* I am speaking of the occasion that you have testified to, when your father was sick in bed?

*A.* That was the following Sunday.

*Q.* The Sunday that he was taken sick?

*A.* Yes, sir.

*Q.* And the day before his death?

*A.* No, I think father died on Tuesday or Wednesday.

*Q.* Two or three days before?

*A.* Yes, sir.

*Q.* Was it in January?

*A.* No, he died in January.

*Q.* No, this conversation?

*A.* Yes, sir; I was never there except in January; if I remember exactly, it may have been Sunday afternoon; I was never there except in the evening and Sunday afternoon; it would not be likely to be in the morning, because he was always at church in the morning.

*Q.* Who was at church?

*A.* Father.

*Q.* This conversation took place after he was sick in bed, didn't it?

*A.* About the business; are you referring to the conversation about putting mother in his charge?

*Q.* Yes?

*A.* That occurred in bed two or three days before his death—the Sunday previous to his death.

*Q.* What time during the day?

*A.* I think in the morning between breakfast and dinner; I am not positive about that; it occurred in daylight.

*Q.* Where did William come from?

*A.* Madison.

*Q.* Had he been there during the night?

*A.* He may have been; I don't think he had been there the night before, for I don't think any one of us thought father was *in extremis.*

*Q.* Who was present in the room at the time?

*A.* My mother, William and myself.

*Q.* Was Miss Swords in the house at the time?

*A.* She was.

*Q.* Was she in the room?

*A.* She was not.

*Q.* How long had you been there before the conversation took place?

*A.* I had been in and out all the morning.

*Q.* How long had he been there?

*A.* I guess probably some little time, perhaps half an hour or an hour.

*Q.* Was your father informed of the probability of his not living?

*A.* That is the first word I heard him say on the subject.

*Q.* Had you been talking to him about other matters?

*A.* No, sir; I had not said one word.

*Q.* You were standing by his side?

*A.* No, I was at the foot of his bed.

*Q.* Where was William?

*A.* Sitting in a rocking-chair, between the windows at the foot of the bed.

*Q.* Did he call to him?

*A.* Yes, sir.

*Q.* What did he say?

*A.* He said, "Willie, if this thing end fatally, remember your mother is in your charge."

*Q.* Was that all that was said?

*A.* Will replied to that by saying, "Father, you can rest your mind perfectly at rest upon that subject; mother shall never want for anything as long as I live," or "she lives;" I don't remember whether it was "I" or "she."

*Q.* Was not the statement made to your mother, as reported by you to her, consistent with the statement he made to your father?

*A.* I don't think it was.

*Q.* Why not?

*A.* I think my father meant entirely in regard to the business.

*Q.* I am speaking about what William said?

*A.* About its being consistent? no, I don't know anything about it; but I thought if he gave her a dollar he would have charged it to her estate.

*Q.* I am speaking about his statement?

*A.* About her not wanting for anything as long as she lived?

*Q.* Yes?

*A.* No; I don't think it is consistent.

*Q.* State in what respect it is inconsistent?

*A.* I interpreted the remark to be entirely to the business; my father knew she was not suffering for anything; he knew she had property enough to take care of her as long as she lived.

*Q.* I speak of the statement that William made to your father, and ask if it was consistent with the report made by you to your mother?

*A.* I don't think so.

*Q.* Why not?

*A.* Because I don't think he intended to give her one dollar; I don't think it is consistent; I have a right to my own opinion.

*Q.* I ask you if his statement was inconsistent?

*A.* Statement? a man can say anything; I judge a man by his acts, not by his statements.

*Q.* He took the opportunity to fortify that statement that he made?

*A.* I don't know whether he did or not.

*Q.* Didn't you say your mother told you what he said?

*A.* Yes, sir; and she said she did not want anything —— [Interruped.]

*Q.* What did she say?

*A.* She said he said, "If her income was not sufficient, as her oldest son he would be glad to make good the deficiency."

*Q.* That was consistent with the statement he made to his father?

*A.* The statement was; yes, sir.

*Q.* But you doubted his motives?

*A.* I did.

*Q.* Did you say so to your mother?

*A.* I did not.

*Q.* What ground did you have for doubting his motives?

*A.* I had a good many grounds.

*Q.* Name one?

*A.* I know he has been very close with his money, and I know I never saw him very liberal with anybody.

*Q.* There had been no occasion for his being liberal with his mother?

*A.* There was just as much so as for me to be.

*Q.* Did your mother want for anything prior to that?

*A.* She might not have wanted for necessaries, but there are a great many things that I took pleasure in giving her, and she took pleasure in receiving.

*Q.* But she never wanted for anything?

*A.* Not of the necessities of life.

*Q.* Did she want for anything?

*A.* No; because I never heard her say or express a wish that she admired anything but that I tried to get it for her.

*Q.* The income from your father's business, during his lifetime, was sufficient to support your father and keep him comfortable?

*A.* It always was, but I don't know what the income was.

*Q.* How soon after the second conversation with your mother was the subject referred to again?

*A.* It was not referred to at all.

*Q.* It was not mentioned?

*A.* I don't think it was ever mentioned.

*Q.* Was William's name ever mentioned?

*A.* Very rarely; once in a while in general conversation, or if something had occurred that I thought would interest mother, why—perhaps twice a year, certainly not oftener than that—I would speak of him as "Will," or "Will has done so and so," or something of that kind.

*Q.* Did you frequently refer to him?

*A.* As I say, I do not believe I referred to him twice a year.

*Q.* Was this due to his conduct, that you felt unkindly towards him?

*A.* It was.

*Q.* You said you rarely referred to him?

*A.* I did.

*Q.* You did not care to discuss anything affecting him?

*A.* I did not.

*Q.* And did not care to hear anybody else discuss anything about him?

*A.* I didn't care to, in the presence of my mother; I would discuss it in the presence of anybody else.

*Q.* You have spoken to others of your brother?

*A.* I have spoken to my sister and Mr. Robbins.

*Q.* I mean outside of your family?

*A.* I did not, except friends of my family.

*Q.* Didn't you in public?

*A.* I may have said I though he acted very wrongly.

*Q.* Have you endeavored to conceal your opinion of him from anybody?

*A.* His name very seldom came up; his associates and mine were entirely separate.

*Q.* When it did come up, did you endeavor to conceal your opinion?

*A.* I cannot remember; no one ever spoke of it except my relatives.

*Q.* Have you ever spoken of him on the ferry-boat?

*A.* As I say, I cannot recollect it.

*Q.* Have you not, in fact, spoken of him to others in contempt?

*A.* I may have.

*Q.* You would not be surprised if I could refresh your recollection upon that point?

*A.* Possibly; try it.

*Q.* Will you swear that you have not?

*A.* I will not.

*Q.* If you did, it would not have been inconsistent with your feelings?

*A.* I don't care to express my opinion one way or the other; you have no right to ask what my feelings are, that I can see.

*Q.* Why don't you wish to express an opinion on the subject?

*A.* Because I don't think you have any right to ask the question; if any one asked my opinion I probably would not give it.

*Q.* You would not have been particular about the language you would have selected in expressing your opinion?

*A.* I should have spoken of him in contempt?

*Q.* You frequently told your mother, in conversation with her?

*A.* Very rarely.

*Q.* After your father's death?

*A.* Very rarely.

*Q.* Did she also avoid discussing these matters?

*A.* She did; she never brought it up; I have heard her say, when I came back from riding on Sundays, that "William has been here," or "the family from Madison have been here."

*Q.* You were always desirous of indulging your mother's wishes, were you not?

*A.* In every way in my power.

*Q.* Have you ever been conscious of not gratifying her wishes?

*A.* I don't know that I ever have been—not in later years.

*Q.* I mean lately?

*A.* I don't remember—several years before her death, for I have done the best I knew how to please her.

*Q.* Did she request you to become reconciled to your brother?

*A.* She did.

*Q.* Then you did not gratify her wish?

*A.* I said to her, "That anything on earth that is in my power to do, I will do;" I said, "When Will and I had this slip-up, I had made a solemn resolution that I would never speak to him again, or recognize him as a brother;" I said, "If you ask me to break that oath, I will shake hands with him the next time he comes," and she said, "I will not ask you."

*Q.* She did ask you?

*A.* She did within the few months of her life; she had never asked me until then.

*Q.* When was the first occasion?

*A.* I think within an interval of perhaps a few weeks.

*Q.* How long prior to her death?

*A.* Since the summer.

*Q.* Who was present?

*A.* Nobody.

*Q.* Was William present any time on either of those occasions?

*A.* No, sir.

*Q.* Was he ever present at any time when your mother requested you to become reconciled?

*A.* Never.

*Q.* Did your mother seem specially desirous to have that reconciliation?

*A.* Within the last few months of her life, she said that I did not make her happy if we were not reconciled.

*Q.* But you positively declined?

*A.* I did not.

*Q.* You declined?

*A.* I told her that if she wanted me to break that oath, I would do it; I would offer him my hand the next time he came there, and she said she would not ask me again.

*Q.* Did she?

*A.* No, sir.

*Q.* That subject was then dropped?

*A.* That was forever dropped.

*Q.* And to the day of her death, it was never referred to again?

*A.* No, sir; she never made an intimation; she had given that promise and it was ended, and I knew it.

*Q.* When was the last time she made this request?

*A.* Well, it was a very few weeks before her death.

*Q.* A very few weeks before her death?

*A.* Yes, sir.

*Q.* Was she sick at the time?

*A.* She was confined to her room; she was sitting in a chair in her room, and I was sitting by her side.

*Q.* When was the first conversation?

*A.* Just a few weeks previous to that, in her room; she was laid up.

*Q.* What did she say the first time?

*A.* She said she wished I would become reconciled to William; I said, "Don't ask me to do that;" and then mother stopped; and she brought it up again, and I told her that I would do anything in my power that she asked me; in the first conversation I said, "Mammy, don't ask me to do that."

*Q.* And she did not?

*A.* And she did not.

*Q.* And that is all that occurred?

*A.* That is all that occurred then.

*Q.* Had any conversation taken place prior to that?

*A.* There had not; that was the first time she ever spoke of it.

*Q.* Did she know that you had not spoken to William since your father's death?

*A.* She did.

*Q.* That you had kept your purpose not to speak to him again?

*A.* She did.

*Q.* How did she know it?

*A.* She knew I would never meet him there.

*Q.* Was he not referred to in conversations at the table?

*A.* No; very rarely; I suppose sometimes in general conversation Mr. or Mrs. Robbins might have referred something to him, but apart from that, it was never discussed.

*Q.* Did your sister share your feelings towards him?

*A.* I don't know whether she did or not.

*Q.* Did she know your views on the subject?

*A.* She did.

*Q.* How did she ascertain them?

*A.* She heard me express them.

*Q.* When did she learn it?

*A.* When he refused to do anything.

*Q.* What did you say to her?

*A.* I said what he said to me, and expressed my opinion?

*Q.* What did you say?

*A.* I probably said it was a shameful thing to do; he was brought in that business to take care of it, and mother should have an interest in it as long as she lived; I thought he took a very unfair advantage, and it was a very shameful thing for him to do.

*Q.* Was that all you said?

*A.* I don't recollect; I think that was, generally, the substance of it.

*Q.* What did she say?

*A.* I don't know; I don't know that I heard any expressions from her in regard to it.

*Q.* But, from your observations, do you know whether she shared your views or not?

*A.* I don't know anything about it.

*Q.* What is your opinion on that subject?

*A.* I have seen no change in her actions towards William since.

*Q.* Her relations have not been cordial with your brother since?

*A.* I say there has been a coolness existing for years; it did not result in any quarrel, but a coolness.

*Q.* Possibly strengthened by the facts you reported to her?

*A.* There is a possibility for almost anything in this world.

*Q.* I ask you?

*A.* I say it is possible for anything—almost anything in the world; I cannot say what is possible to my sister.

*Q.* What is your opinion?

*A.* I have no opinion; I never ask any one to fight my battles but Theodore Dumont.

*Q.* You stated in your testimony, on direct examination, that you looked upon your brother as a kind of a pauper?

*A.* I did.

*Q.* When?

*A.* When he was in Cincinnati.

*Q.* Why?

*A.* Because he had no money and had no ability to make money; he knew no business; he had to be assisted from home.

*Q.* Do you take the same view of yourself when you were in Chicago?

*A.* I was never helped.

*Q.* You said you were?

*A.* I did not say so.

*Q.* You received money from Mr. Foot?

*A.* That was by agreement; I was ready and anxious to go back into the army; Mrs. Foot was responsible for my being out of the army.

*Q.* You lived under the terms of that agreement for how long?

*A.* I went out there, I think, in the month of June, and I was married on the 29th of October, and from that day to this I never got a dollar from Mr. Foote, or his family.

*Q.* How much was he assisted at that time?

*A.* I do not know the extent; I know when he got to Cincinnati he wrote to Mr. Foot for $250, to go to housekeeping with, for he showed me the letter, and I know that in 1868 both he and my brother Bob sent him $25 a month, and I know mother used to send out a great many packages to him.

*Q.* What were they?

*A.* Articles of clothing.

*Q.* For his family?

*A.* Himself and his family.

*Q.* Did that constitute him a pauper in your mind?

*A.* Yes, sir; I think any man is a pauper who marries a woman and has to be dependent upon others.

*Q.* How long was he dependent?

*A.* I think always until he came on here, and then he was assisted a great deal more.

*Q.* What do you know about that?

*A.* I know these packages were sent, and I know Bob sent him $25 a month, until he came on here.

*Q.* Was that pursuant to agreement?

*A.* Yes, sir; but Bob did it merely to make him feel better; he could not get into the firm; he might as well have tried to move the rock of Gibraltrar as to buck against Bob, and he knew it.

*Q.* Do you consider receiving money from a brother constituted him a pauper?

*A.* I say the agreement was made to assist him.

*Q.* Would that contribute to your views in regard to him, as constituting him a pauper?

*A.* Of course, I consider, as I said before, a married man, with a family, who has to get help from other people, I look upon him as a pauper.

*Q.* The help you have mentioned, consisted in getting $25 a month, under an agreement with Robert?

*A.* I didn't say it was an agreement.

*Q.* I understood you to say there was an agreement?

*A.* I said Bob sent him $25 a month to keep his mouth shut; he was in New York at that time, and desirous of getting into that firm, and as Bob said, if he would go back to Cincinnati he would send him $25 a month.

*Q.* That, together with the $250 that he borrowed from Mr. Foot, you think, constituted him a pauper?

*A.* I don't know whether you would call it a loan; I know for a great many years it was never paid back, and I don't suppose it has been paid back yet.

*Q.* Did you ever repay what he advanced to you?

*A.* He did not advance me a dollar; he said if I would give up the army—my sister was responsible for my getting out, and Mr. Foot had a great idea of my ability and wanted me to go west; I had never paid him a dollar, because it was a *bona fide* transaction; I gave something for something.

*Q.* What was the something you gave?

*A.* I gave up my career in the army.

*Q.* That was in 1862?

*A.* 1862.

*Q.* How long had you been in the army prior to that?

*A.* I went out with the first regiment that went to the war, and was wounded, and I get a pension for it now; I resigned at Harris' Landing on account of bad health, and staid in New York until I got in good health and went back.

*Q.* With that exception you were in the army continuously until that time?

*A.* Yes, sir.

*Q.* How long did you continue to consider him a pauper in the family?

*A.* I know he was never able to get along very well until he got to be father's partner—no, until his wife died; after that he kept house a few months; my sister used to go there and stay with him, and he brought his youngest child to my mother's house, and sent another away to boarding-school, and he had no expenses then; the only expense he had to pay was school and board for his oldest daughter.

*Q.* Which daughter, Bessie?

*A.* No; she entirely supported Bessie; but Mamie; mother, I guess, used to make her some presents in the way of clothing and things of that kind.

*Q.* Was there anything remarkable about your mother giving her grandchild presents?

*A.* Not the slightest; I was the only friend, outside of her, that Mamie had those days.

*Q.* I asked how long you considered him a pauper?

*A.* I say, when he came to live at my mother's house he was getting a salary from my father's concern of $125 a month, and his income was more than his expenses, consequently he was no longer a pauper.

*Q.* You considered he ceased to be a burden upon the family from that time?

*A.* I did.

*Q.* You did not consider him a pauper when you asked him to contribute to your mother's income?

*A.* No; because he had got this large business.

*Q.* What do you mean by "this large business?"

*A.* The business of Robert Dumont & Son; it was the business my father built up, and with which he clothed, fed and educated all his family, or the biggest part of it.

*Q.* What do you mean by its being large?

*A.* I mean it was sufficient to support his family and my father's, as I understood it did for several years, it must be large; if he could afford to buy real estate and build barns he must have considerable income.

*Q.* Who?

*A.* William H.

*Q.* When did he buy real estate?

*A.* After he was married some time.

*Q.* The second time?

*A.* Yes, sir.

*Q.* Where did he buy real estate?

*A.* In Madison.

*Q.* From his wife's money?

*A.* I don't know what he bought it from.

*Q.* Don't you so understand that to be the fact?

*A.* I do not; it was none of my business, and I didn't ask.

*Q.* You don't know where he got the money from?

*A.* I do not.

*Q.* And you don't know whether he saved it from his business?

*A.* I don't know anything about that; possibly.

*Q.* How can you base a conclusion upon that?

*A.* Upon the remark he made to me before his marriage, when he spoke to me about his engagement; I asked him if she had any money, and he said she had that place up there, and they could live in Madison anyway.

*Q.* Then his wife did own a house before he was married to her?

*A.* So he told me.

*Q.* Is that the house you referred to?

*A.* No; I didn't refer to any house.

*Q.* You say he bought some real estate?

*A.* Yes, sir.

*Q.* Where?

*A.* Some acres of ground towards his house.

*Q.* In Madison?

*A.* Yes, sir.

*Q.* How much was it?

*A.* I don't know.

*Q.* Do you know how much it was worth?

*A.* I do not.

*Q.* You do not know whether it required a small or a large outlay of money?

*A.* I do not.

*Q.* What other basis had you for the conclusion that your father's business was large?

*A.* That was the conclusion.

*Q.* And only that?

*A.* That was all.

*Q.* You don't know whether they were making $1,000 or $10,000?

*A.* I do not; I had every reason to know they were paying expenses, because I know my father when his business was smaller was known among the boys as a confirmed kicker.

*Q.* What do you mean?

*A.* He was growling about expenses, and that they were so poor.

*Q.* When was that?

*A.* When he first started the business, and for many years, in fact; once in awhile he would make some remark about spending too much money.

*Q.* When was his business smaller?

*A.* When he started the business.

*Q.* When was that?

*A.* I think I was about ten years old, perhaps; I don't know, I was a very young boy.

*Q.* When did his business increase?

*A.* I suppose every year, from time to time.

*Q.* Do you know anything about it?

*A.* I do not.

*Q.* Do you know whether it increased or decreased after William came in?

*A.* I do not, only that I have heard William's testimony.

*Q.* That is all the information you have on the subject?

*A.* Yes, sir; that is all.

*Q.* So that at the time you asked William what he was going to do for his mother, you did not know what his income was?

*A.* I told him so; I said, "I don't know how much you can afford."

*Q.* You knew how much of a family he had at that time?

*A.* I did.

*Q.* Was your mother responsible for any one's support at that time?

*A.* Nobody but herself.

*Q.* You have testified that her individual expenses were not over $25.

*A.* From $25 to $50, I believe I said.

*Q.* So that any amount that she needed to expend or did expend, was expended not only for the care of herself, but for the care of others?

*A.* If you so wish to consider it; she kept up her house and spent her money as she saw fit.

*Q.* How did she see fit?

*A.* That I don't know; I never made any inquiries how she spent her money; it was none of my business; I used to urge her to spend.

*Q.* What for?

*A.* To enjoy it.

*Q.* She didn't spend it in traveling?

*A.* No, she never went traveling.

*Q.* Did she spend it on dress?

*A.* No, sir.

*Q.* Did she spend it on herself?

*A.* No; I don't know what she did—no, I don't think

she spent it on herself, if she had I would have seen some change in her appearance; she used to buy things for the house, but I have no more idea what my mother did with her money, beyond paying bills for groceries and things of that kind, than you have; I never asked her; on two or three occasions she asked me about some little thing she wanted to buy to make a present with, and I said, "Certainly, ma'my; anything you want, buy it."

*Q.* She was apprehensive of exceeding her income?

*A.* That is the idea.

*Q.* When did she speak to you about it?

*A.* Oh, twenty times.

*Q.* When?

*A.* I cannot state the dates; just general conversations.

*Q.* After your father's death?

*A.* Yes; she never spoke about it before, because she had nothing to say about money then.

*Q.* What did you tell her?

*A.* I said, "No, they are not in excess of your income; spend what you want to."

*Q.* Was that invariably the reply you gave to her?

*A.* Always.

*Q.* You say you spoke to your sister about your mother's affairs on that ground?

*A.* I did.

*Q.* What did you say to your sister?

*A.* I told her that mother seemed to be worried about exceeding her income; that I told her never to deny herself a single thing; but she was exceeding it.

*Q.* How did you know it?

*A.* I knew it from the decline of the bank account; I knew that securities that had been paying ceased to pay, and I knew that this trust fund had been reduced.

*Q.* Didn't you testify on your direct testimony that you didn't know what her income was?

*A.* I did.

*Q.* How did you know, then, what her income was?

*A.* From the decline of the bank account.

*Q.* You knew what securities were paying?

*A.* I never figured them up.

*Q.* You knew them at the time?

*A.* I didn't know them at the time.

*Q.* You knew they had not changed but twice?

*A.* Yes, sir; I say a number of them had stopped paying.

*Q.* Which?

*A.* I cannot remember; the West Shore, and Erie, and Houston Texas stopped paying.

*Q.* When was that Houston Texas Central bond bought?

*A.* I don't know; I had nothing to do with buying them.

*Q.* Do you know whether they were bought before or after your father's death?

*A.* I don't know anything about it.

*Q.* Did you see the account that was rendered by William?

*A.* I did.

*Q.* When?

*A.* I guess the night of the day he sent it to her.

*Q.* When was that?

*A.* I don't remember; within a reasonable time after my father's death.

*Q.* Approximate the time?

*A.* I could not; I suppose in the course of a month, probably, as near as I recollect, but I cannot recollect a thing of that kind.

*Q.* When you had your conversation with your mother, after she came down-stairs, did she tell you that William had told her that the business belonged to him?

*A.* She told me after I had an interview with him; yes.

*Q.* Did she tell you that he told her she had no right to the business?

*A.* She did.

*Q.* Did you tell her that was the fact?

*A.* I did.

*Q.* Was that the first time you had mentioned that?

*A.* The first time I had mentioned what?

*Q.* That she had no legal rights in the business?

*A.* I told her about my interview with Mr. Foot, and what Mr. Foot said about a surviving partner, that he got the business and I had no redress.

*Q.* And yet you say that she said to you that she would not take any money from him; that she had lived to be over seventy years old and hadn't taken any charity yet, and if her income would not support her in her present style she would dispose of the place?

*A.* Yes, sir.

*Q.* Did you tell her that it would not be accepting charity to have a son to help her?

*A.* I did not.

*Q.* What you wanted was the amount fixed that he would contribute to her?

*A.* I asked him what he would give her, and he said how would $150 a month—would that satisfy me.

*Q.* But you wanted him to fix the amount which he would give her?

*A.* That is it, exactly.

*Q.* Didn't she say to you at that time that if she hadn't a right she didn't want anything?

*A.* She did.

*Q.* And you told her that she had no rights?

*A.* I did.

*Q.* And yet she persisted in feeling that William had been unjust to her?

*A.* I suppose so.

*Q.* And you persisted in feeling that he had been unjust to her?

*A.* I did.

*Q.* Notwithstanding those facts?

*A.* I did.

*Q.* Notwithstanding the advice Mr. Foot gave you?

*A.* Mr. Foot did not give me any advice; he told me, that as a surviving partner, he was entitled to the business; that is information.

*Q.* Notwithstanding the opinion he expressed to you in regard to William's legal rights?

*A.* He said he was entitled to the business as a surviving partner.

*Q.* He expressed an opinion about William's rights in that business?

*A.* He said, as a surviving partner, he was entitled to the business.

*Q.* It was an opinion.

*A.* It was his opinion to me; it was not an opinion he gave me.

*Q.* Didn't he advise you and William to join together in contributing to your mother's support?

*A.* He said it would be a very nice thing to do.

*Q.* He did give you advice?

*A.* I don't know whether you call it advice or not; he said it would be a nice thing to do.

*Q.* Didn't you think it was advice?

*A.* No; I think Mr. Foot hesitated twice about giving me advice.

*Q.* Wouldn't you have considered that a proper way for you and William to have done?

*A.* I said, as far as I was concerned, my income was larger than my expenses, and I would be very glad to do anything mother wanted.

*Q.* You would not have regarded that as being charity to your mother?

*A.* I would not.

*Q.* You did not tell your mother that the offer that William made would not be charity, did you?

*A.* I did not.

*Q.* And you did not attempt to disabuse her mind of that being charity?

*A.* I did not.

*Q.* And yet you had been told by Mr. Foot that William had the legal right to the business?

*A.* I told her so.

*Q.* You did repeat the conversation Mr. Foot had with you to your mother?

*A.* I did, as near as I could recollect.

*Q.* Did you tell her that Mr. Foot had suggested that you and William should unite?

*A.* I told her the conversation, as near as I could recollect it, word for word.

*Q.* Did you tell her what your reply was to him?

*A.* I think very likely.

*Q.* Did she demur to that?

*A.* She didn't say anything about it.

*Q.* She didn't speak of its being charity, then, did she?

*A.* She did not.

*Q.* Did she decline that suggestion?

*A.* To me?

*Q.* Yes.

*A.* No; she didn't say anything about it.

*Q.* She did not say she would not accept that proffer?

*A.* She did not.

*Q.* Did you decline, at that time, to do as Mr. Foot had suggested?

*A.* I didn't decline, because I told him——[Interrupted.]

*Q.* No; I am speaking of your conversation with your mother?

*A.* Did I?

*Q.* Did you, in your conversation, decline to do as Mr. Foot suggested?

*A.* I told the conversation just as it occurred, as near as I could remember it.

*Q.* Did you suggest your willingness to carry that out?

*A.* There was no willingness or unwillingness; I said what I said to Mr. Foot.

*Q.* William had made an offer to do it, to your mother?

*A.* I said, at that time, all the conversation I had with Mr. Foot.

*Q.* Did you renew your offer to her?

*A.* Nothing more than repeat the conversation.

*Q.* Did you give her to understand that you would do that?

*A.* I did nothing further, I say, on the subject.

*Q.* You never repeated the suggestion to him?

*A.* I never did.

*Q.* You never offered to make good what you said to her?

*A.* There was no occasion.

*Q.* Why not?

*A.* Because she had plenty of money.

*Q.* You did not tell your mother that she took a wrong view of William's position, did you?

*A.* I did not say anything about it; I repeated that half a dozen times.

*Q.* You said, in your direct testimony, that your mother refused to let you have the books examined; when did you make such a suggestion to her?

*A.* At the time I reported the conversation I had with Mr. Foot.

*Q.* What did you say?

*A.* I said, I thought there was money still coming there, and I would like to have the books examined.

*Q.* By whom?

*A.* I didn't say anybody.

*Q.* Was that prior or after the report he had made?

*A.* That was prior.

*Q.* What books did you want examined?

*A.* The general books of the firm; I didn't know what they consisted of.

*Q.* For what purpose?

*A.* To see if the report was all correct.

*Q.* To see whether the report was correct?

*A.* Yes, sir; the statement he had rendered; in fact, he hadn't rendered a statement at that time, but I wanted the books examined, to see that mother had got all that was coming to her; I hadn't seen any statement then; I thought, after he shut mother out of the business, he was getting very mean, and I didn't know to what extent that meanness would go.

*Q.* You had grave suspicion though?

*A.* I did.

*Q.* And that is what led you to make the suggestion to your mother?

*A.* It was; I think Mr. Foot was the first one to suggest about having the books examined, and volunteered to examine the books himself.

*Q.* You had doubts about the accuracy of any statement that might be rendered?

*A.* I thought there was a possibility; I was very much surprised about his refusing to give my mother any interest in the business.

*Q.* Did you ask your mother's permission to institute the examination?

*A.* I did, after I reported to her this conversation with Mr. Foot; I said I thought those books ought to be examined, and she said "no;" she didn't want any trouble.

*Q.* How soon after this statement was rendered, did you talk to your mother about it?

*A.* The very night she showed it to me.

Adjourned until Thursday, June 30th, 1887, at ten o'clock A. M.

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THURSDAY, June 30th, 1887.

Present, the respective parties, with their proctors.

Counsel for William H. Dumont request that counsel for the proponent produce the account furnished by Wil-

liam H. Dumont to Mary B. Dumont, stating the condition of the partnership business of Robert Dumont & Son at the death of Robert Dumont.

Counsel for proponent in answer, say that no such paper as is referred to has been found or appears among the papers of the late Mary B. Dumont, deceased; that the only paper in the nature of an account that is found among said papers is under date of April 24th, 1884, which is hereby produced and handed to counsel for the caveators.

The proctor for the caveators says that the paper produced is the one called for.

*Theodore S. Dumont*, proponent, resumes the stand on cross-examination.

By proctor for caveators.

*Q.* [Paper produced by proponent shown to witness.]—Is this a copy of the account rendered to Mrs. Dumont in her lifetime by her son William, after the death of Mr. Robert Dumont?

*A.* I couldn't say; I suppose so.

*Q.* Do you recognize the paper shown to you as the paper which Mrs. Dumont showed you?

*A.* I do not; I can't identify it; I have no way of identifying it.

*Q.* Do you remember that your mother did show you an account rendered by William?

*A.* I do; two of them; one was merely a memorandum account, the other a formal account; I say I suppose that is it; I don't know; I have never seen it but once, and then handed it back again.

*Q.* Couldn't you identify it by referring to the items?

*A.* I can't in any way, shape or form; I was disgusted, and I couldn't say whether the account was straight or not.

*Q.* What were you disgusted with?

*A.* Because I had no way of judging of the accuracy of

the account; Mr. Foot had volunteered to examine the books, and she wouldn't let him do it; I told her she had to accept it as it was; she hadn't had the books examined, and consequently I had nothing to say about it.

*Q.* Did you tell her that it appeared to be correct?

*A.* I did not.

*Q.* Did you examine any of the items of the account?

*A.* I did not.

*Q.* What did she say to you in regard to this account?

*A.* Nothing at all, except what I told you; she said she had this account, and handed it over to me to look over, and I just took a casual glance and handed it back; I didn't examine it attentively; I said, "You have got to accept the account whatever it is; you wouldn't let me have the books examined, and you have got to accept his statement."

*Q.* Do you recollect what your mother said to you in regard to that account?

*A.* I don't think she said anything, except that she said she thought he was mean in charging her for the mourning and funeral expenses.

*Q.* [The paper produced by proponent shown to witness.]—Look and see if there is anything in that of that nature?

*A.* Yes; there is funeral expenses; here is a mourning bonnet.

*Q.* Your mother referred to these items?

*A.* Yes, sir; I think they were charged in the first account.

*Q.* What do you say as to that?

*A.* He sent a memorandum account, and said he couldn't pay her all the money at that time, but that he would pay as soon as he got it.

*Q.* What did you say in reply to your mother's criticism?

*A.* Nothing at all.

*Q.* Did you tell her that he was under no obligation to

pay the funeral expenses of his father any more than you were?

*A.* I did not.

*Q.* Did you tell her that mourning bonnets were no part of the individual expense?

*A.* No, sir.

*Q.* You were silent on the subject; you allowed her to have the impression that she was defrauded by her son?

*A.* No, sir.

*Q.* You didn't attempt to change her opinion?

*A.* No.

*Q.* You didn't want to?

*A.* No, sir.

*Q.* I see an entry, "To cash, T. S. Dumont, $387," was that paid to you?

*A.* I suppose so; I don't know.

*Q.* You suppose so; don't you know it was?

*A.* I do not.

*Q.* Did you have any dealings with H. T. Dumont?

*A.* For my mother, yes, sir;

*Q.* Not for yourself?

*A.* No, sir; it was money paid out for the family; it was my usual custom to send there every month to get a check.

*Q.* You rendered an account to W. S. Dumont, and it was paid by him?

*A.* Yes, sir.

*Q.* Here is an entry, "T. S. Dumont, cash, $143.36?"

*A.* I can't explain it; the account was sent down there and paid by them, because it was done every month.

*Q.* You received the cash?

*A.* I suppose so.

*Q.* That was for disbursements made by you on account of the family?

*A.* Yes, sir.

*Q.* On account of your mother or father, whoever it was?

*A.* Yes, sir.

*Q.* Did you offer to pay your mother any part of these funeral expenses?

*A.* No, sir.

*Q.* Did you offer to pay for the bonnets?

*A.* No, sir.

*Q.* Did you offer to pay for the choir at Trinity Church?

*A.* I did not.

*Q.* And when your mother made a criticism on the bill, you remained in silence?

*A.* Yes, sir.

[Paper produced by proponent offered in evidence, and marked *No. 1, June 30th, '87.*]

*Q.* Did William, so far as you know, render to your mother any account other than the one marked *No. 1, June 30th*, of this date, now shown you?

*A.* Yes; he sent her a memorandum account; it wasn't exactly a full statement; it was a memorandum; all I remember about it is—I remember her telling me (I think it was in a letter) that he would pay her the balance of the money as soon as he got it.

*Q.* When was that memorandum sent to her?

*A.* I think within a short time after my father's death; some time in January, if I remember correctly.

[Proctor for caveators calls on proctor for proponent to produce the letter referred to, and the memorandum bill.]

[Proctor for proponent replies that he has no such paper, but will have an examination made, and if there is any such paper will produce it.]

[Proctor for caveators asks proctor for proponent to produce, on the next examination, any letter written by William H. Dumont between the 1st day of January and the 1st day of May, 1884, referring to an account kept by him or his firm with Mary B. Dumont, or showing a balance due by his firm or by himself to the estate of Robert Dumont.]

[Proctor for caveators also calls upon proctor for propo-

nent to produce any account rendered by Robert Dumont, between the dates mentioned, to Mary B. Dumont, showing a memorandum account or entries referring to the standing of the account between himself and the estate of Robert Dumont, whether said account be a memorandum or a full account.]

*Q.* What was the form of that memorandum that you refer to?

*A.* As I say, I don't remember at all; I can't remember whether it was in a letter, or what it was, but I can remember that he said he would pay the balance of the money as soon as he got it.

*Q.* When did you say that took place?

*A.* As my memory serves me, it was about the latter part of January, with Gold, Barber & Swords.

*Q.* Are you sure it was not the first part of January?

*A.* I am positive it wasn't, because I hadn't had any talk with her then.

*Q.* What is your best recollection about it?

*A.* The latter part of January.

*Q.* What was the amount he said was deposited with Gold, Barber & Swords?

*A.* I have no recollection.

*Q.* Was the memorandum upon the bill-head of Robert Dumont & Son, or William H. Dumont & Co.?

*A.* I have no recollection.

*Q.* In whose handwriting was the memorandum?

*A.* I have no recollection.

*Q.* Was it a memorandum of a debit and credit account?

*A.* I have no recollection.

*Q.* Or was it merely a balance of amount due?

*A.* I have no recollection.

*Q.* Do you recall any single item that was referred to in that memorandum?

*A.* I cannot.

*Q.* Do you remember positively that such a memorandum was given at all?

*A.* Positively, because I remember the saying that he would pay the money as soon as he got it.

*Q.* You are quite sure he referred to an amount that had been deposited with Gold, Barber & Swords?

*A.* Yes, sir.

*Q.* Do you recollect what amount he stated would be due?

*A.* I do not.

*Q.* Or would be paid?

*A.* I do not.

*Q.* Do you recollect what amount of disbursements was stated in that memorandum?

*A.* I do not.

*Q.* Or for what purpose?

*A.* I do not.

*Q.* You recall nothing but your impression that a memorandum was made?

*A.* I have a very decided impression; I know it.

*Q.* When did you first see the paper, No. 1?

*A.* I suppose when it was sent to my mother; I know an account was sent to her, and I suppose that is the one; but I have never seen it since till I saw it this morning.

*Q.* You say you suppose this is the one?

*A.* I say I suppose it is the one.

*Q.* Well, do you mean to say that your recollection, after seeing this, is merely a supposition?

*A.* I wouldn't swear to any paper that hasn't a mark of identification.

*Q.* You have a pretty good memory?

*A.* Yes, sir; I am noted for my memory.

*Q.* And yet you don't remember this paper?

*A.* Because I took just a glance at it, and told her she must accept any paper that he rendered to her; I can't recollect that I even took the trouble to read the paper.

*Q.* What about mourning bonnets and funeral expenses?

*A.* I think that was down in the first memorandum; I

remember her making the remark, but which account it was, I couldn't say.

*Q.* You remember nothing about it, except that you think one was rendered?

*A.* I know it was.

*Q.* This account bears date April 24th?

*A.* I didn't even know the date; I didn't know it now till you spoke; if it was the account mother showed me, I saw it then; I have never seen it since till I seen it to-day; I have never touched my mother's papers.

*Q.* How do you know but that this was the first account rendered?

*A.* Because I have a very distinct and positive recollection that there was a memorandum account; I can't remember whether there was a letter, or whether he had seen her about it; but I remember the remark that he would pay the rest as soon as he got it.

*Q.* But he didn't say what that rest was?

*A.* Yes; I think there was an account, because I remember he owed her several thousand dollars.

*Q.* And you say he referred to an amount deposited with Gold, Barber & Swords?

*A.* Yes, sir; positively.

*Q.* Just as positive as you are that the memorandum was seen by you?

*A.* Yes, sir; I remember when he opened the account with them, because he spoke to me about it.

*Q.* When was that?

*A.* Before my father's funeral.

*Q.* He said that before the funeral?

*A.* Yes, sir.

*Q.* And the account was opened before the funeral?

*A.* I think it was, because he told me he was going to open the account.

*Q.* Then you say it must have been opened?

*A.* I have seen the account, I suppose, since; I know I have.

*Q.* Tell me when the account was opened?

*A.* It was opened in January, 1884.

*Q.* What part of January?

*A.* I don't know; the early part.

*Q.* You are positive of that?

*A.* Yes, sir.

*Q.* And what was the first deposit made there?

*A.* I don't know; give me your account-book, bank-book, anything, and I will prove it.

*Q.* That you are sure you learned from your brother?

*A.* I learned from him that he was going to open it, and when an account was sent to mother I saw that it was opened.

*Q.* What account?

*A.* Gold, Barber & Swords; I know he wrote that he had sent her so much money, and he sent her a check-book.

*Q.* When did he say that?

*A.* In January.

*Q.* Is that the memorandum you refer to?

*A.* That may have been.

*Q.* He notified her that he had opened an account with Gold, Barber & Swords and sent her a check-book; is that it?

*A.* Yes, sir; he told her he was going to deposit $1,000.

*Q.* He said the balance he would forward at some future time?

*A.* When he got it; yes, sir.

*Q.* Was there anything else referred to in that memorandum?

*A.* I don't remember.

*Q.* Will you swear that there was anything else referred to?

*A.* I will not.

*Q.* It may have been the only subject referred to?

*A.* Possibly.

*Q.* That he had opened an account with them, and had deposited some money to her credit, and inclosed a check-

book, and that the balance would be deposited there when he received it?

*A.* Possibly.

*Q.* That is it, is it?

*A.* I don't say so; I am swearing to facts.

*Q.* What are the facts?

*A.* I don't remember them.

*Q.* Then don't swear to them?

*A.* I ain't going to.

*Q.* I want you only to give the facts?

*A.* I can't give the facts; I am answering your question to the best of my knowledge and belief.

*Q.* You said in your direct examination that you asked your mother what she understood by your father's remark about putting her in William's charge, and she said it had only one meaning, to do the business; how did you come to have such a conversation with your mother?

*A.* I don't know; I just asked the question one night and she replied to it.

*Q.* When was the question asked?

*A.* I don't remember.

*Q.* Can you fix the date approximately?

*A.* I cannot.

*Q.* Was it 1884 or 1885?

*A.* 1884.

*Q.* How soon after your father's death?

*A.* I have no recollection.

*Q.* Were you present when your father made that remark?

*A.* I was.

*Q.* Was your mother present?

*A.* Yes, sir.

*Q.* How near was she to your father?

*A.* About two feet.

*Q.* How did you come to refer to the subject again?

*A.* It was in connection with his not giving us anything out of the $1,000.

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*Q.* When was it?

*A.* I can't say.

*Q.* How soon after your father's death?

*A.* I can't remember.

*Q.* Was it one week?

*A.* I can't remember.

*Q.* One month?

*A.* I can't remember.

*Q.* Two months?

*A.* I can't remember.

*Q.* Three months?

*A.* I can't remember.

*Q.* What is the best of your recollection?

*A.* I have no recollection; I recollect the conversation, but I can't locate the date.

*Q.* You can't approximate the date?

*A.* Yes; I can locate it within three months.

*Q.* Give me your best recollection?

*A.* To the best of my recollection, it was in January.

*Q.* In January, 1884?

*A.* Yes, sir.

*Q.* Almost immediately after your father's death?

*A.* Yes, sir.

*Q.* About the time William and you were discussing these subjects?

*A.* Yes, sir.

*Q.* And about the time he called on your mother?

*A.* Yes, sir.

*Q.* Why did you ask her that question?

*A.* Because I wanted to know what her interpretation of it was.

*Q.* Did she know what yours was?

*A.* I don't think that I said so; she said it had but one reason, it meant the business; I think the discussion all took place on one evening; I don't remember that we ever had another discussion about it in our lives—when we talked about the business, when I told her what he had said to

me in regard to it; and I think the whole thing came in that one discussion; I have no recollection of discussing it again with her.

*Q.* But, whether you did or not, this was referred to in one of those conversations?

*A.* Yes, sir.

*Q.* This conversation took place when the subject was fresh in your mind?

*A.* Yes, sir.

*Q.* And when your father's remarks were fresh in your mind?

*A.* Yes, sir.

*Q.* Your mother's recollection and yours agreed on what was said?

*A.* Yes, sir.

*Q.* And in order to get at her interpretation, you asked her?

*A.* Yes, sir.

*Q.* You understood the language of your father?

*A.* Perfectly.

*Q.* There was no misunderstanding between you and your mother?

*A.* No, sir.

*Q.* You agreed to her interpretation?

*A.* I don't think I said anything; I asked her what her interpretation of it was.

*Q.* Was this conversation held at the time you reported the interview with William on the boat?

*A.* To the best of my recollection it was.

*Q.* And that was about two weeks after your father's death?

*A.* I think it was more likely to have been three weeks.

*Q.* This was the first time you had spoken to your mother on the subject?

*A.* Yes, sir.

*Q.* You discussed the question some time, and reported what had occurred on the ferry-boat?

*A.* Yes, sir; and she said, "Well, wait till I see him;" he said he would come to see her, and talk about the business.

*Q.* You said you asked her what her interpretation was of your father's remarks?

*A.* Yes, sir; I reported my conversation with him—that he had said, that she wasn't entitled to a cent in the business, and that Mr. Foot said that likely she had no right.

*Q.* Didn't you tell her that William would come up and see her about it?

*A.* I did, and she said, "I will wait and see him."

*Q.* That was why you didn't discuss it any further?

*A.* I don't know that that was the reason, but she said, "I will wait and see him."

*Q.* You think it was two or three weeks after the conversation with William on the ferry-boat that you first referred to the subject with your mother?

*A.* No; I do not.

*Q.* I understood you to say that that was the fact?

*A.* I did not say so; my conversation with William was, I think, somewhere about the 11th or 12th of January, and the conversation with mother was the latter part of January.

*Q.* It was then about two weeks after you saw William that you had this conversation with your mother?

*A.* I think about ten days.

*Q.* And that was the first reference you made to the subject with your mother?

*A.* The very first; she had been confined to her room.

*Q.* And the reason you didn't refer to it before was out of consideration for her health?

*A.* Entirely.

*Q.* When she was able to discuss the matter you referred to the subject?

*A.* Yes, sir.

*Q.* Was it at that interview that you referred to William

as being a worthy son of hers, or she ought to be proud of him, or something of the kind?

*A.* I think it was; possibly.

*Q.* You did make some such remark?

*A.* I did make such a remark; I felt that way.

*Q.* It would be natural for you to make such a remark, judging from your feelings?

*A.* Possibly.

*Q.* You doubtless referred to him in such terms again?

*A.* I don't think I ever referred to him in any way where it was possible to avoid his name; I think when it came up it was always spoken of in the kindest manner.

*Q.* His name was tabooed in the family?

*A.* No, sir; it was as far as I was concerned.

*Q.* Then the family didn't refer to him in your presence?

*A.* Yes, sir, often; the only thing that was avoided was conversation on the subject between me and my mother; it was very distasteful to me, and I knew it would be painful to her for me to say anything.

*Q.* Your mother knew that you and he were not on good terms?

*A.* Perfectly well.

*Q.* Did your mother have any reason for knowing the fact, except those conversations that you had with her in January?

*A.* That is all; she knew I avoided him when he came there.

*Q.* Did you not inform her then of your differences?

*A.* I don't recollect.

*Q.* Didn't you tell her that you wouldn't speak to him?

*A.* She didn't know it till long afterwards; I didn't know it myself; I think it was a day or two after this conversation, in walking through the car; I should have spoken to him, but he came along; Mr. Robbins was right ahead; Mr. Robbins says, "Hello, Will," and he walked right past; Mr. Cambrelling told me one day, "I didn't

know your brother Bill and you didn't speak." He says, "He told me you and he haven't spoken since eleven days after your father's death."

*Q.* When was this conversation with Mr. Cambrelling?

*A.* Oh, three or four months after my father's death.

*Q.* This Mr. Cambrelling is the gentleman you have before spoken of in your testimony?

*A.* He is.

*Q.* Was he in your employ at the time?

*A.* He was.

*Q.* And the first time you knew you and your brother didn't speak was when he told you?

*A.* No; I knew we hadn't spoken; I considered he cut me that morning in the train.

*Q.* Was that the reason you didn't speak to him afterwards?

*A.* That was the reason; I felt very sore at the way he treated my mother, but I would have spoken to him.

*Q.* Did you mean to say, in your former examination, that you would never forgive him?

*A.* I did.

*Q.* And you said that in the conversation with him?

*A.* No, sir.

*Q.* You said you had made up your mind at that time that you would never forgive him?

*A.* Yes, sir; I meant just exactly what I said; I give you plain English.

*Q.* Just repeat it?

*A.* I said that one morning, only two or three days after my father's funeral, I saw him on the car, and he let me go by without speaking to me, and I should have spoken to him if he had spoken to me; after that we didn't speak, but I never spoke to any human being till Cambrelling told me.

*Q.* You hadn't seen him?

*A.* A number of times on the train.

*Q.* When did you make up your mind you were not going to speak to him?

*A.* That morning he cut me.

*Q.* You had a conversation before that?

*A.* Yes, sir.

*Q.* In regard to your father's property?

*A.* Yes, sir.

*Q.* You spoke, in your direct testimony, of the arrival of the train, that you didn't recollect an instance when the train arrived on time; what train did you mean?

*A.* I didn't say so.

*Q.* What did you say?

*A.* Tell me what conversation you mean?

*Q.* Did the trains arrive on time?

*A.* Pretty generally.

*Q.* What train?

*A.* The train that I travel by.

*Q.* What trains did you travel by?

*A.* In the morning by the seven-forty-five, I think it was, and I came out on the five-twenty; I always went on those two trains.

*Q.* Was the five-twenty on time?

*A.* Generally; it may have been a minute or two out of time.

*Q.* As a matter of fact, the Morris and Essex train run pretty regularly?

*A.* Yes.

*Q.* They are noted for that?

*A.* I don't know that they are more so than any other road.

*Q.* How many times have you been late in the number of years you have lived in Summit?

*A.* I may have been a few minutes late; I don't know that I was especially, except on one or two occasions.

*Q.* Otherwise, generally on time?

*A.* Within two or three minutes, generally.

*Q.* How about the seven-forty-five in the morning?

*A.* Generally, pretty regular—well, no; the seven-forty-five used to carry the express matter, and they were very often behind; I know we often used to miss the boat at that time; the seven-forty-five, I think, it was.

*Q.* What do you mean by often?

*A.* Well, I think, we used to miss, probably, two or three times a week.

*Q.* The year around?

*A.* Well, that I don't recollect; I know there was a good deal of trouble about that express matter, and about her missing that boat.

*Q.* You said you could time yourself so as to reach the depot by the train?

*A.* Because I knew what time the train was due, and what time it took to get there.

*Q.* You knew how to do that somewhat by the arrival of the trains?

*A.* Well, I am a railroad man, and I know that railroads have a certain time for leaving; if you don't get there on time, you are apt to miss it; I don't propose to take chances in going for a railroad train; I never missed a railroad train in my life.

*Q.* You knew what time a train was due, and that it left at a certain time, and it took you a certain time to get from your house to the train?

*A.* That is so, exactly.

*Q.* The trains were so accurate?

*A.* That don't follow; I might be there and the train be late.

*Q.* You said you could regulate your time to a minute?

*A.* For the time for the train to start, yes.

*Q.* You said you didn't suppose that you stood on the platform a minute before the train came along?

*A.* Exactly.

*Q.* In other words, you didn't get there a minute ahead of the train?

*A.* About that.

*Q.* And that was your habit, wasn't it?

*A.* Yes, sir.

*Q.* You didn't make it a practice to go there five or ten minutes ahead of the time the train got there?

*A.* I did not; you know I didn't as well as anybody else.

*Q.* But you did get there, pretty generally, a minute ahead of the leaving of the train?

*A.* Yes, sir; I never missed a train in my life.

*Q.* What did you mean when you said, "When we drove to the depot we invariably—I don't know of an instance, that I can recollect, where the train was on time?"

*A.* Wasn't on time; I don't know; just repeat that.

[Counsel repeats the quotation.]

Witness—Well, I didn't mean it in that way; I meant that it wasn't time for the train.

*Q.* The statement you made in your direct examination is not correct in that repect?

*A.* Not in that respect; I have known thousands of instances where the train was on time.

*Q.* That was the rule.

*A.* With the exception of the seven-forty-five train; that express matter generally delayed them; they would be five minutes late there sometimes; and they would be delayed at Newark, discharging express matter.

*Q.* Was it generally late, or generally on time?

*A.* It was generally on time; I recognize that the Morris and Essex is recognized as a first-class road; it keeps up its time-table as near as possible, except from extraordinary events; it is supposed to be on time.

*Q.* How often did you travel to New York on the ten o'clock train?

*A.* Never but that once; I don't know that it was the ten o'clock; it was about ten o'clock.

*Q.* It was after your usual hour of leaving?

*A.* Yes, sir.

*Q.* What do you know, if you only took that train

once, about the regularity of the arrival and leaving of that train?

*A.* I don't know anything about it.

*Q.* You say you tore up William's letter that he wrote you after the 11th of January?

*A.* I think so; the probability is I threw it in the waste-paper basket.

*Q.* And yet at that time you knew that you had made up your mind to fight?

*A.* I did if I had anything to fight on; the probability is that I did keep a personal letter a little while, and then went through my pockets.

*Q.* You didn't find out that you had nothing to fight on till you saw Mr. Foot?

*A.* Yes, sir.

*Q.* Your mind has been changed on that subject?

*A.* I was satisfied to take Mr. Foot's statement; I knew that he knew, or he wouldn't tell me so.

*Q.* And yet you are not willing to forgive or forget him for sticking up for his legal rights?

*A.* Law is one thing and justice is another.

*Q.* That is the sense of justice that you have toward him in your mind?

*A.* I know that he was taken in on that basis, to take care of the business for the family.

*Q.* Then it was your idea of justice that was shocked?

*A.* Exactly; my sense of justice.

*Q.* That sense of justice has remained shocked ever since, has it not?

*A.* It has.

*Q.* You haven't changed your views on that subject?

*A.* Not in the slightest degree.

*Q.* Notwithstanding the fact that William's legal rights were maintained by him?

*A.* I do know it.

*Q.* You say your feeling on that subject has remained unchanged till this day?

*A.* I do.

*Q.* Notwithstanding you knew that your mother and you had no legal rights in the business at all.

*A.* That is the fact.

*Q.* And that, notwithstanding the fact that five years prior to your father's death he attended very little to business?

*A.* I don't remember saying that.

*Q.* You have heard these facts stated in the testimony?

*A.* I don't know anything about the business; I know that my father went to his office very often.

*Q.* You heard Miss Swords swear that he frequently went uptown and attended to other matters?

*A.* I did hear her say so; but I go uptown, and yet attend to business.

*Q.* You heard William swear that he didn't take any active part in his business for the last three years?

*A.* I think I heard him say that.

*Q.* Assuming these to be the facts, your feelings remain unchanged still towards William?

*A.* Entirely so.

*Q.* Notwithstanding the fact that the earnings of the business, or one-half of the earnings of the business, went to the support of the family during the last five years of your father's life?

*A.* Notwithstanding that.

*Q.* And notwithstanding the fact that the income of your mother's estate was derived from the earnings of the business?

*A.* I don't admit anything of the kind.

*Q.* Assuming that to be the fact, what would be your conclusion then?

*A.* There is no use assuming impossibilities; I don't admit it as a fact, and I decline to assume it.

*Q.* Why not?

*A.* Because it is none of my business.

*Q.* What is none of your business?

*A.* Assuming anything of the kind; because I am a man that has made it a rule of my life to mind my own business and leave other people's alone.

*Q.* You didn't do that in your brother's case?

*A.* I did.

*Q.* You asked your mother to have the books examined?

*A.* I did.

*Q.* You spoke to her about your relations with William?

*A.* Once.

*Q.* Why?

*A.* Because she was my mother.

*Q.* Wasn't she also William's mother?

*A.* Yes, sir.

*Q.* Had you any right to assume that he wouldn't treat her fairly?

*A.* I knew nothing about it.

*Q.* Why, didn't he make her substantially the same offer as he made to Mr. Foot?

*A.* No, sir; she told me he said if her income wasn't sufficient, he would make good the deficiency; Mr. Foot said he hadn't hoped that my mother was in as good shape as she was, and he thought it would be a very nice thing for us to contribute; when I told him what William said mother had, Mr. Foot said that he didn't know that she was in that condition.

*Q.* You told Mr. Foot that your mother had enough money?

*A.* That he said so; that William H. Dumont had said so.

*Q.* Had said that to you?

*A.* Yes, sir.

*Q.* Did you tell him how much?

*A.* I don't remember.

*Q.* You must have given him some facts?

*A.* I don't remember; I think I told him that William said she had about $3,000 a year.

*Q.* Your mother didn't require any more than that for her own support?

*A.* I don't know what she required; for her own immediate support?

*Q.* Yes.

*A.* No; she had always had a house of her own, and had always kept that house up; she might have gone and boarded for $4 a week if she had wanted to.

*Q.* She could have kept the house up on $3,000 a year?

*A.* That may be; if she lived there and kept one servant, and had nobody in the house with her, she probably could.

*Q.* Did Mr. Foot say at that time that that amount would be sufficient to support your mother?

*A.* He did not.

*Q.* When you made the suggestion to him, you said that she didn't need any more?

*A.* I think it is probable I did; I don't know.

*Q.* What did William tell you was the amount that she was to receive in the way of income?

*A.* I heard him say—and it was, I guess, a year before father's death; I remember the conversation, one night in the library—he told me that mother was pretty well fixed, and that she had such and such things, and that she would have an income of about $3,000 a year from the estate.

*Q.* Is that the only conversation you remember?

*A.* That is all I remember.

*Q.* No conversation was had on that subject after your father's death?

*A.* Not that I remember.

*Q.* Didn't he tell you that on the ferry-boat?

*A.* I don't think he mentioned any amount; he said she would have enough.

*Q.* You will not swear he didn't say that?

*A.* I will not.

*Q.* You have testified in this case that you didn't know anything about your mother's affairs?

*A.* I did.

*Q.* You had forgotten what he said?

*A.* I didn't consider that knowing.

*Q.* You didn't consider that any information?

*A.* Not especially.

*Q.* That your mother's income was $3,000?

*A.* I knew she had these securities and some money, but I didn't pay any especial attention to it; I had heard them talk about Rock Island, and Delaware and Lackawanna, and such things, but I had never seen any of the securities but two bonds.

*Q.* You were not interested in the subject at that time?

*A.* I was not.

*Q.* Why not?

*A.* My father was alive.

*Q.* Did that prevent you from taking an interest in your mother's affairs?

*A.* It did.

*Q.* Did you tell Mr. Foot the source of your information?

*A.* I told him all there was to it; I don't know that I told him of this other conversation before; I told him William said she would have enough; that her income was about $3,000; and he said he had no idea of it; that he supposed she was quite poor.

*Q.* You didn't fix the time of that conversation with William, when you told Mr. Foot that?

*A.* No, sir; I think not.

*Q.* You said that you didn't live in Summit; that you merely stopped there?

*A.* My father and mother both knew that it was very disagreeable for me to live there.

*Q.* Why disagreeable?

*A.* Because I didn't like the people, and I didn't like the place.

*Q.* Still you remained there on their account?

*A.* Entirely.

*Q.* You didn't like the people in the place?

*A.* I did not, with three or four exceptions.

*Q.* What exceptions were those?

*A.* I don't know as I care to say that.

*Q.* I ask you to say?

*A.* I decline to do it.

*Q.* Why do you decline?

*A.* Well, in the first place, I don't think it is anyobdy's business who I liked and who I didn't like; I treated everybody in Summit, as far as I could, with politeness, and as a gentleman.

Counsel for caveators ask that counsel for proponent instruct the witness to answer the question.

Counsel for proponent ask what is the materiality of the question.

Counsel for caveators reply that that can be passed upon by the court.

Counsel for proponent decline to instruct the witness to answer, on the ground that the question is immaterial.

Counsel for caveators ask that counsel instruct the witness to answer subject to the objection.

Counsel for proponent decline so to instruct the witness.

Counsel for caveators now request the witness to answer the question.

Witness—By advice of counsel I decline to answer.

Counsel for caveators now move to strike out all the direct testimony of the witness.

*Q.* In your direct testimony you said that in, your talk with your mother, you said, "You refused to let me have his books examined;" when did you make that suggestion?

*A.* When I spoke to her about what Mr. Foot had said.

*Q.* Was that in the same conversation?

*A.* Yes, sir; the same when I reported what I had said to Mr. Foot.

*Q.* You mean to say that in the earlier part of the conversation, when you made the remark that you had asked her to let you have the books examined?

*A.* That is my recollection.

*Q.* And not at any other time?

*A.* I don't remember any other time.

*Q.* Did you suggest, soon after your father's death, that the books ought to be examined?

*A.* I think I did.

*Q.* Prior to the conversation to which I now refer?

Witness—Which conversation?

Counsel for caveators—In which you told her that she had refused to let you have the books examined.

*A.* Of course it must have been before that.

*Q.* You also suggested that to Mr. Foot?

*A.* No, sir; it was voluntary on the part of Mr. Foot.

*Q.* You discussed it with Mr. Foot?

*A.* Yes, sir; he said that he was entitled to the business as surviving partner; I think I suggested that; my own idea was that he had overdrawn his account; he said, "He has got to pay back every dollar, and with your mother's consent, I will examine the books."

*Q.* And by your mother's consent you caused those books to be examined, with the consent of the caveator?

*A.* No; I didn't have them thoroughly examined.

*Q.* They were examined by an expert at your suggestion?

*A.* Not at my suggestion.

*Q.* At the suggestion of your counsel in your behalf?

*A.* Yes, sir.

*Q.* You say in your direct testimony that your mother spent a good deal of money on Bessie, in clothing and educating her?

*A.* I say that prior to my father's death, she spent it for clothing and educating her. She was very indulgent to her.

*Q.* What do you mean by educating her?

*A.* She paid for her education, I so understood.

*Q.* Where?

*A.* In Summit.

*Q.* What school?

*A.* I don't know; I think she went to Miss Matthews, if I ain't mistaken.

*Q.* Do you know?

*A.* I do not.

*Q.* She was how old at that time?

*A.* Let me see; she is seventeen now; she went away in December, 1883; she was something over thirteen, nearly fourteen; she went away in December, 1883, and she was fourteen in June of 1884.

*Q.* When did your father and mother go to Summit to live?

*A.* I think they came in town two or three years after they first went there.

*Q.* And they lived there altogether after that?

*A.* Yes, sir; after they lived there the first winter; I don't think they ever went to New York in the winter.

*Q.* Who furnished the house when they went to live there permanently?

*A.* I suppose father did; it was furnished originally as a mere summer cottage; they took some of the furniture from New York, I think.

*Q.* The house was comfortably furnished then?

*A.* Yes, sir.

*Q.* Your father and mother didn't lack the necessities of life during that time?

*A.* Not that I am aware of.

*Q.* They were surrounded by the usual conveniences of a comfortable home?

*A.* I suppose so.

*Q.* Was the house furnished throughout?

*A.* It was, I believe, to the best of my recollection; I don't know that I ever was up on the top floor of that house three times in my life.

*Q.* So, when you say your mother spent a good deal of money on Bessie, you don't know how much?

*A.* I haven't the remotest idea.

*Q.* You don't know whether it was large or small?

*A.* I do not.

*Q.* You say you furnished liquors to your father?

*A.* I did.

*Q.* Was he an excessive drinker?

*A.* He was not.

*Q.* Was he an habitual drinker?

*A.* He used to like a glass of brandy and water or whiskey and water to his dinner; I never saw him under the influence of liquor in the slightest degree; he was a very moderate man.

*Q.* Did you say he was a mean man?

*A.* To himself; yes, sir; I always abused him about that, that I thought he was foolish to deny himself pleasures that he enjoyed.

*Q.* What did he deny himself?

*A.* In various ways; no man ever enjoyed good living and good cigars better than my father, and yet he would smoke the vilest cigars; I wouldn't be found dead with one in my pocket.

*Q.* Then, why do you call him a mean man?

*A.* To himself, I mean; I believe in every one enjoying life as he goes along; I try to do it.

*Q.* Because he didn't smoke cigars that you thought good?

*A.* Not only me but people in general; I have heard mother say she had to go out of the room—the smell from those cigars made her sick.

*Q.* How much champagne did your father drink?

*A.* Well, he didn't drink it except on holidays, and once in awhile when he felt bad; I remember once he told me I saved his life; he had been very much under the weather for several days, and I couldn't get him to eat anything; I went down to Washington market and got some oysters, and the next morning I got him to eat a few of those oysters for his breakfast; he lay on the lounge all day long, and at the dinner-table I told mother to get

some champagne, and I made him drink two goblets of it; he said, "You will make me tight;" I said, "Well, get tight, and get well;" the doctor said that he believed that that champagne had saved his life; for two or three days he lived on champagne and oysters.

*Q.* Aside from that, when do you recollect that he drank champagne?

*A.* Always on holidays; I don't know; the champagne was there when he wanted it.

*Q.* Did he drink it as a beverage?

*A.* No.

*Q.* How often did he drink lager beer?

*A.* I don't think he ever touched it; that was my mother.

*Q.* How often did he drink Scotch ale?

*A.* Very seldom; that was my mother.

*Q.* How often did she drink it?

*A.* Almost every day; the doctor ordered it.

*Q.* Not excessively?

*A.* Oh, no; as a tonic; a glass sometimes in the middle of the day, and a glass for her dinner.

*Q.* Since your mother's death, have you removed any of the furniture from the house?

*A.* Nothing but what was my own.

*Q.* What was that?

*A.* A bedroom suite.

*Q.* Nothing else?

*A.* Nothing else.

*Q.* The bedroom suite was your own?

*A.* Yes, sir.

*Q.* That consisted of what?

*A.* Bedstead, mattresses, pillows, bolsters, two bureaus, two or three chairs and a little table.

*Q.* You say you furnished your mother with dresses?

*A.* I have.

*Q.* How many?

*A.* Oh, I don't know; perhaps two or three.

*Q.* She wasn't extravagant in her dresses?

*A.* No, sir; I used to give them to her, and insisted on her having them made up, because she looked so shabby.

*Q.* How much would she spend on herself during the course of the year?

*A.* I don't believe she would spend $25 a year on herself personally; the last year or two she indulged more in things of that kind than she did before; she used to go to New York shopping, and I have heard Miss Swords say that she would buy things she couldn't possibly have any need for; I never knew what it was; it was none of my business.

*Q.* And you knew about what she would buy in New York; you heard it from Miss Swords?

*A.* I think so; I may have heard mother speak of some little things she bought, but I remember one occasion, and I think I can remember several, when Miss Swords made the remark that she thought mother was foolish to buy things she could never have any use for.

*Q.* Did she name the articles.

*A.* I don't remember that she did.

*Q.* Did you ever speak to your mother about the expenditures?

*A.* Never, except to tell her to go on and spend.

*Q.* You don't know what she spent this money for in New York?

*A.* I do not.

*Q.* How frequently did she go to New York?

*A.* Well, in the last year of her life, I don't think she went more than two or three times.

*Q.* On those occasions she would spend money for things she had no use for?

*A.* That is what Miss Swords said; I know she didn't spend any for me; she was accumulating stacks of things, Miss Swords said, that she could have no use for; Miss Swords would generally be with her when she was shop-

ping; in fact, I think she was always with her when she was shopping.

*Q.* Didn't she provide that bedroom suite?

*A.* It was an old suite that was in the house.

*Q.* Why did you call it yours?

*A.* Because she gave it to me in the presence of Miss Swords; Miss Swords said, "Is that bedroom suite yours?" I said, "Yes;" she said, "You had better have a witness to it, or there may be trouble;" and I said, when she came in, "Didn't you give me that bedroom suite?" she said, "Yes;" I guess that was a year before her death; part of the suite was things that I brought myself out there from my room in New York.

*Q.* From your room in New York?

*A.* Yes, sir; the mattresses and pillows and bolsters were mine; an arm-chair was mine, and the bureau was mine.

*Q.* The rest of the furniture was in the house when you went there?

*A.* Yes, sir; it was my brother's old suite.

*Q.* Your brother's?

*A.* Robert's; yes, sir, part of it; what was left of it; there was a bedstead, I believe, and a bureau.

*Q.* You took the furniture out after your mother's death, because she had given it to you?

*A.* That's it.

*Q.* And you have taken no other furniture out of the house since then?

*A.* Not a stick.

*Q.* How frequently did you have card parties in the house after your father's death?

*A.* About once in three weeks, after I commenced playing.

*Q.* That was, whenever it was your turn?

*A.* Yes, sir.

*Q.* And the other parties were held at other people's houses?

*A.* That is the idea.

*Q.* How long did the game last during those evenings, all the evening?

*A.* Yes, generally; we got up about twelve or half-past twelve.

*Q.* Was it the practice to have an entertainment?

*A.* We used to put out crackers and cheese and lager beer; the liquors were hardly ever touched.

*Q.* That was usual in every house?

*A.* Yes, sir.

*Q.* Each person entertained according to his own wish?

*A.* Yes, sir; except on two occasions I gave an elaborate spread; I had a salad, and oysters or chicken, as the case may be; but, in fact, I think that happened in my father's time.

*Q.* How many horses and carriages did they keep?

*A.* One old horse, pretty well worn out, and my horse was there; there was a large phaeton carriage; there was a buggy, a rockaway coupe that Dr. Tyng had given my father; there was a low phaeton, and my buggy, which was never used by anybody but me.

*Q.* Who owned the horses?

*A.* My mother owned one, and I owned the other.

*Q.* You owned one carriage?

*A.* I owned a buggy, and I owned part in the big carriage; I made a contract with my father that if he would pay half, I would pay half, in order to get a nice carriage for mother to drive out in.

*Q.* Was it a double carriage?

*A.* Yes, sir.

*Q.* A covered carriage?

*A.* Yes, sir.

*Q.* That was the carriage that was frequently used in going to and from the depot?

*A.* Altogether.

*Q.* The buggy you used individually?

*A.* Yes, sir.

*Q.* But the large carriage was used by you and the family jointly?

*A.* Yes, sir.

*Q.* Who bought feed for the horses?

*A.* Father in his lifetime, and mother afterwards.

*Q.* Who paid for shoeing the horses?

*A.* Father and mother.

*Q.* They kept a man on the place?

*A.* They did.

*Q.* Who paid his salary?

*A.* Father and mother.

*Q.* That man was retained there till your mother's death?

*A.* With different changes.

*Q.* And there were two servants in the house?

*A.* Yes, sir.

*Q.* And their salaries were paid by whom?

*A.* My father in his lifetime, and mother afterward.

*Q.* You said, in your direct examination, that you believed the original will of your mother, the one made before the last one, which is now in contest, was in your brother's possession; what reason have you to believe so?

*A.* Because I made the remark, in conversation with Smith and Cranstoun; they said, "What became of that will?" and I said, "By George, I ain't generally so slack; I haven't seen it since father took it away, and I don't believe it was ever returned."

*Q.* You have seen the letter written by your mother to William, after your father's death, and offered in evidence?

*A.* I don't recollect any such letter.

*Q.* Do you remember the occasion when your mother called upon William to deliver the securities?

*A.* Yes, sir.

*Q.* Do you remember how she did that?

*A.* Well, I remember it by hearing it spoken of since, that Mr. Robbins went down there with a letter for the

securities; that is all I remember about it; and mother said she was going to ask for her securities.

*Q.* I will show you an exhibit for the caveator, of March 9th, 1887. [Shown to witness.]

*A.* Yes; I remember seeing that paper.

*Q.* Seeing it when?

*A.* When it was shown in court, here.

*Q.* Do you remember her writing it?

*A.* I didn't see her write it.

*Q.* That was the letter calling for the delivery of the securities?

*A.* Yes, sir.

*Q.* This letter refers to the will?

*A.* I didn't read it.

*Q.* [Reading from paper]—You didn't hear your mother say that those papers were not delivered, did you?

*A.* I did not.

*Q.* What reason would William have to destroy that will if he had it?

*A.* I see no reason in the world.

*Q.* Why do you say, then, that you believe he has it?

*A.* Well, for the very reason that he made a statement here which I know to be directly contrary to the will.

*Q.* Don't you know that it would be to his interest to produce that will?

*A.* I don't know why.

*Q.* Do you know that it would not be?

*A.* I don't see that that will has anything to do with the case.

*Q.* Why do you say you would give $1,000 to find that will?

*A.* In order to substantiate what I said on the stand with reference to what the contents of the will were.

*Q.* That is the only reason why you would want it?

*A.* That is the only reason.

*Q.* Don't you know, as a matter of fact, that you hadn't

testified in regard to the contents of the will at all at that time?

*A.* I did; but I knew that I would be expected to testify.

*Q.* You knew that you had not testtfied?

*A.* I knew that.

*Q.* Then it is not true that you would have to substantiate what you had sworn to?

*A.* No, sir; I knew I would have to, and I would like that will to contradict his evidence.

*Q.* What did you say to your mother in regard to the value of William's business?

*A.* I don't know that I ever said anything.

*Q.* Didn't you say the business was worth $10,000?

*A.* I don't think I ever said such a thing in my mother's presence.

*Q.* Didn't you swear to that in your direct testimony?

*A.* I don't think so; I testified that it might be worth $10,000, but I don't think I testified that I said it in my mother's presence.

*Q.* Did you say that that business was worth $10,000?

*A.* I think I did.

*Q.* Upon what do you base your judgment?

*A.* On my knowledge of what other brokers had sold their business for.

*Q.* Not upon what this business was worth independently?

*A.* I knew other brokers that done a great deal less business, and I made an estimate in that way; I knew they were a firm that stood very high; I knew they had some of the best houses in New York, and these people that I refer to, one man especially, I knew what business he had was among little houses; he didn't profess to do a large business; he didn't keep but one clerk.

*Q.* How could you tell what the business of Robert Dumont & Son was worth when you didn't know what business they were doing?

*A.* Merely from what I knew of their standing; I believe it could have been sold for $10,000.

*Q.* What did you mean, in your direct examination, by saying that the parlors were loaded with furniture that you gave them?

*A.* Well, that was rather an exaggerated remark; there was three or four chairs that I had given my mother during my father's lifetime.

*Q.* What were they?

*A.* I can't describe them; my sister can pick them out; I gave my mother a great many pictures; it has been my custom ever since I have been in New York, always, on Christmas, and on my birthday, and on her birthday, to make her some little present as an acknowledgment of the day; I don't think I have ever failed since I came to New York and had the means to gratify my wishes.

*Q.* Then it is not true that the parlors were loaded with your furniture?

*A.* Not directly; in fact, the piano takes up a good deal of room in the parlor, and that belongs to my sister; my sister has got a great many things in the parlor that belong to her personally; of course I had nothing to do with arranging the parlor, and they made it as handsome as possible.

*Q.* Referring to the securities you checked off in the list, do you know when they were bought?

*A.* I do not.

*Q.* Where was the divorce from your first wife obtained.

*A.* In Connecticut, where she lived.

*Q.* When was that?

*A.* In 1885.

*Q.* What month?

*A.* In September.

*Q.* Was there a former divorce obtained, or attempted to be obtained?

*A.* That is something that has got nothing to do with this case, and I must decline to answer.

*Q.* Was not an effort made to obtain a former divorce either by you or her?

*A.* That is my private business, and I don't consider you have any right to ask me any questions about it.

*Q.* Upon whose application was the divorce obtained, that was obtained in 1885? [Objected to.]

*A.* I make the same reply; It is my private business, and has no relation to the case, and under advice of counsel I decline to answer.

*Q.* Wasn't it obtained on the application of your wife?

*A.* I decline to answer.

*Q.* Was not the ground for the divorce your infidelity?

*A.* I decline to answer.

*Q.* When did your mother give to you the key of the box of the safe deposit?

*A.* About, I think it was, the Tuesday night preceding her death, either the Monday or Tuesday night.

*Q.* You introduced her to the safe deposit company?

*A.* I did, sir.

*Q.* Did you have a power of attorney?

*A.* None whatever.

*Q.* Which entitled you to go to her box?

*A.* I don't remember whether the box—I think that I asked the question if anybody else could come besides her, and I think they did say that I could come; but I never went but once.

*Q.* You did go?

*A.* I went once at her request.

*Q.* You had no trouble about entering the box at that time?

*A.* No, sir.

*Q.* And the key was given to you a few days before her death?

*A.* It was either Monday or Tuesday night prior to her death; I didn't get home, didn't see her till Monday night, so that she couldn't do it before.

*Q.* When did you go and cut off coupons?

*A.* I always went with her, with the exception of once.

*Q.* I mean without her?

*A.* Only once; I think that was somewhere about the 1st of April.

*Q.* You had the key in your possession?

*A.* She handed it to me the night before.

*Q.* You did have the key in your possession sometime before she died?

*A.* I said the last time was Monday or Tuesday preceding her death.

*Q.* And the first time in November?

*A.* I think about the 1st of November.

*Q.* Did you not have the duplicate key all the time?

*A.* I did not; she kept both keys herself.

*Q.* And a few nights before her death she did give you the key?

*A.* She did; she took her pocket-book out of her pocket and gave me the key, and said, "I will never go there again, and you had better take the key."

*Q.* After that she gave you the other key?

*A.* Yes, sir.

*Q.* When was that?

*A.* I think it was the next night; she was in bed, and she told me the key was in that white box, in the right-hand corner of her box; I was sitting by her side at the time, and I rose out of my chair and got it out.

*Q.* What did you do with the coupons that you cut off the bonds when you went there in November?

*A.* Well, I probably sold them and deposited the money, if I recollect.

*Q.* To her account?

*A.* Yes, sir; I always either sold them or deposited them; sometimes we would go there in the middle of the month, and there would be some coupons coming in the first of next month, and I said, "You can't be here, probably, the first of next month, and we will cut them off

now;" and I would collect the balance, and probably give it to her in cash.

*Q.* And keep the coupons yourself?

*A.* Yes, sir.

*Q.* In other words, you would discount the coupons?

*A.* No, sir; there would be no necessity to.

*Q.* You would collect the coupons as they were due?

*A.* Yes, sir.

*Q.* Those that were not, you kept till they were due?

*A.* Yes, sir; that is to say, those coming due in a few days, or two or three weeks, because I knew she wouldn't be in town in a month.

*Q.* Did you keep any account with your mother?

*A.* No, sir; I keep no account with anybody; my business is strictly cash.

*Q.* When you had any dealings with your mother how did you enter it?

*A.* I would pay out money for her, and at the end of the month I would keep a little memorandum, and when I settled it at the end of the month, I would take out this paper and show it to her.

*Q.* You borrowed money of her?

*A.* I never borrowed but $1,500 in my life, and then I wasn't here.

*Q.* You made no entry in your own book?

*A.* No, sir; it was in her bank-book.

*Q.* When did you borrow that of her?

*A.* In the fall of 1885, when I went to Florida; I left New York in the middle of November, and I left a conditional order with my cousin.

*Q.* I want the date?

*A.* I couldn't give you the date; I was in Florida.

*Q.* About the date?

*A.* Sometime in November, 1885; I paid it right back as soon as I came back.

*Q.* Did you leave any note to give her when you borrowed the money?

*A.* I did not, because I wasn't here; I could have drawn a check for it before I went away if I had known I wanted it.

*Q.* You didn't deposit any collateral with your mother?

*A.* I did not.

[Counsel for proponent objects to the line of examination as irrelevant and immaterial.]

*Q.* These instructions you left with Mr. Robbins?

*A.* Yes, sir.

*Q.* On your return you paid your mother the money?

*A.* $1,500; yes, sir.

*Q.* You say that was the only loan you ever made from her?

*A.* It was the only loan I ever made of her in my life; of course when I was a boy I may have borrowed of her; I borrowed some bonds of her once, through my father; I didn't say anything to my mother about it.

*Q.* When was that?

*A.* A number of years ago; I can't say when it was; William Dumont testified to it.

*Q.* His testimony in that respect is correct, is it?

*A.* Yes, sir; I couldn't locate the year, and I don't believe he could.

*Q.* Who constituted your card party in the spring of 1884?

Witness—Well, what part of the spring?

Counsel for caveator—After your father's death, and through the summer?

*A.* Let me see; I think Frank Stayle had left then; there was Mr. Boulanger, Mr. McConnell, Mr. Von Doun, and occasionally Mr. Treat; occasionally Mr. Ottie De Forest; I think that was about all.

*Q.* Do you say that Mr. McConnell was one of your party during the spring of 1884?

*A.* Yes, sir; I don't remember whether he was playing in the spring or summer.

*Q.* Did he commence playing before this coolness between you and Mr. Chapman?

*A.* That I can't recollect; oh, Mr. Chapman played some time in the spring of 1884.

*Q.* Did you say you did not play with Mr. Treat between January and June, 1884?

*A.* That is to the best of my recollection.

*Q.* Are you sure about that?

*A.* I am so positive of it that I would swear to it.

*Q.* You don't remember any occasion in which you and Frank played?

*A.* It is barely possible that there may have been one occasion when there was a party of four made up; I can't remember that myself; I can remember two of the parties, but I can't remember the third.

*Q.* You were very much interested in the municipal election?

*A.* I was, at that time.

*Q.* There were others in Summit actively interested with you?

*A.* I was only interested so far as to elect one man.

*Q.* Didn't you try to secure the nomination of somebody else?

*A.* I think I did suggest the name of Mr. Treat.

*Q.* Didn't you also suggest the name of Bryan?

Witness—Who is he? do you mean the former freeholder?

Counsel for caveator—Yes.

*A.* No; I was opposed to him.

Counsel for proponent—Renew the objection to the line of examination.

Witness—I went down to his house in 1885, I think it was.

*Q.* Didn't you and Mr. Mooney and Mr. Treat go to Bryan's house in the spring of 1884?

*A.* No, sir; and you know better as well as anybody else; you knew that I was Mr. Treat's advocate.

*Q.* You say you suggested Mr. Treat's name as freeholder?

*A.* No.

*Q.* What did you suggest his name for?

*A.* I think it was collector, if I remember correctly.

*Q.* He was nominated for collector that year?

*A.* Yes; and elected.

*Q.* And didn't qualify?

*A.* That's what's the matter.

*Q.* Did you offer to go on his bond that year?

*A.* I couldn't, because I had no real estate security.

*Q.* You offered to indemnify some one?

*A.* I did.

*Q.* You tried to get some one to go on his bond?

*A.* I did.

*Q.* It was in that spring that you went down to Mr. Bryan's?

*A.* No, sir.

*Q.* You think it was the next spring?

*A.* Yes, sir.

*Q.* To get him to accept the nomination for freeholder?

*A.* I don't know that I had anything special to do with it; if I did, the man drove me down; I think I was down at the village for something, and I met Mr. Treat there, and he took me up to Mooney's with some cock-and-bull story, I have forgotten what; and Mooney got in our carriage and drove down to Will Bryan's to get him to run in opposition to Chapman.

*Q.* Wasn't this cock-and-bull story a question of Chapman's using pasters?

*A.* I can't remember what it was about; the thing was sprung on me that evening.

*Q.* Don't you remember some such report?

*A.* I remember of Mr. Treat telling me such things; yes.

*Q.* Do you remember Mr. Chapman showing you the pasters?

*A.* I do not.

*Q.* You say generally your mother used to go to ride with you in the spring of 1884?

*A.* In the evenings.

*Q.* Very freuqently?

*A.* It wasn't in the spring; it was in the summer; I can't see at night; as soon as it gets dark I am gone, and I used to ask mother invariably, when I was going, if she wouldn't like to go out and take a little ride; perhaps two or three times a week she would go.

*Q.* Would she go as often as that?

*A.* Yes, sir, fully; two summers—the summer before my father's death, she used to go with me almost every night.

*Q.* You occasionally went to Mr. Treat's house?

*A.* No, sir.

*Q.* Do you remember being there?

*A.* Yes, sir; not to make a call; I remember on two occasions my walking over there with Bessie; as I say, I never went out without somebody to guide me in the evening; it was the time he had possession of my dog, and I went over to see the dog, and sat on the stoop.

*Q.* Don't you remember on one occasion you went in and chatted with him and his wife?

*A.* I think I did, but I am very positive that that was before my father's death; it was just after he had lived in the house, and we went in to look at it.

*Q.* It may have been after your father's death?

*A.* It may have been; I never was beyond the parlor in my life.

*Q.* You have met his wife?

*A.* Yes, sir; I just spoke to her; I would sit in the buggy, and she would look out of the window, and I would speak to her.

*Q.* Mr. Treat co-operated with you in the election in the spring of 1884?

*A.* He did.

*Q.* Who was actively interested with you at that time?

*A.* Mr. Chapman and Mr. Treat.

*Q.* Mr. Treat was in sympathy with you?

*A.* Yes, sir; he was a candidate.

*Q.* And it was you that suggested his nomination?

*A.* I don't remember; I think it was Mr. Chapman that suggested it to me; I was chairman of the nominating committee; I knew he was very anxious to get an office.

*Q.* Mr. Treat?

*A.* Yes.

*Q.* You were willing to gratify his anxiety?

*A.* As far as I could; they wanted me to run, and I declined.

*Q.* You voted there that year?

*A.* I did.

*Q.* When you said you didn't live there, but only stopped there, that was only figuratively?

*A.* Yes, sir; I had no other home.

*Q.* As a matter of fact, that was your residence?

*A.* Yes, sir.

*Q.* Did you tell Mr. Treat of your mother's illness after your father's death?

*A.* I think it is possible; I told most everybody; they would be asking me how my mother was, and I would say, "She is very much prostrated."

*Q.* During this campaign, prior to the election of the spring of 1884, you and Chapman and Treat were very frequently together?

*A.* Oh, yes; frequently together; we would all talk; we would be together on the train, and Mr. Treat would sit in the boat with us, and we would talk about the election.

*Q.* That was rather an exciting campaign for a town election?

*A.* I suppose so; I had never had anything to do with a town election before.

*Q.* You were very much interested in the election?

*A.* I was, to elect Chapman.

*Q.* There was considerable effort made in the campaign prior to that for the success of the ticket?

*A.* There was; I was very much interested in the success of Chapman; I didn't care a button for the rest of the ticket; as a Democrat, I wanted the Democratic ticket elected, whoever was on it; I never scratched a ticket in my life.

*Q.* Is it true, as Chapman stated, that you apologized to him after that?

*A.* I didn't hear him say so.

*Q.* If he said so, was it true?

*A.* It was not; he apologized to me; there was nothing for me to apologize for; I know I told him, if I remember correctly, "If you had come to me, as I thought you ought to have done, the night of this affair in Elizabeth, and explained the facts to me, there would have been no trouble, but I only could judge of you by what I heard."

*Q.* You judged harshly of him?

*A.* Well, under the light of what he has since explained, I did, but Mr. Chapman knew that I had made a very great effort to elect him, and, to a certain extent, had pledged myself for him.

*Q.* You regarded his conduct as going back on you?

*A.* I did.

*Q.* How long did that coolness exist between you and Mr. Chapman?

*A.* Till after the Presidential election.

*Q.* Of 1884?

*A.* Was the election in 1884? I don't remember the year.

*Q.* After that fall?

*A.* Yes.

*Q.* You spoke harshly of Mr. Chapman during that interview?

*A.* Nothing, except politically.

*Q.* Did you not on one occasion say that you bought him very cheaply, but he was dear at any price?

*A.* I don't remember ever making such a remark.

*Q.* Would you swear you didn't? [Objected to, unless the time and place of such remark are stated.]

*A.* I wouldn't.

*Q.* You say that the first time Mr. Treat went to the races, so far as you know, you asked Mr. Martin to accompany him?

*A.* Yes, sir; I did.

*Q.* You knew Mr. Martin was a sporting man at that time?

*A.* I knew him as a barber.

*Q.* You knew he had been to the races?

*A.* I did.

*Q.* That he bet on horses?

*A.* I did.

*Q.* That he gambled?

*A.* I never saw him gamble.

*Q.* Did you know that he played cards?

*A.* I did not.

*Q.* That he went to the gambling rooms?

*A.* I did not, except professionally, if you can call it a profession; he often told me that he used to go around to the house and shave a gambler.

*Q.* Did you know that he was a friend of Pat Gallagher?

*A.* I did.

*Q.* Did you know that Pat Gallagher was a gambler?

*A.* I did.

*Q.* Didn't you regard him as a pretty unsafe man to send an innocent, unsuspecting young man like Treat to the races with?

*A.* I think after the caution that I gave him, that he was the safest man that I could possibly send him with.

*Q.* You thought that he was a good, moral, responsible man?

*A.* There was no morality about it; I knew Treat

didn't know anything about betting, and I told Martin not to let him bet, in fact, I knew he had no money to bet with.

*Q.* You knew this man was a betting man?

*A.* Yes; to a small amount.

*Q.* You spoke of lending your pass to Martin—what was that?

*A.* My badge to the race-track; I had a complimentary badge.

*Q.* Given to you by the ——?

*A.* Association.

*Q.* That admitted you free to the race-track?

*A.* Yes, sir.

*Q.* You occasionally loaned that to Martin?

*A.* I have loaned it to a great many.

*Q.* To Treat?

*A.* I have, a great many times.

*Q.* To Chapman?

*A.* No; he had one of his own.

*Q.* Have you had any business relations with Chapman the last two or three years?

*A.* I have not.

*Q.* Didn't you assist him in his newspaper enterprise?

*A.* I did not.

*Q.* Didn't you loan him money for that purpose?

*A.* I never loaned him a dollar in my life; sometimes when we have been out together, he may have asked me for a dollar or two; I will swear I never loaned him $5.

*Q.* You were asked in your direct testimony, "Did you have any conversation with him [Treat] on the cars or on the ferry-boat in 1884, in relation to these matters?" you answered, "I never discussed my mother's matters with any living soul;" you went on to say, "I think on one occasion" —— and then you were interrupted; will you please continue it?

*A.* I think that I was speaking of an occasion when I was riding from Morristown; that was what I was about to say there.

*Q.* You say that your check was good for $20,000 at the bank?

*A.* Yes, sir; or I said that I could raise that on my security in the course of an hour.

*Q.* And that you never owed any debts?

*A.* No, sir; $25 will pay every debt that I owe in the world, including my doctor's bill.

*Q.* You didn't owe anything to ——?

*A.* I do not.

*Q.* Do they claim you do?

*A.* I don't know; they had never come to see me once; I said that he claimed that I owed him some money which I disputed; I told him I was worth $50,000, and I referred him to my lawyer.

*Q.* When was that?

*A.* I think it was about three years ago, if I ain't mistaken; perhaps four years ago.

*Q.* You have stated, in your testimony, that you think your mother treated all her children about alike; do you really mean that?

*A.* Certainly, I mean it.

*Q.* Did your mother ever refer to you as being mean?

*A.* Never; I don't think she could have; I know she couldn't truthfully.

*Q.* She never made any unpleasant remarks about you?

*A.* Neither pleasant or unpleasant, as far as that kind is concerned; she never reprimanded me; she sometimes checked me for extravagance.

*Q.* Was your mother's attitude towards William the same as it was towards you?

*A.* As far as I knew, precisely.

*Q.* Did you ever see her in his presence during the last three or four years of her life?

*A.* I don't think I ever saw her in his presence, except the time she was so low.

*Q.* That was during the last few days of her life?

*A.* No, sir; I think the occasion that he refers to in his

testimony, if I remember correctly, was either in her attack in February, or her attack in May.

*Q.* Your mother regarded his conduct as ungrateful?

*A.* She never expressed anything about it any further than I said.

*Q.* She said she thought it was rather mean in him?

*A.* She did.

*Q.* Why mean?

*A.* Well, that was for her to answer; I am only repeating to you her remark.

*Q.* You derived some impression from her conversation?

*A.* My impressions have got nothing to do with it?

*Q.* You did derive some impression from it?

*A.* Possibly, I may have.

*Q.* There is no doubt she thought William ungrateful to her?

*A.* Possibly so; I have no right to put my interpretation on her thoughts; I told you what she said; she said nothing further.

*Q.* You said something about your mother's saying that Bessie would have no friend but you?

*A.* That was what she said.

*Q.* Did she know of your changing your will?

*A.* I told her so at the time we had that conversation?

*Q.* What did you say when she said that Bessie would have no friend but her and yourself?

*A.* I didn't say anything; she continued the conversation.

*Q.* In regard to your act in inflicting this punishment on her, in cutting her off, did she think that was friendly to her?

*A.* I don't know as I ever told my mother what my will was.

*Q.* Did you regard that action on your part as friendly?

*A.* Just; perfectly just.

*Q.* Because you disliked something that her father had done?

*A.* I didn't propose to help his family at my expense.

*Q.* Did you think she was in any way responsible?

*A.* That had nothing to do with it; I have a right to do with my money what I please—found a dog kennel with it if I like.

*Q.* That is your measure of your friendship for your niece?

*A.* I have other people nearer to me than she is.

*Q.* You have one child, have you not?

*A.* I have.

*Q.* You had not at that time?

*A.* I had not.

*Q.* At the time of your mother's death did she know of your present marriage?

*A.* She did not.

*Q.* You told Mr. Treat that for your brother's ungrateful conduct to your mother he would live to regret, did you?

*A.* I did.

*Q.* What did you mean by that?

*A.* I meant that when my mother died he would regret that he hadn't treated her differently, because I knew that she had changed her will?

*Q.* When did you say that to him?

*A.* In the buggy coming from Morristown, on a Sunday.

*Q.* What year?

*A.* 1885.

*Q.* What time in the year?

*A.* In the spring; late in the winter, possibly it was.

*Q.* You say that was in the spring?

*A.* Early in the spring or late in the winter; well, when the roads got in good condition; it must have been somewhere about March or April, possibly.

*Q.* In your buggy?

*A.* Yes, sir.

*Q.* Was it on Sunday?

*A.* Yes, sir.

*Q.* Where did you drive to on that day?

*A.* I think we just drove out to Morristown and back.

*Q.* Didn't you stop anywhere?

*A.* I don't think I did; sometimes on my Morristown drives, I stopped at Fred's place; I don't think I was there half-a-dozen times in my life; as far as stopping and taking a drink is concerned, we didn't; we just drove to Morristown, round the square there, and came home; that was our usual drive to Morristown.

*Q.* Did you speak to anybody on that Sunday, outside of Treat?

*A.* I can't remember that.

*Q.* I mean on your drive?

*A.* No; I didn't meet anybody that I knew, except the family from Madison.

*Q.* And you are quite sure that you didn't stop anywhere in Morristown or see anybody, or speak with anybody?

*A.* Very positive, because the only two places I ever stopped there was occasionally at Fred's place, and saw Martin, who was the man in charge of the place; on possibly two occasions, and I don't think Treat was with me either time, I stopped at Smith's drug store.

*Q.* You didn't stop at the drug store on this occasion?

*A.* I don't think I did, because I don't think I knew anybody there then.

Recess.

Counsel for proponent state that when the witness was directed not to answer the question that was asked previous to the adjournment, in relation to the persons some of whom he did not like, they were unaware of and overlooked the fact that witness in his direct examination had said, "I never liked Summit; I never liked the people of Summit;" and counsel for proponent now state that, in view

of the testimony that has been given in the direct examination by the witness, the question asked by the caveator that was objected to, and which the witness refused to answer, should be answered by the witness, and they direct witness to answer the question if desired by the caveator.

Cross-examination resumed by counsel for caveator.

*Q.* Mr. Dumont, I understand that you think you have a more than ordinary memory?

*A.* I think so.

*Q.* You are more than ordinarily accurate in your remembrance?

*A.* I don't claim that I can remember; they used to say of me in the office that if a paper ever passed in my hands, I would remember something about it, if it was years afterwards; anything that presented itself to my memory, it is very apt to remain there.

*Q.* Will you now kindly repeat the first conversation which you had with William after the death of your father, and then also state just what you said to your mother in regard to that conversation?

*A.* Well, I will repeat the conversation as well as I can recollect it; I repeated it to my mother as near as I could recollect; the conversation occurred on the train, between Hoboken and Summit; I asked him what interest he was going to give to mother in the business; he says, "Not a d——d cent;" I then said, "I will fight;" he said, "She has got enough without it;" I said, "I don't care if she has got a million a year; in truth, honor and justice, she is entitled to an interest in that business;" something else was said; I don't recollect what it was; finally he said to me, "How much do you want me to give her?" says I, "I don't know what you can afford; I don't know what your business is worth;" he said, "How will $150 a month suit you?" I said, "Can you afford it?" he says, "Yes;" I says, "That will be entirely satisfactory to me;

I will sign off any rights that I have, and see that Nettie does the same."

*Q.* That is all you remember of the conversation?

*A.* All I remember about it; of course it was some years ago, and I remember the substance of it.

*Q.* Now, how soon after that conversation did you relate it to your mother, and just what did you say to her in regard to it, recalling the conversation itself and not making general statements in regard to it?

*A.* I spoke to her about it, I should judge, in the neighborhood of three weeks after; this conversation occurred on the morning after my father's death; my mother was confined to her room for perhaps two weeks, perhaps a little longer; I don't remember exactly, but I know that she was down-stairs the latter part of January, and I related the conversation, as near as I could recollect, word for word.

*Q.* State as near as you can, your conversation with her, giving just what you did say?

*A.* I told her that I had spoken to Willie on the train the morning of father's death; that I had asked him what interest he was going to give her in the business, and he said not a cent; and I told him I would fight, and after some talk he agreed to give her $150 a month, and that he had afterwards, in a letter to me, declined to do it.

*Q.* That is, as near as you can remember, what you said to your mother in regard to the first conversation?

*A.* Yes, sir; I repeated the first and second conversation at the same time.

*Q.* Now, the letter that you received from William; give us that again?

*A.* I said, as near as I could recollect it—and I thought I could give it word for word—it was headed, "Dear Theo: Referring to our recent conversation, I hereby declare it null and void; I do not recognize your right to speak for mother, and when she gets well enough, I will talk to her myself."

*Q.* Signed how?

*A.* "Yours truly, William H. Dumont."

*Q.* Now, will you give the second conversation, of which you have spoken, with William?

*A.* The second conversation was on the ferry-boat; he had gone on the boat ahead of me, and was standing in the carriage way, and I walked up to him and said, "William;" "Well," he says; I said, "I got your letter, and it is satisfactory to me, providing you let the business remain in *statu quo;*" he said he wouldn't do anything of the kind; I said, "You know I am talking for mother; she can't talk for herself, and when she gets well enough to talk to you, whatever is agreeable to her, is agreeable to me;" he said he would do nothing; I said, "I am worth $10 to your $1, and I will spend every dollar I have got in defending her rights;" I then said—I don't know whether it was before or after—I said I was Robert Dumont's son, as well as him; he said he didn't care anything for the firm name; a new shingle was going up next week, he said; I asked if he was going to give mother anything out of the business; he said she had enough without it, and I said I didn't care what she had, that she was entitled to an interest, or something to that effect; and I finally closed the conversation; I said, "Do you suppose I am going to leave mother at your mercy?" his reply was, "By ——, she has got to be;" I said, "Not as long as I am above ground," and I walked away from him, and went into the cabin.

*Q.* Is your memory, that at the first conversation you used profanity, and at the second you did not?

*A.* I am very positive I didn't use any profanity at the second, because the thought struck me, as I walked to the cabin, that our positions were reversed, he is the excitable one and not me; but at our first conversation I don't think any profanity was used on either side; we were on the cars; I admit that I am known as a profane man, but I don't think he can afford to call me profane; I think the

pot is just as black as the kettle; I was a sailor in my young days, and I became profane on board ship; I am sorry I have never been able to break the habit.

*Q.* You have also said that you were a very excitable man?

*A.* I am.

*Q.* And that you are strong in your affections and strong in your hatreds?

*A.* I never said so.

*Q.* What is the fact in regard to that?

*A.* I am very strong in my affections, stronger, I think, than most men; as far as hatred is concerned, I can't say that I have got any special hatred; if a man does anything to me that makes me angry, I may say a good many harsh things, but when the anger passes off, cool reflection comes.

*Q.* But still, notwithstanding your excitability and your tendency to profanity under those circumstances, you think that at this second conversation with William you were not profane?

*A.* I am very positive I was not.

*Q.* Now, in your conversation with your mother, you think you repeated *verbatim* these conversations?

*A.* As near as I can recollect, word for word.

*Q.* And showed her the letter?

*A.* I can't say that; I don't remember whether I did or not; but I remember getting the letter.

*Q.* If you didn't show it to her, did you give her the substance of the letter?

*A.* Oh, yes.

*Q.* Are you sure that prior to this conversation that you have spoken of, with your mother, you had seen Mr. Foot?

*A.* Positively sure; I went to see him either the next day or the day after getting his letter.

*Q.* And the conversation which you have related as taking place with Mr. Foot was at that conversation, all of it?

*A.* That I can't say; I don't think that I saw Mr. Foot personally in regard to it but that once; I may have; I know there were two or three letters on the subject, because one of them I have got now.

*Q.* I am referring to the conversation?

*A.* Well, it all occurred at that conversation; as I say, I may have seen on a subsequent occasion, but I don't remember whether I did or not.

*Q.* The next conversation that you are able to recall with your mother you have stated to be when she produced a letter from William, with some account of his business relations with his father's firm?

*A.* I say I can't remember whether it was a letter or merely a statement that he had brought there showing this memorandum; the only thing that I can recollect about it to be sure of was to recollect that remark; whether she told me it or it was in the letter I can't swear to—that he would deposit the balance he owed her when he got it.

*Q.* What I asked you was, was that the next conversation that you had with your mother in regard to those matters?

*A.* After he had been to see her? I had two conversations with her, one prior to his coming and one after he had been there, and this was the third one, this one about the memorandum.

*Q.* So that the next conversation that you had with your mother was the one before she had received the memorandum, but William had called?

*A.* William had called, and had an explanation with her.

*Q.* And they had talked over the matter?

*A.* Yes, sir; I don't say that there was any conversation at the time this memorandum was sent, any more than I know that she either told me about it or showed me a statement; I don't recollect anything about it, except that the balance of the money was to be deposited when he got it.

*Q.* But at this conversation, which took place after William had called and had a talk with your mother, your remembrance is that your mother stated that if she was not entitled by law to anything out of the business, she was not willing to have her income made good by William?

*A.* Not in those words; she said she told him if she had no rights there she didn't want anything but her rights.

*Q.* And I understood you to say that you had, before that time, related in full the conversation between you and Mr. Foot?

*A.* Yes, I think I did; I think I told her everything that occurred with Mr. Foot, if I remember right, everything; I tried to give her everything.

*Q.* You have no distinct memory of any conversation with your mother subsequent to that time till the one you have spoken of in the latter part of your direct examination, in which you mentioned what you had done with your property, and suggested the propriety of her making a new will?

*A.* I hardly understand your question; I don't think I ever said anything to her about my will when that conversation occurred; I may have said casually that I had provided for Mamie and Bessie some time or other, but I don't think I ever said it, anyway.

*Q.* I wish to ask you whether between the conversations in regard to which you have been testifying, that is, the conversation after William had been there, aud the time you conversed in regard to the will?

Witness—Between the time of his coming there——?

Counsel for caveator—And that other time, did you have a conversation with her?

*A.* I did not; I told you that the night of the day he had been there we had our conversation, and it wasn't spoken of afterwards, I don't think even referred to, until the night this conversation occurred about the will.

*Q.* I wanted to fix, if I could, whether your conversa-

tion or remarks with your mother, upon the receipt of a letter from William, and a memorandum, was between the conversation that you had with her just after William had called and the conversation you had respecting the will?

Witness—Oh, yes, the memorandum?

Counsel for caveator—Yes.

*A.* Yes, that came before the making of the will, because the will wasn't made till April, and this memorandum came some time in January.

*Q.* Then the order of the conversations would be, the conversation after he had called, then the conversation at the time the memorandum or account was received with the letter, and then the conversation with some reference to the will?

*A.* That is the order of them, but I don't say that there was a letter with this; whether mother told me this, or whether there was a letter with the memorandum, I don't know.

*Q.* Was there a conversation with your mother in regard to William's accounts subsequent to the conversation in regard to the will?

*A.* No more than what I have told you, that we had the conversation when she told me about Will's being there; then, as I say, I recollect about that memorandum only the fact that she either told me or it was in a letter, that he would deposit the balance of the money when he got it; then it was never spoken of again, and no accounts were spoken of, and the night we had the conversation about the will there was nothing said about the accounts.

*Q.* Subsequent to the conversation respecting the will, did you have a conversation with your mother in regard to William's accounts?

*A.* Well, Mr. Curtis said this morning that this account was rendered on April 24th; when I came mother handed it to me, and I said that she must accept it; that she wouldn't allow me to have the books examined, and she must take whatever account he rendered.

*Q.* You heard Mr. Greve's testimony in regard to what you told him in your office in regard to your mother's will, did you?

*A.* I did.

*Q.* That was still fresh in your mind when you gave your testimony in regard to the conversation with your mother respecting the will?

*A.* It was.

*Q.* And is still fresh in your mind?

*A.* It is.

*Q.* In your direct examination did you give in full the conversation with your mother at that time?

Witness—Yes; to whom, to Mr. Greves?

Counsel for caveator—No; when you gave your direct testimony in this case respecting your conversation with your mother in regard to the will, did you then give it in full?

*A.* As well as I could recollect it.

*Q.* And as well as you can now recollect it?

*A.* Just as well.

*Q.* And you have stated all, as far as you can remember, that she said respecting to it in that conversation?

*A.* All that I can remember.

*Q.* What did you say your mother's age was at the time of making this will?

*A.* I didn't say; I wasn't asked.

*Q.* Well, what was it?

*A.* Well, she would have been seventy-eight in February, if she had lived; consequently, she must have been seventy-five.

*Q.* I understood you—if I am wrong, you will correct me—that you saw comparatively little of your mother from the time you went to sea as a boy, until about six years prior to her death?

*A.* Well, I say comparatively little; I came back to New York in 1866, and I never failed to see my mother

once a week; my usual custom was always to take Sunday night tea with her.

*Q.* On those occasions would you see your mother alone much?

*A.* No; not a great deal.

*Q.* Largely in the presence of the family?

*A.* In those days my oldest brother was alive, and he monopolized her attention to a great extent.

*Q.* During your father's life, and during the period you lived in Summit, would your mother be much with you in the evening alone?

*A.* Well, about once a week or so we would have a little chat; she said she liked to have little private chats with me; my mother was my confidant and the only one that was.

*Q.* And after your father's death you were with her every evening?

*A.* Every evening; we would sit in the library with the door open.

*Q.* So that from 1866 your relations with your mother became more and more intimate?

*A.* Exactly.

*Q.* You have testified in regard to driving Mr. Treat, and have testified that you did or did not drive to certain places; that you could remember that positively; and among other things, that you remembered that you had never driven to Newark except with Mr. Treat, and I think you said Mr. Chapman.

*A.* I did.

*Q.* Are you now positive that that is a fact?

*A.* That is the only recollection I ever have of driving to Newark; I drove pretty near to Newark once with William H. Dumont, one Sunday, going down about a horse trade he was going to make; I don't think we went to Newark; I think it was very near Newark.

*Q.* Where did you go at that time?

*A.* I don't recollect exactly where it was; he was to

meet two men that was to come out from New York Sunday morning, and he asked me to go with him.

*Q.* You would not be sure that it was not in Newark?

*A.* I would not; I know there was a man by the name of Wilkinson that he wanted to meet about a horse trade.

*Q.* Do you not think that you are as liable as ordinary men to forget just whether you did or did not take a drive with a certain gentleman?

*A.* Most undoubtedly; I am not infallible.

*Q.* And as the rest of us, you may be mistaken in regard to drives that you did take or did not take with Mr. Treat?

*A.* I can't be mistaken about the dates between January and June, because on that point I am positive.

*Q.* Would you place more reliance on your own memory in regard to what conversations you may or may not have had on ferry-boats?

*A.* That depends altogether on what the subject of conversation is; I don't think I am generally considered a fool, and I think any man that would be blabbing about his private affairs on a ferry-boat is a good deal of a fool; I guess you think the same way.

*Q.* How are your perceptions in regard to recognizing people?

Witness—In what way?

Counsel for caveator—Are you quick at recognizing a person on the street?

*A.* No, sir; I have an affection of my eyes; I pass a great many people every day of my life.

*Q.* And you might pass people in driving and not recognize them as acquaintances?

*A.* Undoubtedly; I pass them walking on the same side of the street, very often.

*Q.* And you have been driving, we will say with Mr. Treat, and have met acquaintances and would not have recognized them or known them?

*A.* Well, as a rule, when I was driving, it was almost

my invariable rule to wear eye-glasses; and when I get my glasses on I can see as well as anybody, in the daytime.

*Q.* The estimate put upon Mr. William H. Dumont's business ability by your father during the last years of his life, I understand from your testimony, that you consider it to have been high?

*A.* I did; well, I say high; I said father had a high opinion of his abilities; I knew nothing about how he ran the business, and I had no right to question it.

*Q.* Did you or did you not know the estimation in which he was generally held by gentlemen in his own business in New York?

*A.* I knew nothing about it, sir; I never met any gentlemen that he did business with except Mr. De Forrest, and I never spoke a word to him on the subject in my life

*Q.* And I understand you, your own business transactions with him amounted to almost nothing?

*A.* Nothing at all.

*Q.* As I understand you, you testified that you were anxious, in case anything happened to you, that you yourself might become associated with him in the business of a commission broker?

*A.* No, sir; I was not anxious; it was merely a question I put to him in my office in the Astor House, in 1868; my prospects were very good in the railroad business, but still things are uncertain; every established business is an uncertain one; I just made that remark and got that reply; I have never been anxious to go in business yet.

*Q.* Your idea was that you would be associated in the firm, and you and your brother William and your father would constitute the firm of Robert Dumont & Son, in case you should be out of the railroad position?

*A.* My brother was alive then; I wasn't speculating on his death; he was a partner.

*Q.* You had no conversation of this kind subsequent to your brother Robert's death?

*A.* Never one word; I think at the time of my brother Robert's death I was getting $5,000 a year salary.

*Q.* Was there any conversation on the subject after your brother William came from Cincinnati for the purpose of engaging in the custom-house business?

*A.* No, sir; I don't think there was; he came here at that time as a clerk; this question that I asked him about helping me was he wanted me to use my influence to get him in at that time.

*Q.* What I asked you was whether, subsequent to that time after he came from Cincinnati, this conversation was in any way again mentioned?

*A.* No, sir; I have no recollection of its ever being spoken of since.

*Q.* Your memory is quite positive in regard to that?

*A.* I think so; there was no reason why I should want to go in, I was very well satisfied with my business.

*Q.* You can recall no such conversation at all?

*A.* I cannot.

*Q.* Can you recall, in 1879, any conversation with Mr. William Dumont in which you stated that there was an understanding between Mr. Robbins and your sister, Nettie Dumont?

*A.* I cannot; I couldn't have stated it, for I didn't know it.

*Q.* Can you remember ever stating to him that prior to the announcement of the engagement between Mr. Robbins and your sister, that there was an understanding between Mr. Robbins and your sister?

*A.* As I said, I never knew of any understanding or any engagement until it was announced. I asked my sister once the direct question, and she told me there was none; William and I often used to canvass the subject and surmise.

*Q.* Can you recollect a conversation in your own office, about the time Mr. Robbins took a position in your office,

with William Dumont, in which you stated that there was an understanding between Mr. Robbins and your sister?

*A.* I cannot. [Objected to as irrelevant and immaterial.]

*Q.* I understand you to testify that at the time you told your sister, Mrs. Robbins, that your mother was living beyond her means, you did not know the income of your mother?

*A.* I did not.

*Q.* You don't wish to be understood as saying that you did know, in a general way, about what her income was?

*A.* I mean to say that I did'nt have any idea, that is to say, I never figured up what her income was; all I knew was, whenever she was ready to come to New York, I was always ready to go to the safe deposit with her; that was as far as securities payable in her name; they were all payable to her; I paid no attention to them in any way; Mr. Robbins attended to the trust; she had to go for checks, and others came by mail; she would hand me the checks and I would deposit them; they were always drawn to the order of Mrs. Dumont; I knew there was plenty of money there to supply her demands; I didn't want to know any further.

*Q.* But still, did you not know that in round figures her income was about $3,000 a year?

*A.* I did not, sir; I don't think it was, but I don't know; I haven't known for a good many years what my income is; I know what my salary is, and that is all I care to know.

*Q.* You heard all of the testimony of Mr. Treat, did you not?

*A.* I think I did.

*Q.* The testimony which he gave in regard to meeting on drives, and on ferry-boats, and different places, which you have testified to be incorrect, do you base your strong opinion on those subjects upon your memory in regard to not being with him, or in regard to what he stated to have been said at those times?

*A.* Well, I base it on two things; in the first place, he speaks of a conversation I had with him shortly after my father's death, and said that I was to come at the time when I had a quarrel with Chapman; well, I never had a quarrel with Chapman until I had one in general; I never parted from him in my life in anger or with the slightest feeling until that time; he had been at me for a year previous to that time, and I saw no reason why I should change my usual habits and go and get Mr. Treat while Mr. Chapman was there; I should have looked upon it as an affront to Mr. Chapman if I had; as far as conversations on the ferry-boat are concerned, as I say, we always used to go over in a very crowded ferry-boat; I can't recollect an instance of my going over on a train boat, as I always did, that the cabin wasn't crowded with people standing up.

*Q.* Still, it was not an infrequent thing on the ferry-boat for you to meet some friends or acquaintances and have a talk with them?

*A.* A general conversation, yes.

*Q.* In regard to subjects which might be of no interest to your regular whist party?

*A.* No; we very often used to talk, but they were conversations not of a private character; they were conversations I didn't care who heard them; in fact, it was a very frequent thing; in New York and all around I am spoken of for speaking so loud; I am to this day.

*Q.* You have a large circle of acquaintances, haven't you?

*A.* Very large.

*Q.* And if you meet a friend, whom you have not seen for a time on a ferry-boat or anywhere else, you would be likely to talk with him?

*A.* Certainly.

*Q.* You would on those occasions leave any whist party or members of a whist party?

*A.* Well, I can't remember any occasion of meeting any

people on the ferry-boat, outside of regular travelers and the people I was in the habit of meeting day by day.

*Q.* Just about the time of which Mr. Treat speaks, I understand that he was interested in securing a nomination and election in the township of Summit?

*A.* Yes, sir.

*Q.* Would you be able to state that during that time you did not talk with Mr. Treat on that subject?

*A.* I would most positively state so.

*Q.* In crossing the ferry?

*A.* Yes, sir; most positively, because Mr. Chapman was always along with us; I was not the politician Mr. Chapman was, and the idea was in talking about such things, I had no knowledge of running politics at all; I merely went into it to try and help them along, and was ready to do whatever Mr. Chapman wanted me to do; he directed the campaign.

*Q.* I understood that you had a, perhaps, rather delicate little matter of business with Mr. Treat respecting the office; he wished to secure bondsmen?

*A.* Yes, sir.

*Q.* Would you say that you never had any private conversation with Mr. Treat on that subject?

*A.* Not on the ferry-boats, no; I may have had on the ferry-boat, too; I know Chapman spoke of it, that his wife would go on the bond, but they wouldn't take his wife's bond; I know Jim McLaughlin's name was on the bond; I said it was a shame, and that I would do anything in my power, and that if I had real estate I would go on the bond; that I would be willing to indemnify anybody else that would go on the bond; there was no especial private conversation.

*Q.* Can you recollect when you did tell Mr. Treat that you would indemnify any one that would go on the bond?

*A.* I cannot; I am enthusiastic about such things, and I thought Mr. Treat was an honest man; he was in a bank, and I didn't think there was much risk about it.

*Q.* The collector of the township handles about how much money, do you know?

*A.* I haven't the slightest idea; I supposed at the time he would never have much over $1,000 in his possession, but I didn't know anything about it.

*Q.* You didn't know that a township collector handles from $25,000 to $50,000?

*A.* I should think it very queer if he did, if they only wanted $10,000 bond.

*Q.* You knew that the bond required in Summit was a $10,000 bond?

*A.* Yes, sir; that was my impression; I have forgotten now; I heard at that time exactly what it was.

*Q.* And you think that the conversation in regard to that subject may have taken place on the ferry-boat?

*A.* Very possibly; I know some of the conversations, I don't know how many, or all, took place in the presence of Mr. Chapman; of course I can remember his remark that his wife would go on the bond, but they wouldn't take a woman; his real estate was in his wife's name.

*Q.* Why do you think that you would have more influence over Mrs. Robbins than William would have?

*A.* I didn't say anything in regard to influence; I never thought that I had the slightest practical influence over Mrs. Robbins, not at the time of the marriage.

*Q.* Then, why did you tell William that you would see that Nettie signed off what interest she might have in the business of Robert Dumont & Son?

*A.* Because I felt satisfied that Nettie would see the justice of it, and would do whatever I would; I stated the conversation to her and Mr. Robbins that night, and told them what I had said, and they agreed to it.

*Q.* Was it your impression at that time that Mr. Robert Dumont Foot had no interest in the business?

*A.* It certainly was my impression that he had none.

*Q.* But you thought that your sister did have?

*A.* I thought we both had a certain equity in it; I knew my father hadn't any property to leave.

*Q.* And you thought that there was an interest in the business itself, or the good-will of the business?

*A.* That was the idea, the good-will.

*Q.* As distinct from what assets might then remain in the hands of William as firm assets?

*A.* As far as assets were concerned, I always considered that my father lived up to his income and what money was there; I had an impression that what capital they used in the business was the accumulation of my mother's income.

*Q.* And that your father drew, from month to month, or from week to week, whatever his share of the profits might be?

*A.* As he needed money for household expenses he drew it.

*Q.* And your remark in regard to it had nothing to do with the profits?

*A* Exactly; I didn't suppose there was any accumulated profits from the 1st of January to the 4th.

*Q.* And you supposed that your father had drawn up to the 1st of January?

*A.* I supposed that his living expenses were about as much as his interest in the business.

*Q.* As a matter of fact your father died on the morning of the 4th, which was Monday?

*A.* I don't know what day of the week it was; I have forgotten that part; it was the morning of the 4th of January.

*Q.* So that, if he had any interest from the business after the 1st of January, it was simply limited to what might have been the profits of the 2d, which was Saturday?

*A.* Exactly.

*Q.* You say you have distinct memory of your father's

mentioning what would be the position of William in the business after his death?

*A.* I did.

*Q.* You have stated that conversation to have taken place in the library?

*A.* I did.

*Q.* Can you fix the date of that?

*A.* I can't; there was no special occasion to mark the date in any way; it was just a casual remark in the library.

*Q.* It was prior to William's second marriage?

*A.* It was; I was visiting there, and he was living there.

*Q.* As I understand, you did not consider your father as then having, through ill health or age, lost his ability to personally conduct business?

*A.* He wasn't as active a man as he was ten years previous, but still he was attending to business at that time; he had been troubled for years with eczema in his leg, and at times it made him very lame, and at times he didn't go out at all.

*Q.* And you have given that conversation as fully as you are now able to recollect it?

*A.* As fully as I remember; yes.

*Q.* Can you recall any other conversation?

*A.* Not in the presence of William; and that conversation, the remark that was made, made a very deep impression on me, and to a certain extent hurt me.

*Q.* You have testified in regard to the position of each of your family in your father's room at the time he stated that he wished his wife to be, as you testify, in the charge of William; just repeat what you said in regard to the positions, and now state whether that is still your memory?

*A.* It is; if I was a draughtsman, I could sketch it; my father's usual place in the bed was on the left-hand side; he was then on the right-hand side—my mother's side; my mother was sitting on a chair by his bed-side; I

was standing at the foot of the bed with my arms folded that way [illustrating] on the foot of the bed; William was in a large rocking-chair beyond the bed, between the windows; and father said, "Willie, come here;" Willie got up and walked over; mother got up and moved her chair back, so that he stood between mother and father, and he then made the remark ——

*Q.* I only want positions?

*A.* That is the position.

*Q.* You are quite positive that William was not sitting on a sofa?

*A.* Positive; I remember as well as though it was yesterday or to-day.

*Q.* That is a matter on which you think your memory cannot err?

*A.* I can remember it as distinctly as if it occurred five minutes ago.

*Q.* Where was the sofa in the room?

*A.* Well, it was up against the side; you came in the door here, and as you entered the door the bed was right alongside of the door.

*Q.* So that when you entered the room, if you walked directly across the room, you would walk parallel with the length of the bed.

*A.* That is it; you are describing it exactly.

*Q.* The bed was on the right hand, as you entered the room?

*A.* The right-hand side; then, as you got to the end of the bed, you turned to the right, and beyond the bed, up against the wall, under the window looking out that way, was the sofa; the end of the sofa was about on a par with the end of the bed.

*Q.* Was the sofa parallel with the bed?

*A.* At right angles with the bed; well, it was below the foot of the bed, and stood just the same way as the bed did, with the exception that the head of the sofa was

reversed, the head of the sofa against the wall that way, and the head of the bed against the wall that way.

*Q.* When you say your father was on the right side of the bed, would he be nearer the door, or the windows on the other side?

*A.* I am speaking of the left-hand side, when you are lying in bed.

*Q.* Over towards the window?

*A.* Yes, sir; well, towards the wall; the window was down towards the foot of the bed; the bed set up against the desk; the desk run from the head of the bed to the wall.

*Q.* Where was the rocking-chair placed?

*A.* Well, it was about three feet beyond the foot of the bed, between the windows; there was a kind of a bay-window there; I don't know whether you would call it a bay-window or not; there was room enough to walk between the foot of the bed and the chair over to the sofa.

*Q.* Then, as I understand you, the rocking-chair was nearer the bed than the sofa?

*A.* No, you don't; the foot of the sofa was up very close to the foot of the bed, and the rocking-chair was over by the head of the sofa.

*Q.* And your remembrance is positive and distinct that William was not sitting on the sofa?

*A.* I am very positive about it; I can remember how he was sitting and all about it, in the chair.

*Q.* Was that conversation also somewhat disagreeable to you?

*A.* No, sir; not in the slightest degree.

*Q.* When you become interested in a conversation, you are liable to make over-statements, are you not?

*A.* I don't know that I am.

*Q.* Well, your language is strong?

*A.* Sometimes.

*Q.* For instance, when you say that champagne was your father's idol?

*A.* Well, perhaps it was an extravagant remark, and yet it wasn't; I have heard him say a great many times that if he was a rich man he would have a bottle of champagne for his dinner every day he lived.

*Q.* You don't mean to say he would allow right and wrong, or his moral obligations, or his duties to his family, to be in the slightest degree influenced by his love for champagne?

*A.* Not in the slightest degree; that is what I used to blame him for, that he didn't indulge his desires.

*Q.* Then you don't use the language in the sense in which it is commonly used when you say something is a man's idol?

*A.* Well, hardly, when you speak of a man's food; what I mean was, that he thought champagne was the finest thing a man could drink.

*Q.* Well, are you not, in ordinary conversation, liable to make remarks of this kind?

*A.* I don't think I am.

*Q.* As you have in your testimony?

*A.* I don't think I am; I used that remark just as I would have used it to him himself, when he said, as I have heard him say many times, that if he was a rich man he would drink a bottle of champagne for his dinner every day.

*Q.* Such a statement as you have already referred to, as offering to give $1,000 to know where a certain document was, you don't really mean that?

*A.* I will give a certified check of $1,000 for the production of that will to-day.

*Q.* And if we were able to produce it we should have your certified check for $1,000?

*A.* You would, very quickly; I want to settle the question of veracity between he and I with reference to what was in that will.

*Q.* Such expressions as "we will fire you as quick as lightning" is an ordinary expression with you, is it not?

*A.* I don't know that I have ever used the expression; I may have; it is not a common expression with me.

*Q.* And such remarks as "you are devilishly sorry to hear it?"

*A.* I may sometimes say "I am devilish sorry to hear it;" yes, that is an expression I might use.

*Q.* Are you not, in ordinary conversation, liable to use such strong language as that?

*A.* It depends altogether on the people I am talking to; in my business I meet saints and I meet sinners, and I generally conform my conversation to the class of people I am dealing with.

*Q.* Then you are not inclined to admit that when you are interested in a subject of any kind, you are liable to use strong and perhaps extravagant language?

*A.* As I say, it depends altogether on who I am talking to.

*Q.* It depends more on to whom you are talking than upon of whom you are talking?

*A.* It depends altogether upon who I am talking to; when I am in the society of ladies, I generally regulate my conversation to make it suitable for their ears.

Adjourned until Thursday, July 7th, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., July 7th, 1887.

The taking of testimony in the above-stated matter adjourned until Tuesday, July 12th, 1887, at ten o'clock A. M.

ELIZABETH, N. J., July 12th, 1887.

Examination of witnesses in the above matter continued, pursuant to adjournment.

Appearances as before.

*Theodore S. Dumont*, cross-examination resumed.

By Mr. Curtis—Will you produce the papers called for on the last examination, Mr. Smith?

By Mr. Smith—Proctor for proponents, in response to the notice to produce, given at the last hearing, produces a letter found among the papers of Mary B. Dumont, deceased, signed by W. H. Dumont, dated February 2d, 1884, and also says that no account or memorandum has been found so far among the papers, other than what have already heen presented.

By Mr. Curtis—A copy of which has been offered in evidence?

By Mr. Smith—Yes, sir.

By Mr. Curtis—You do find the original of that statement?

By Mr. Smith—That is the one we brought the other day.

[Said letter offered in evidence and marked *Exhibit 1 for caveator, June 12th, 1887.*]

By Mr. Curtis—

*Q.* Mr. Dumont, when did Mr. Boulanger first come to live in Summit?

*A.* I cannot recollect; he was there sometime before I knew him.

*Q.* Do you remember the year?

*A.* I do not.

*Q.* Do you remember when he went away?

*A.* Yes, sir; very distinctly.

*Q.* When was that?

*A.* He went away in the spring of 1886.

*Q.* Does not that enable you to recollect how long he had been there?

*A.* No; because he was there sometime before I knew him; my acquaintance with him commenced with playing cards; I was introduced to him, I think, on the train; I think he was there about two years, if I remember correctly.

*Q.* Two years?

*A.* I think so.

*Q.* He came there, did he not, in the summer of 1881?

*A.* I say I don't remember; I have no way of placing in my mind when he came; he came there, I think, from Plainfield.

*Q.* You think he came in the summer of 1884?

*A.* About the 1st of May I think he took a house; I am not positive about it, but I think he came there in 1884.

*Q.* And it was sometime after that before you met him?

*A.* Yes, sir.

*Q.* Probably in the fall or winter?

*A.* Possibly in the summer, I don't remember; come to think, I think I was introduced to him in Mr. Holmes' house; I think Bob Holmes asked me to come to his house one evening to play cards, and I think I was introduced to Mr. Boulanger there.

*Q.* That was when?

*A.* I think in the summer of 1884.

*Q.* You have seen this *Exhibit I* that has been offered in evidence?

*A.* I have not sir; I saw it two or three days ago.

*Q.* This letter to which you have made reference as being a memorandum —— [Interrupted.]

*A.* I said, no; no, it is not; I said there was a memorandum came, and I thought a letter with it, but I don't know positively whether the letter came, or whether he had been out there and told mother that he would deposit the money when he got it; I remember distinctly something about

his saying he would deposit the rest of the money when he got it, and that letter says that there was some statement came with it, but where that statement was I don't remember.

*Q.* This letter states what the statement contains, does it not?

*A.* It merely gives a statement of her securities and income, but don't say anything further; I don't know whether there was anything further or not; I said I could not recollect anything about the statement, and I say so yet.

*Q.* Are you—is it not a fact that the statement that has been offered in evidence showing the list of securities, is the statement which is referred to in this letter?

*A.* No, sir; I am positive it was not, sir.

*Q.* What makes you positive?

*A.* Because I believe my mother always told the truth, and my mother told me that was the statement given to her by my father; I have either got to believe that my mother was a liar, or else believe that that was not the statement that came with that letter.

*Q.* You are positive that is the statement that your mother showed you?

*A.* I am very positive of it, because I have means to identify it.

*Q.* By the checks which you find?

*A.* Yes, sir; by those checks.

*Q.* Which you made after your father's death?

*A.* I made those checks in the safe deposit company the day I checked off the securities.

*Q.* After your father's death?

*A.* After my father's death.

*Q.* Did your mother show you this letter, *Exhibit 1* of to-day, when she received it?

*A.* Undoubtedly; yes, sir.

*Q.* She did show it to you?

*A.* Yes, sir; I said that I remembered something, what it was I could not remember, but I remembered something

about his depositing the money when he got it; it was something fresh in my mind, and that letter confirms it.

*Q.* You seem to be very positive as to the correctness of your testimony in regard to that statement, may not there be some doubt about that?

*A.* No, sir; not in the slightest degree; when I swear to a thing I am pretty positive what I swear to.

*Q.* Are you willing to stake your case upon that statement?

*A.* Yes, sir; I have not got any case, as far as that is concerned; I am not complaining about this thing at all; I am merely here to defend my mother's will.

*Q.* The letter offered in evidence of to-day, and marked *Exhibit 1*, says, "As requested by you, I send herewith memorandum of securities belonging to you; also statement of your annual income;" *Exhibit for proponents, June 17th, 1887*, purports to be a statement of securities as described in the letter, and annexed to it is also a statement of the income, as described in that letter, would not that indicate to your mind that possibly those are the same papers that were inclosed in that letter?

By Mr. Smith—Objected to on the ground that what the witness' opinion is as to what the paper may indicate is not evidence in the case; the facts appear from the paper itself, and the conclusion to be drawn from that is not proper under the circumstances.

*A.* It does not.

*Q.* You will swear that the paper which is marked *Exhibit for proponent, June 17th, 1887*, your mother stated to you that she received it from her husband?

*A.* I will swear to it.

*Q.* Are you not sure that she was referring to some other?

*A.* I am sure that she handed me that paper in the safe deposit company, and said it was a statement father had given her, and I checked the securities from that paper.

*Q.* How are you so positive your mother made that statement to you, when it is possible she could not have made it to you?

*A.* It is not possible, because I swear she did.

*Q.* The fact that you swear so now would not make it the fact?

*A.* Maybe so; but my word will go as far as yours.

*Q.* It is not a question of fact, it is a question of recollection?

*A.* No, it is not a question of recollection; I will swear to it on my death-bed; my statements have passed for years in New York or in Summit, where we both lived for several years; I am willing to test my popularity.

*Q.* Do you mean to say that your recollection of what your mother said to you is infallible?

*A.* About that thing it is infallible; it is positive.

*Q.* Do you mean to say that I could not convince you of your error?

*A.* I am positive you could not.

*Q.* Don't you know, as a matter of fact, that *Exhibit June 17th, 1887*, appears on its face that it was not rendered prior to the death of your father?

*A.* It was rendered before.

*Q.* Answer the question?

*A.* I say it does not.

*Q.* Don't you know that there is stated on this paper securities which were not purchased prior to January, 1884?

*A.* On the contrary, I do not know anything of the kind.

*Q.* If I state that as a fact you would still hold to your former opinion?

*A.* If you prove the fact, but I know you cannot do it.

*Q.* Do you know, as a matter of fact, that there were securities bought with your father's money after his death?

*A.* I do not believe my father had a dollar to buy any securities for twenty years before his death.

*Q.* Don't you know, as a matter of fact, that there was money to his credit in the firm of Robert Dumont & Son which were devoted to the purchase of securities after your father's death for your mother's benefit?

*A.* I do not.

*Q.* And if it was a fact that this paper shows on its face that there are securities here bought after your father's death, it would be conclusive that you are wrong?

*A.* Yes, if you can prove it.

*Q.* It would shake your judgment in your infallibility?

*A.* No, sir, not one particle.

*Q.* You would still hold to your same opinion?

*A.* I would swear on my dying bed it was the paper given to her by my father, notwithstanding anything you brought.

*Q.* Notwithstanding the facts that you would be confronted with?

*A.* Notwithstanding anything; my mother said it was given to her by my father.

*Q.* Although you might be confronted with evidence to the contrary?

*A.* I cannot help what you confront me with; I would still swear on my death-bed that my mother said it was brought to her by my father.

*Q.* You are not open to conviction on the subject?

*A.* No, sir.

*Q.* That is about of the same character of your recollection as to other facts in this case? [Objected to.]

*A.* I have nothing to say about that; any questions you ask me I answer to the best of my ability.

*Q.* Do you know when the securities in this exhibit of June 17th, 1887, were bought?

*A.* I do not.

*Q.* Will you swear that none of them were bought after January, 1884?

*A.* I have said I don't know when they were bought.

*Q.* It is a peculiar coincidence that this happens to be a

statement of income and the letter referred precisely to that statement?

*A.* Coincidences will happen in this world.

*Q.* And it happens to be a coincidence that the statement of income corresponds with the statement in the letter?

*A.* Well, that is for the court to decide whether it does or not.

*Q.* And it happens to be another coincidence that you cannot find any other paper?

*A.* I have not had it in my power to find any other paper; I have not been in Summit since my mother's death.

*Q.* You know none have been produced?

*A.* I do not know—my lawyer is here.

*Q.* You know that none have been presented?

*A.* I do not know anything about it.

*Q.* Do you know of the existence of any other papers which correspond with the description of the paper referred to in this letter?

*A.* I did not know of the existence of that until it was shown to me.

*Q.* You swore to it in your testimony the other day?

*A.* I swore to his depositing some money when he got it; I would not swear there was a letter.

*Q.* You swore you thought there was a letter?

*A.* I did not.

*Q.* Is not your recollection faulty as to your testimony last week?

*A.* That is to be found out.

*Q.* And you now recall that you did not refer to the letter in your testimony the other day?

*A.* I said there might be a letter, but I could not say there was one.

*Q.* Did you say that the letter contained information of an account opened with Gold, Barber & Swords?

*A.* I did not say there was a letter at all.

*Q.* Well, I am willing you should leave it that way.

*A.* So am I; so we are agreed on one thing for once in our lives.

*Q.* Do you recognize the handwriting of this exhibit, June 17th?

*A.* What handwriting?

*Q.* The annexed statement, showing the net annual income?

*A.* I told you I recognized it as William H. Dumont's, all the way through.

*Q.* Was the paper which purports to be a statement of the net annual income annexed to the paper showing the statement of securities at the time you first saw it?

*A.* It was; my memorandum is on that.

*Q.* You said, in your testimony, that you have never injured man or woman, to your knowledge; have you ever attempted to injure Mr. Treat in this case?

*A.* Not in the slightest degree; I have had it in my power to do it, if I wanted to, to have Mr. Treat fired out of his bank.

*Q.* You will not say that you have not attempted to have that done?

*A.* I will say so; I have not spoken of it to a living soul, outside of my counsel.

*Q.* Have you spoken to him about it?

*A.* I merely told him what I could do if I was as vindicative as Mr. Treat said I was.

*Q.* You have not caused a message to be sent to that bank by anybody on that subject?

*A.* I have not.

*Q.* Do you know Mr. Richardson?

*A.* I do.

*Q.* Is he depositor in that bank?

*A.* Not that I know of.

*Q.* Is he a customer of that bank?

*A.* Not that I know of.

*Q.* Is he an acquaintance of the cashier of that bank?

*A.* He is; intimately.

*Q.* Does he know Mr. Treat?

*A.* I don't know that he does.

*Q.* Doesn't he know him through you?

*A.* No, sir.

*Q.* He does not?

*A.* No, sir; come to think of it, I spoke to Richardson about it; he was a friend of Mr. Apgar's and I told Richardson what Treat testified to here, and what an ungrateful cur he was; and I said if I was as vindicative as Mr. Treat said I was, I would go to Apgar about it; Mr. Richardson said, "Remember his wife and children," and I said I did.

*Q.* Is it not a fact, Mr. Dumont, that Mr. Richardson, at your request, has been to the cashier of the bank?

*A.* On the contrary, I have not requested him to do anything of the kind; that is the only conversation I had; I would not ask Mr. Richardson to go to Mr. Apgar; I knew Mr. Apgar very well myself, and if I was going to do anything of that kind, I would go to him myself.

*Q.* Have you had any communication from the cashier of that bank, to the effect, that if you had any complaint to make you had better make it yourself?

*A.* I have not; I have not seen Mr. Apgar since a year ago last spring, when I met him at the Royal Legion.

*Q.* When was this conversation with Mr. Richardson?

*A.* Since Treat's testimony.

*Q.* Was it not before?

*A.* No, sir; for I did not know what he was going to testify to before.

*Q.* You knew he was subpœnaed?

*A.* I only heard of it on the street.

*Q.* Before he testified?

*A.* Yes, sir; I know I did not say anything to Richardson, because I told Richardson what Treat had testified to, and about his swearing that I was vindicative; I said here is a man that I did all I could for —— [Interrupted.]

By Mr. Smith—Never mind what you said ; just answer the question.

*Q.* Did you tell Mr. Richardson anything about Mr. Treat going to horse-races ?

*A.* I don't think I did.

*Q.* What ground did you claim for having him removed, if you wanted to exercise your power ?

*A.* It is a matter between myself and Mr. Treat.

*Q.* What ground did you name to Mr. Richardson ?

*A.* None.

*Q.* Did you state how you could have him removed ?

*A.* I don't think I did ; I didn't say I could have him removed.

*Q.* What did you say ?

*A.* I said if Mr. Apgar knew what I knew, I did not think Treat would stay there long, and Richardson made the remark—I told him that he had a wife and three children, and Richardson said, "He is a dirty dog, but remember his wife and children ;" I said I did, and I kept my hands off.

*Q.* Do you know whether Mr. Richardson communicated your wishes to Mr. Apgar ?

*A.* I did not express any wishes.

*Q.* Or your thoughts ?

*A.* I do not think he said a word ; I met Mr. Richardson yesterday ; I don't think he said a word ; he is a very intimate friend of Mr. Apgar ; we have never spoken on the subject since.

*Q.* Is he an intimate friend of yours ?

*A.* Not particularly intimate ; we are in the same business ; our offices are within a few doors of each other.

*Q.* You have known him for some time ?

*A.* Yes, sir ; for twelve or fifteen years, I guess.

*Q.* Did it occur to you about the time Treat testified, that you could possibly have him removed from the bank ?

*A.* It occurred to me ; yes, sir.

*Q.* Can you trace any connection between that sugges-

tion having occurred to your mind, and Mr. Richardson going to Mr. Apgar for that purpose?

*A.* I do not think he did.

*Q.* If he did?

*A.* If he did; he may have repeated my conversation with him, but he certainly did not do it at my request; he made the remark himself, "he is a dirty dog, but for the sake of his wife and children I would drop it."

*Q.* Does Mr. Richardson know Mr. Treat?

*A.* I don't know that he does.

*Q.* How did he come to the conclusion then that he was a dirty dog?

*A.* Mr. Richardson has known me a number of years, and I think when I make a statement people believe it.

*Q.* What statement had you made to Mr. Richardson that justified that opinion, that Mr. Treat was a dirty dog?

*A.* I told him about Mr. Treat's testimony.

By Mr. Smith—All this line of testimony is objected to as not material to the case.

*Q.* What did you say to him?

*A.* I repeated to him the substance of Mr. Treat's testimony.

*Q.* Give the substance of what you said?

*A.* I told him about Mr. Treat swearing to conversations between him and me that did not occur, and swearing about rides he did not go on, and about quarrels with Mr. Chapman that did not occur, and I told him about my lending him money to pay for his barn, and paying for his commutation ticket, and I told him that he had no sentiment about him.

*Q.* Mr. Richardson did not know Mr. Treat?

*A.* I say I do not know.

*Q.* How did you happen to tell this to Mr. Richardson?

*A.* I knew that Mr. Richardson was an intimate friend of Mr. Apgar's; Mr. Richardson introduced me to Mr Apgar as his intimate friend.

*Q.* Why didn't you tell Jay Gould?

*A.* Because I didn't choose to; perhaps, for the same reason that I did not tell you.

*Q.* You knew Mr. Richardson to be an intimate friend of Mr. Apgar?

*A.* I did; Mr. Richardson came to me about two years previously to do him a favor for Mr. Apgar, as an intimate friend, and he and I attended to the matter that Mr. Apgar wanted done.

*Q.* Is Mr. Richardson a customer of that bank now?

*A.* I do not know; as I said before, I only knew him as Mr. Apgar's friend, socially.

*Q.* He introduced you to Mr. Apgar two years ago?

*A.* He did; about that.

*Q.* In your direct testimony you gave a modest estimate of your character?

*A.* I am noted for that.

*Q.* Won't you please state how many Christian virtues you claim to possess?

*A.* I leave that for other people to judge.

*Q.* Do you pretend to possess any of them?

*A.* I don't owe anybody a dollar, and I do not go to people's houses to get a good feed; I generally buy them or have them in my own house.

*Q.* That is one of the Christian virtues is it?

*A.* I think so.

*Q.* Which one?

*A.* Well, I pay my debts.

*Q.* Is it not a fact that your life falls far short from a correct standard of Christian life?

*A.* In my judgment, yes.

*Q.* In the judgment of your friends?

*A.* I don't know what my friends judgment of me is.

*Q.* In your own judgment?

*A.* Yes, sir.

*Q.* You are a profane man?

*A.* I am.

*Q.* You have some habits that would not be sanctioned by moral laws?

*A.* I don't know what the habits are.

*Q.* You sometimes drink to excess?

*A.* I do not; I will defy any man on earth to say he has seen me drunk inside of twenty years.

*Q.* I have not asked if you were drunk, I say you sometimes drink to excess?

*A.* I do not.

*Q.* You say you have injured no man or woman?

*A.* I do.

*Q.* You did not injure your first wife by giving her cause to obtain a divorce?

*A.* I did not.

*Q.* Do you call that a benefit?

*A.* That is for her to judge.

*Q.* But it was sufficient grounds for a divorce?

*A.* It seems so.

*Q.* You say that no man ever comes to you to ask for a pardon, but what you always give it; is that a precedent, that they shall come to you?

*A.* If a man wrongs me it is his place to come to me, and if I am wrong I go to him, and I do not think I do myself any injustice in doing it either.

*Q.* You say you do not drink to excess, or never drank to excess?

*A.* I do.

*Q.* You admit that you are of an excitable nature?

*A.* I do.

*Q.* Is it not a fact that sometimes the influence of the liquor you have taken will render you, perhaps, a little more excitable?

*A.* I do not know that liquor does it particularly.

*Q.* That would be natural, I suppose?

*A.* I do not think that I ever in my life drank to excess, except a few months when I was under the doctor's charge, and was very nervous, and the doctor told me to

use liquor instead of anodynes; and it is reasonable to suppose that a man who holds the position I do on Broadway could not drink liquor to excess and hold the position I do —that is the charge you make.

*Q.* You described your father in your testimony as a mean man?

*A.* To himself.

*Q.* And you have referred to the uncharitable remarks that your mother has made concerning her other son, and have characterized the conduct of Miss Swords in your own house, and have praised yourself; won't you please call attention to any qualities that you possess that are superior to any of these people? [Objected to.]

*A.* As I said before, any qualities I have got I leave to my friends and enemies to judge, and I am willing to stand by their verdict.

*Q.* You have spoken of your dislike of Summit people?

*A.* I have.

*Q.* Quite positive?

*A.* Quite positive about what?

*Q.* In your dislike for them?

*A.* No; I am quite positive the people are not congenial to me.

*Q.* Do you know whether that was reciprocated or not?

*A.* I don't know anything about it; I never went among them, never mingled with them; I never took a meal in Summit in my life, outside of my father's house; never broke bread.

*Q.* Is that a fact?

*A.* Yes, sir; that is a fact.

*Q.* My recollection serves me, you dined with me at a table a great many years ago, I forget how many years ago, at Mr. Libby's house?

*A.* I met you at Mr. Libby's house, but not at table; I only staid there a few minutes; I was at Mr. Libby's house, and the only house I went in socially the whole time I was in Summst; I went there because Mr. Robbins

—I think they were married—and I was forced by my mother to go.

*Q.* Who was married?

*A.* I say, I think at that time Mr. Robbins was married to my sister, and Mr. Libby's wife was his sister, and I was forced to go to his crystal wedding.

*Q.* As far as my recollection serves me, it was in April, 1879?

*A.* Then your recollection is wrong, because the only time I went into his house was at his crystal wedding.

*Q.* It was before I went there to live?

*A.* You did not meet me there.

*Q.* And I went to live in Summit in 1880?

*A.* Well, you did not meet me there; you did not meet me, for I hardly knew Mr. Libby at that time.

*Q.* How did it happen that you hadn't any more to do with the Summit people than you say you had?

*A.* Because they were not congenial.

*Q.* Are the people of good character?

*A.* I suppose so; I don't know; it was not my business to investigate.

*Q.* You think they need investigation as to character?

*A.* I have nothing to do with their investigation; I like people to mind their business and I mind mine.

*Q.* You did not avoid them because of any want of character on their part?

*A.* No, sir, I did not; I suppose they were good enough people in their way, but their ways were not my ways.

*Q.* You speak as if this absence was voluntary on your part?

*A.* Entirely so.

*Q.* It did not arise from a lack of opportunity, did it?

*A.* I don't think it did; I was invited to call at a great many houses, but I never accepted the invitations; I know I have been invited to dine at Stayle's, Van Dine's, Von Doun's and Devoe's; I don't know that I was invited to Von Doun's, but I was at Van Dine's.

*Q.* Was there anything in the extreme respectability of these people that was distasteful to you?

*A.* It was not distasteful; in the first place I did not care to go into society; never did; never had the desire to go into society.

*Q.* Did you care to mingle with that class of people?

*A.* I get talk enough in my business, and when I come home at night I do not care to talk; I want to sit down and read, or play cards, or go to the theater.

*Q.* You did not play cards every evening, did you?

*A.* Pretty near.

*Q.* I thought you had two evenings a week?

*A.* That was in the set; I used to play soltaire nearly every evening in my life when I was in Summit.

*Q.* What were the relations that existed between your mother and her sister?

*A.* Their relations?

*Q.* Yes?

*A.* I have already sworn to that.

By Mr. Smith—I object to this as having been gone over before.

*Q.* Were they confidential, or otherwise?

*A.* I do not know what confidence they may have had when they were alone; they were fond of each other, that is all I know.

*Q.* I did not ask you whether they h d any confidence or not, I ask you what your observation was?

*A.* I did not see—confidence? I don't know what confidence they had; I know what I swore to.

*Q.* I ask you now, if from your observation of their relations and affections to each other, you could judge that their relations were confidential?

*A.* To a certain extent, yes; possibly.

*Q.* You spoke of this trip to Montreal; did you pay the expenses of it?

*A.* Yes, sir; every dollar of it.

*Q.* The hotel expenses?

*A.* The hotel expenses, and everything else.

*Q.* The railroad expenses?

*A.* I had passes.

*Q.* You testified in your direct examination that you called your father's attention to the necessity of giving your mother a list of her securities?

*A.* I did.

*Q.* Is the exhibit for proponent, June 17th, 1887, the list which was stated by him to have been made?

*A.* He told me of the statement; I say I did not see the statement until I saw it in the safe deposit company, and mother said it was the one father gave to her.

*Q.* There was no discussion between your father and you except the one you spoke of?

*A.* There was no discussion; I said to father, that I thought mother was the proper person to know what she had, and two or three days after that he said he had given her a statement.

*Q.* And after your father's death your mother told you this was the statement?

*A.* I said to mother, when she was coming in, "Have you got the statement that father gave you," and she said she had, and that father gave it to her.

*Q.* Your father said, "You can rest your mind easy about those securities, I have brought your mother a list?"

*A.* Yes, sir; that might not be the exact words, but that was the substance.

*Q.* After your father's death your mother said this was the list that your father brought her?

*A.* She told me that morning when she came into the safe deposit company; I asked if she had the statement that father gave her, and she said she had, and gave it to me as the list father had given her.

*Q.* Please state the date that your mother brought these securities to the safe deposit company?

*A.* I could not do it.

*Q* Don't you know when the box was opened there by her?

*A*. My impression is it was the latter part of February, but I could not tell you the date.

*Q*. It was after the writing of this letter, February 2d, 1884?

*A*. Yes, sir; I know it was as late as February.

*Q*. How soon after your father's death did you have a discussion with your mother in regard to her affairs?

*A*. I told you that once before; I said when she came down stairs, after her recovery—the latter part of January.

*Q*. I am not speaking about her relations or matters with your brother William, but about her business affairs?

*A*. I mean that that time was the first conversation I had.

*Q*. Well, did your mother express any anxiety about her affairs?

*A*. The first conversation I had—I told you the conversation as it occurred.

By Mr. Smith—You have been over that twice now, Mr. Curtis?

*Q*. Was there any discussion as to the amount of her estate?

*A*. I told you all that occurred at that discussion; I cannot tell you anything more, because nothing more occurred.

*Q*. I ask you if there was any discussion as to the amount of her estate?

*A*. There was not; because she did not know it, and I did not know it.

*Q*. Did you have any discussion with your mother as to the amount of her estate?

*A*. I did not.

*Q*. Prior to the time of checking these securities?

*A*. Neither prior or after.

*Q*. Didn't you take an interest in your mother's welfare?

*A.* I knew she had enough to live on, and I knew she would take the chances, like myself; I was not worried at all.

*Q.* It would have been natural for you, as a son, to express some interest in her estate?

*A.* Not the slightest; I determined not to have anything to do with it.

*Q.* Did you look after her investments?

*A.* No, sir; I had nothing to do with it; they were made in my father's lifetime.

*Q.* Didn't you advise her to change the investments to secure more interest?

*A.* I did not.

*Q.* Or make safer investments?

*A.* I did not.

*Q.* Nothing was said between you on that subject?

*A.* No, sir; I am a great believer in ready cash, and make very few investments myself.

*Q.* Did you say that to her?

*A.* I did not.

*Q.* Did you tell her that the Houston and Texas Central bonds were a poor investment at that time?

*A.* I did not.

*Q.* Had they defaulted in their interest at that time?

*A.* I don't think so

*Q.* When they did default, did you advise her to change them?

*A.* I did not, and they were not changed.

*Q.* You gave no advice on the subject at all?

*A.* I did not.

*Q.* Did you inform her of the cause of the non-payment of interest?

*A.* I did not; I didn't know myself.

*Q.* Did you consult any other bondholders?

*A.* I did not.

*Q.* Concerning the Houston and Texas Central bonds?

*A.* I did not.

*Q.* You did not know that the bonds were not paying?

*A.* I knew they were not paying.

*Q.* You knew they were not paying?

*A.* Yes, sir.

*Q.* What did you do with her bonds?

*A.* Put them in the safe.

*Q.* You had some familiarty with railroad investments?

*A.* Very little.

*Q.* How did it happen, then, that Mr. Foot came to advise you with regard to it?

*A.* Because I was in the business, and advised him what these roads were paying.

*Q.* You speculate sometimes?

*A.* Always have been.

*Q.* In railroad securities?

*A.* In stocks, yes.

*Q.* Does Mr. Stayle live in Summit now?

*A.* You ought to know that better than I do; I have not seen Mr. Stayle for a year.

*Q.* When you were last in Summit, did he live in Summit?

*A.* He did not.

*Q.* He was a tenant of your brother-in-law?

*A.* Yes, sir.

*Q.* Occupied the house owned by Mr. Robbins?

*A.* I suppose it is owned by Mr. Robbins.

*Q.* And he moved from there a year or two ago?

*A.* Yes, sir.

*Q.* And moved out of town?

*A.* Moved to New York.

*Q.* Do you know who the present tenant is?

*A.* Yes; I have been introduced to him; he is the secretary of the gas company.

*Q.* Do you know who the tenant was prior to him?

*A.* Yes.

*Q.* Who?

*A.* Charles Nelson, general superintendant of the Cincinnati and Dayton road; he lives in Cincinnati now.

*Q.* And the prior tenant to that was Mr. Stayle?

*A.* Yes, sir.

*Q.* Do you know how long Mr. Nelson lived there?

*A.* I don't think quite a year.

*Q.* Do you know how long the present tenant has lived there?

*A.* He took the house, I think, on the 1st of March, 1886.

*Q.* Mr. Stayle took the house the first of the preceding year?

*A.* Mr. Stayle?

*Q.* Mr. Nelson.

*A.* Yes; he took it; I think he took it before; I think Lathrop got Stayle to move out and let Nelson in a month or so before the lease expired.

*Q.* In 1886?

*A.* In 1885.

*Q.* When did Mr. Boulanger leave town?

*A.* He left there in the summer of 1886.

*Q.* When did Mr. Holmes move away from Summit?

*A.* Well, he moved the year previously, the 1st of May, 1885.

*Q.* How long was he in Summit?

*A.* One year, I think.

*Q.* And Mr. Von Doun, of whom you have spoken, do you know his business?

*A.* Yes, sir; he is with G. Ansick & Co.

*Q.* One of the clerks?

*A.* I think he has an interest, but I don't know; he is a relative of Mr. Ansick, or his wife is.

*Q.* At the time Mr. Nelson was in Summit, he was not superintendent of this Cincinnati and Dayton Road?

*A.* No, sir; he was assistant to the superintendent of the Rafton and ——— Powder Company; I want to change my testimony in one respect; I said I had not spent an

evening in anybody's house in Summit, except at card parties; I did spend one evening in Mr. De Forest's bowling-alley by special request; I had an invitation for one or two evenings a week, and one evening was by special request, and I went, and never went afterwards; my back was nearly broken on that occasion.

Redirect by Mr. Smith.

*Q.* There are two or three errors in the testimony that I noticed that I want Mr. Dumont to correct; page 820 of the testimony, the stenographer has taken the question as follows, "Did you say you did not play with Mr. Treat between January and June, 1884;" that ought to be "ride;" that is to the best of my recollection.

By Mr. Curtis—I think not, the context does not justify the inference.

By Mr. Smith—That is the way I understood it; then the answer is, "That is to the best of my recollection;" did you understand that Mr. Dumont, at the time, as referring to "play with Mr. Treat" or "riding with Mr. Treat?"

*A.* Riding.

*Q.* Do you know whether you did play with Mr. Treat between January and June, 1884?

*A.* I do.

*Q.* Did you?

*A.* I did.

*Q.* Where, on the cars?

*A.* On the cars and at the house.

*Q.* There is a question also on the same page, following the one I have just referred to, "You don't remember any occasion in which you and Frank played?" the answer is, "It is barely possible that there may have been one occasion when there was a party of four made up; I cannot remember that myself; I can remember two of the parties, but I can't remember the third;" was that answer as to playing cards or as to riding?

*A.* It was referring entirely to riding; I don't know who

Frank was; it is evidently a mistake of the stenographer, for I don't know any person by the name of Frank; I said there was one occasion when I drove double of Sunday afternoon, and the party consisted of four; one of that party was myself, one was Doctor Taylor, the druggist at Summit, and one was Mr. Chapman, and I could not remember who the fourth was; I have asked Mr. Chapman who it was, and he said he didn't know; and I asked Doctor Taylor, and he said he could not remember; but I say that other man may have been Treat, I don't know that it was or was not.

*Q.* Then as the question is put the answer to it is upon a different subject than it appears here?

*A.* Yes, sir.

*Q.* The question is "play?"

*A.* Yes, sir; and it refers to "riding."

*Q.* You say you do not remember this man "Frank"?

*A.* No, sir; there is no such man as Frank; I don't know anybody by the name of Frank.

By Mr. Curtis.

*Q.* What was Stayle's name?

*A.* He was not in Summit at the time; he never rode with me on Sunday.

Further redirect.

*Q.* On this occasion that you speak about, when a party of four was made up, there was no doubt—do you remember the occasion where you met?

*A.* Yes, sir, perfectly.

*Q.* Do you remember whether, during the ride, there was any private conversation between you and any other parties that accompanied you?

*A.* There could not be any private conversation that all could not hear; it was like a double buggy.

*Q.* Was there any that you remember?

*A.* There was none, positively.

*Q.* So that, if Mr. Treat was the fourth party, of which

you are not sure as to whether he was or not on that occasion, there was no private conversation with him upon the ride that you remember or know of?

*A.* I know positively there was no private conversation.

*Q.* Or with any others of the party?

*A.* No, sir.

*Q.* On page 835 of the testimony, in answer to the question in relation to driving to Morristown, the question was, "Didn't you stop anywhere?" answer, "I don't think I did; sometimes on my Morristown drives I stopped at Fred's place;" what did you mean by "Fred's place"?

*A.* I did not say Fred's place; I said Foot's place—my brother-in-law's place.

*Q.* So that the way it is reported by the stenographer as "Fred's place" is a mistake?

*A.* Yes, sir.

*Q.* Do you remember stopping anywhere except at Foot's place?

*A.* I did, on one or two occasions, but I don't think Mr. Treat was with me; later on, I think I stopped once or twice at the druggist's there; I forget what the names are—Smith, I think.

*Q.* The druggist's name was not "Fred"?

*A.* No, sir.

Adjourned until Tuesday, July 19th, 1887, at ten o'clock A. M.

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ELIZABETH, N. J., July 19th, 1887.

The taking of testimony in the above-entitled matter, continued, pursuant to adjournment.

Appearances as before.

*Theodore S. Dumont*, redirect examination continued.

By Mr. Riker—We wish to add at the end of our cross-

examination a motion to strike out all the testimony of Theodore Dumont, on the ground of the continued and willful refusal to answer the questions on cross-examination.

By Mr. Smith—What questions?

By Mr. Riker—The record shows the refusals; all those shown by the record.

By Mr. Smith—We do not know of any on the record; I would like to have counsel specify what questions they consider he refuses to answer.

By Mr. Riker—If the record does not show that settles it.

By Mr. Smith—We would like counsel to designate what questions they say, from the record, he refuses to answer.

By Mr. Riker—Such questions, as appear on the record, are refused to be answered.

By Mr. Smith—As I understand, you cannot designate any in particular now.

By Mr. Riker—We do not propose to designate any.

By Mr. Smith—I ask, can you designate any in particular now?

By Mr. Riker—We do not intend to.

By Mr. Smith—If you know of any you do not propose to designate them.

By Mr. Riker—No, sir.

By Mr. Curtis—Mr. Smith, you have been present in court during the examination, and heard the witness repeatedly refuse to answer questions, and the record shows that questions have been repeatedly unanswered by the witness, we stand by the record, and that is all we want to claim.

By Mr. Smith—We are willing to stand by it, too.

Examined by Mr. Smith.

*Q.* On page 567 of the testimony, in answer to the question as to how "do you fix the commencement of his riding, as in June, 1884," referring, I think, to Mr. Treat, you answered, among other things, "About the first two months of the year I never came out earlier than the five-

twenty train; I used to go home and get my dinner; I used to get through about half-past seven," &c.; what did you mean by "the first two months of the year" in that answer?

By Mr. Riker—Objected to as improper on redirect examination, and because the question embodies an answer which does not appear on the record.

*A.* I think it is a mistake of the stenographer's, or else I expressed myself very badly; I came out on the five-twenty train all months of the year, without any exception —summer and winter, spring and fall, I was always on the five-twenty train; what I meant by two months of the year—I said there was only about two months in the year in which we had daylight sufficiently long for me to take a ride after dinner.

*Q.* Those were the months of——[Interrupted.]

*A.* July and August, the longest days in the year, when we have daylight until about eight o'clock.

*Q.* And you do not remember using the words "the first," then, when you gave your testimony, and if you did it was an error?

*A.* Yes, sir.

*Q.* Which you desire to correct?

*A.* Yes, sir.

*Q.* On page 583, Mr. Dumont, you testified that you had been going to the race-course for the last ten years; how frequently were you in the habit of going? [Same objection.]

*A.* For two or three years, probably three or four years, perhaps not so long; I had been in the habit of going on Saturday afternoons.

*Q.* For how many months of the year?

*A.* A couple of months—through the summer months.

*Q.* Every year during the last ten years?

*A.* No, sir; for three or four years I had been in the habit of going down, until last year; I stopped in September, and have only been twice since.

*Q.* On page 584 of the testimony, in answer to a question referring to your answer to Mr. Treat, in the conversation with him, I think, or Mr. McConnell, I do not remember which, you said, as part of your answer, "I was sorry to hear it, and as a good gambler knew when to quit, as he was ahead, he had better stop, or he might not win another cent;" what did you mean by that? [Same objection.]

*A.* I meant to use a remark which is very frequent—which I hear, perhaps, every few weeks or months; it is a common expression among club men, "It is a good gambler who knows when to quit."

*Q.* That was the sense in which you desired to use it when giving the testimony at that time, was it?

*A.* Yes, sir.

*Q.* Did you refer to yourself in any way? [Objected to as not proper redirect, and as leading.]

*A.* In no way whatever, sir.

*Q.* On page 639 of the testimony, in answer to a question that was asked you, referring to a conversation between Miss Swords and yourself at the table, you stated, as part of the answer, "As I said, we were talking, and the name of Jay Gould came up, and Miss Swords said, 'I don't see how your mother can sit at this table and listen to you?'—I talked like a thief;" do you remember whether that was the way the testimony was given by you, and, if it was given, is it correct? [Same objection.]

*A.* No sir; what I said was that she did not see how my mother could sit at the table and listen to me—that I talked as if I was no better than a thief.

*Q.* Then the words "I talked like a thief," as reported, should be "you talked like a thief"?

*A.* That I personally talked as if I was no better than a thief.

*Q.* She said that, did she?

*A.* Yes, sir.

*Q.* To you?

*A.* Yes, sir. [Objected to as leading, and not proper redirect.]

*Q.* On page 640 of the testimony, in answer to a question asked you, you are reported as saying, among other things, "She said she was sorry for it"—that is, referring to your mother and referring to the conversation between yourself and Miss Swords—"she did not think Aunt Nettie meant anything by it; she was her only sister, and she did want me to leave the house, nor aunt Nettie either;" do you remember whether that was all that you said at that time, or whether there was any other word omitted there? [Same objection.]

*A.* She said she did not want me to leave the house.

*Q.* The word "not" is to be added.

*A.* Yes, sir.

By Mr. Riker—All this is objected to as not a proper method of correcting testimony.

*Q.* On page 641 of the testimony, in answer to a question, "Didn't you provoke her by some remark of yours?" your answer was, "I was talking to my father; when I was out there my father's seat was at the head of the table; mother's seat was always to my father's left;" do you remember whether that was the answer—that part of it—is correctly reported as given by you, or whether it was not? [Objected to as before.]

*A.* I was not correctly reported; I stated that my seat was to my father's left; my mother always sat opposite my father, at the other end of the table.

*Q.* And as it is reported, "mother's seat was always to my fatner's left," is incorrect, is it?

*A.* Yes, sir.

*Q.* And you desire to correct it in that respect?

*A.* Yes, sir.

*Q.* On page 647 of the testimony, you were asked, "Did your father make it a practice to discuss business at home?" your answer was, "Very rarely; his own business he never discussed;" you were then asked, "He was

radical about that?" your answer was, "So far as I was concerned;" you were then asked, "I mean so far as others were concerned?" your answer was, "Yes, sir; I have no recollection of his speaking of his business; I have heard him say it was dull, or he was going to be busy, that is all;" how do you explain that in connection with the testimony given by you, that your father frequently spoke about your brother William being taken into the business, to save it, or keep it for your mother and sister?

*A.* I can explain it very easily; what I meant by speaking of his business, was speaking about how much he earned, or how much his business was worth, or anything of that kind.

*Q.* The business referred to there was what they did in the place of business in New York?

*A.* Exactly so, sir.

*Q.* The amount of it, I suppose?

*A.* Yes, sir; the amount of it, and what they were earning.

*Q.* On page 688 of the testimony, in answer to a question asked you, you are reported as saying, "When I went to Florida the first time, I left with my cousin an additional order;" do you remember whether the word "additional" was made use of by you at that time or not? [Objected to, as not a proper method of correcting testimony.]

*A.* It was not; I had no other orders, and no interest in the stock market; I said "conditional" order.

*Q.* And if the word "additional" is so used, it was an error, and you desire to correct it, do you, to the word "conditional?"

*A.* Yes, sir.

*Q.* You were asked, on your cross-examination, page 764, among other things, "Did you tell her—that is, meaning your mother—that he was under no obligation to pay the funeral expenses of his father any more than you were?" your answer was, "I did not." Q. Did you tell

her that mourning bonnets were no part of the individual expense? A. No, sir. Q. You were silent on the subject; you allowed her to have the impression that she was defrauded by her son? A. No, sir. How do you explain the fact that you did not talk with your mother upon these subjects, Mr. Dumont?

*A.* I had given my mother all the facts so far as I knew them; I knew that my mother was a woman of strong common sense and cool judgment; I did not consider it my place to say anything for or against my brother.

*Q.* That was the reason, was it, that you had no talk with her upon this subject, as asked in the examination?

*A.* That was the only reason, sir.

*Q.* On page 775, in answer to a question that was asked you, referring to the conversation with your father, I think, when he spoke about putting your mother into your brother's charge or care, you were asked, "How did you come to refer to the subject again?" as reported, the answer is, "It was in connection with his not giving us anything out of the $1,000;" do you rememember whether that was as you gave it at the time, and if so, was it correct? [Objected to.]

*A.* It is not correct; I could not have given it when I did not know anything about $1,000; what I meant was the business.

*Q.* Do you remember using the words "$1,000?"

*A.* No, sir; that is what I said; I do not see what the $1,000 is.

*Q.* If you did, you desire to have the record corrected in that respect?

*A.* Yes, sir.

*Q.* Or if it was so reported by the stenographer?

*A.* Yes, sir.

*Q.* In your direct examination, in answer to a question, page 548, "Did your brother, in the conversation that you have just mentioned, use the expressions as you have stated them?" your answer was, "Just exactly, word for word;

I have never forgotten them, nor I will never forgive them;" on your cross examination, page 782, the question was asked you, "Did you mean to say, in your former examination, that you would never forgive him?" "A. I did. Q. And you said that in the conversation with him? A. No, sir. Q. You said you had made up your mind at that time that you would never forgive him? A. Yes, sir; I meant just exactly what I said; I give you plain English;" please explain the difference between the testimony on your direct and cross-examination upon that point?

[Objected to, because of the comparison made between witness' direct and cross-examination, and as asking him to explain the discrepancy between them.]

*A.* Well, virtually, they both meant the same thing; up to the time of my father's death, my brother and I were the best friends possible; no two brothers were on better terms than we were; I said, on my direct examination, that I had never forgotten and never forgiven the expression he used, that "by God, my mother would have to be at his mercy;" in my cross-examination I meant the same thing, that I would never forgive him for making that expression, or forgive him for making use of it.

*Q.* You have stated in your cross-examination, page 803, that Miss Swords, in speaking about your mother going to New York and buying things with Miss Swords, that Miss Swords made the remark that she thought your mother was foolish to buy things that she would never have any use for; was this so, in fact, or was that just what Miss Swords said about it?

*A.* Entirely what Miss Swords said; I do not know what my mother bought.

*Q.* You never knew of her buying things that she did not need?

*A.* No, sir; I never knew what she bought.

*Q.* Did Miss Swords say what she was buying these things for at the time, do you remember?

*A.* Yes, sir; I have heard her say that she bought napkins, and towels, and bed linen, and things of that kind, and that she had such a surplus of them already, and she was only buying them for Nettie to get them in the end; she also used to say that she never went to New York without buying something for Nettie or the baby.

*Q.* You testified, on your cross-examination, in speaking about your idea as to what your father's business was worth, page 811, to the question, "Did you say that that business was worth $10,000? A. I think I did. Q. Upon what do you base your judgment?" your answer was, "On my knowledge of what other brokers had sold their business for;" do you know of any broker selling his business—custom-house business?

*A.* I do, sir.

*Q.* Who?

*A.* Mr. Robbins.

*Q.* How much did he sell it for?

*A.* $3,000.

*Q.* How extensive a business was it in comparison with your father's and brother's?

*A.* As far as I know it was a very small business; as I understand it, they only kept one clerk.

*Q.* Was it the same kind of a business as this?

*A.* So far as I know.

*Q.* Custom-house brokerage business?

*A.* Pretended to be.

*Q.* And that was what you referred to in your cross-examination as to the sale of the business, that you based your judgment on, was it?

*A.* That, and also I have heard that other brokers—I heard that Charlie Cooper got a round sum for his business; I did not hear the amount.

*Q.* Was Charlie Cooper's business as extensive as your father's and brother's, do you know?

*A.* I never considered it so; I have been told it was not; you can only judge of the business by the amount of force

each one employed; Cooper, as I understand it, kept only one clerk.

*Q.* And the other person you spoke about?

*A.* I know he only kept one clerk; Charlie Chubbic only kept one.

*Q.* In your cross-examination, in speaking of a conversation with your father, in relation to the position of William in the business after his death, pages 862 and 863, you were asked in connection with the subject, "Can you recall any other conversation;" your answer was, "Not in the presence of William, and that conversation the remark that was made, made a very deep impression on me, and to a certain extent hurt me;" please explain what you meant by your answer, to a certain extent hurting you?

*A.* I can answer that in this way, perhaps I was to sensitive but I have always been very proud of my own career, without any assistance from my family, and I have heard from other members of the family that my father was proud of my success, but I cannot recall a single instance in all my life, that my father himself ever spoke to me commending me in any way, and I thought as Will's success was directly attributable to the assistance he received, while mine was to go on my own efforts, it struck me as being rather tough on me, that he should commend him in my presence and never commend me in his presence, and that is why it hurt me.

*Q.* And did that also serve to impress the conversation upon your memory?

*A.* Of course it did; I have never forgotten it on that account.

*Q.* Do you mean by that, commending you for your business qualities?

*A.* Exactly.

*Q.* You have been asked a number of questions on cross-examination in reference to your residence in Summit, before and after your father's death; your excitability; your feelings toward your brother William; the affection exist-

ing between your mother and yourself, and your conduct toward her, and in her presence, and your conversations with her; did you, at any time do anything either to your mother, or in her presence to induce her, or with the purpose or intention of inducing her, to make a will in your favor and unfavorable to your brother William? [Objected to as being improper redirect examination, and being leading, and as involving a conclusion other than a statement of facts.]

*A.* Never, at any time whatever; I knew my mother too well to think of attempting to influence her in any way against one of her own children; she was a woman of very strong mind, and she would be very apt to take it very serious if one child attempted to influence her in any way against the other.

*Q.* Did you, at any time, do anything either to your mother, or in her presence, to induce her, or with the purpose or intention of inducing her, to make a will in favor of your sister, Mrs. Robbins, and unfavorable to your brother William? [Same objection.]

*A.* I never did.

*Q.* Did you, at any time, do anything either to your mother, or in her presence, to induce her, or with the purpose or intention of inducing her, to make a will more favorable to your sister and yourself than to your brother William? [Same objection.]

*A.* I never did.

*Q.* Did you, at any time, say anything to your mother, or in her presence, to induce her, or with the purpose or intention of inducing her, to make a will in your favor and unfavorable to your brother William? [Same objection.]

*A.* I never did, in any way; I always told my mother that the money was hers to spend as she pleased.

*Q.* You have already testified to that; did you, at any time, say anything, either to your mother, or in her presence, to induce her, or with the purpose or intention of

inducing her, to make a will, or disposition of her property, in favor of your sister, Mrs. Robbins, unfavorable to your brother William? [Same objection.]

*A.* I never did, sir.

*Q.* Did you, at any time, say anything, either to your mother, or in her presence, to induce her, or with the purpose or intention of inducing her, to make a will, or disposition of her property, more favorable to your sister, Mrs. Robbins, and yourself, than to your brother William? [Objected to, because of being improper redirect, and leading, and not testimony as to facts, but as to his own conclusion as to the effect of facts.]

*A.* I never did.

*Q.* Mr. Greves says, in his testimony, page 65, that in the conversation with you, had with him, in reference to his going to Summit and drawing your mother's will, that you told him that among other things that she, your mother, wanted to make some bequests—wanted to give $5,000—to Bessie, and after the legacies to give the rest to yourself and Mrs. Robbins; and you were asked on cross-examination, page 847, whether you did not hear Mr. Greves' testimony with regard to what you told him in your office in regard to your mother's will, which you answered, that you did, and some other questions in relation to the same matter; please state, if you remember, as near as you can recall, anything you did say to Mr. Greves at that time about the disposition of your mother's property? [Objected to as improper redirect examination, as tending to either contradict proponents' own witness, or if to corroborate proponents' witness, is incompetent and leading.]

*A.* Well, it is a good while since the conversation occurred, sometime—several days elapsed from the time I saw Mr. Greves and my talk with my mother; Mr. Greves asked me, if I remember correctly, if I knew what disposition she was going to make of her property; I said I did not, but I inferred from the conversation with me that she was going to give Bessie about $5,000, and there probably

would be other legacies, but the bulk of it would probably come to Nettie and I.

*Q.* Did your mother have an attorney in New Jersey, that you know of?

*A.* Never to my knowledge.

*Q.* There is an entry on that paper, *Exhibit, June 17th, 1887*, in lead pencil, relating to a $1,000 bond; I do not recollect the bond now, do you remember when the entry in question was placed upon the paper?

*A.* I do, sir.

*Q.* You remember the fact of its being there, do you?

*A.* Yes, sir; I do, sir.

*Q.* What is it?

*A.* $1,000 of West Shore road.

*Q.* In lead pencil?

*A.* It is in lead pencil.

*Q.* Interlined, isn't it?

*A.* Yes, sir; the statement had on it in ink, in William H. Dumont's handwriting, two $1,000 bonds of the West Shore Road; in checking off the securities I found three, and I interlined one, and I put it in lead pencil.

*Q.* And that interlineation in lead pencil, one West Shore bond, is in your handwriting?

*A.* Yes, sir.

*Q.* And did at the time you checked the securities?

*A.* Yes, sir; in the safe deposit company.

*Q.* Your knowledge in relation to that paper, as I understand from your cross-examination, is derived entirely from your mother's estate?

*A.* Entirely so.

*Q.* From what statements she made to you at the time she brought it to the safe deposit company?

*A.* Yes, sir; and told me it was the statement my father gave her; that is all I know about it.

*Q.* And your testimony as to its being the paper is based on that statement entirely, is it?

*A.* Entirely so; yes, sir.

*Q.* You have no means of knowing whether your mother was correct in her statement or not, have you?

*A.* I have not; I said I never saw the statement which my father brought her, until she brought it to the safe deposit company.

*Q.* And that is the only reason you are so positive about it, is it?

*A.* That is the only reason, sir.

Recross examination by Mr. Curtis.

*Q.* What is the full name of Mr. Robbins, whose business you say you knew about the sale of?

*A.* You mean the custom-house broker?

*Q.* Yes?

*A.* I do not know; I have forgotten; it is some years since I have seen him.

*Q.* Where was his place of business?

*A.* At one time it was on that little street the other side of the custom-house, down in the basement; I don't remember the street; it is the lower end of the custom-house, below Williams street.

*Q.* When was the business sold?

*A.* I heard of it; he left New York, and I heard of the sale a short time ago; I asked a friend of his what had become of him, and he said he sold out and went away.

*Q.* Who is the friend?

*A.* Mr. Lakewood.

*Q.* What Lakewood?

*A.* Jack.

*Q.* What is his business?

*A.* When I first knew him he was in the firm of Terwilliger & Co., the safe company; he is now manager of the Merchant's Bouffet, on Broadway just below Cortlandt street.

*Q.* When did he tell you that Mr. Robbins sold out his business?

*A.* Only a short time ago; within a few weeks.

*Q.* Within a few weeks?

*A.* Yes, sir; within a few weeks he told me of his selling out his business.

*Q.* When was the business sold out?

*A.* I don't know?

*Q.* Didn't he tell you when it was sold out?

*A.* I don't remember that he did.

*Q.* Do you know when Mr. Robbins left New York?

*A.* No; I have not seen Mr. Robbins since; I don't think I have seen Mr. Robbins until about 1881; I think he sold out shortly after that time.

*Q.* Do you know to whom he sold his business?

*A.* I do not, sir.

*Q.* Do you know the terms of sale?

*A.* I don't know anything about it.

*Q.* When did Charlie Cooper sell out his business?

*A.* That I don't know; I heard some time ago that Charlie Cooper wanted to sell out his business, and I heard afterwards that he had sold out, but to whom he sold it to or what he got for it I don't know.

*Q.* Who told you about Charlie Cooper selling out his business?

*A.* I don't recollect now.

*Q.* Cannot you recall?

*A.* I cannot; I may have heard it at home; I don't know where I did hear it; I was not interested in it in any way, and I don't know of anything that would impress it upon my mind; I knew Charlie Cooper.

*Q.* Did Charlie Cooper tell you?

*A.* He did not.

*Q.* Do you know the terms of sale?

*A.* I tell you I don't know anything about it.

Adjourned until Saturday, September 17th, 1887, at ten A. M.

ELIZABETH, N. J., September 17th, 1887.

Examination in above matter adjourned by consent until October 7th, 1887.

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ELIZABETH, N. J., October 7th, 1887.

Examination of witnesses in the above matter adjourned until October 14th, 1887.

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ELIZABETH, N. J., October 14th, 1887.

Examination of witnesses continued.

Appearances as heretofore.

Counsel for proponents offers in evidence the following securities found in the box of Mary B. Dumont, at the Manhattan Safe Deposit Company, New York, by Charles A. Robbins, administrator *pendente lite*, and now in his possession as such administrator.

It is agreed that the originals need not be produced and marked at this time. It is also consented that the list of said securities, hereby produced, and marked "1, 2 and 3, October 14th," for identification, shall be taken as a correct and true list of said securities.

Mr. Riker formally objects to their relevancy.

The papers marked for identification, "X, Y and Z," and referred to by Theodore Dumont in his direct examination, on pages 609 to 613 of the testimony in this case, and by Miss Henrietta Swords in her direct and cross-examination, being again produced, counsel for proponents again calls upon and asks counsel for the caveators to offer the same in evidence.

The counsel for caveators sees no reason why he should

be called upon to offer the papers in evidence, and refuses so to do.

Counsel for proponents offers in evidence papers marked "X, Y and Z," for identification.

*Stephen R. Mullen*, being duly sworn, testified as follows:

Direct examination by Mr. Curtis.

*Q.* Where do you live?

*A.* Summit.

*Q.* What is your business?

*A.* Carpenter and builder.

*Q.* How long have you lived there?

*A.* Seventeen years.

*Q.* You were the assessor of the township last year, were you not?

*A.* I was.

*Q.* You are a contractor and builder of houses?

*A.* I am, sir; yes, sir.

*Q.* Do you know Mr. Frederick J. Treat?

*A.* I do, sir.

*Q.* How long have you known him?

*A.* I think it is four or five years, if my memory serves me right.

*Q.* Did you build his house in Summit?

*A.* I did.

*Q.* Do you know Mr. Treat's reputation for truth and veracity in the township? [Objected to by Mr. Smith.]

*A.* I do.

*Q.* What is it?

*A.* I should say it was good.

*Q.* Would you believe him under oath?

*A.* I would.

Cross-examination by Mr. Smith.

*Q.* Have you ever talked with anybody as to his truth and veracity, Mr. Mullen?

*A.* I have not.

*Q.* Have you ever heard it talked about?

*A.* I have not.

*Q.* How intimate were you with Mr. Treat?

*A.* As intimate as anybody would be in building for him.

*Q.* Visit his family?

*A.* I did not.

*Q.* When did you build for him?

*A.* It may be four years ago, and it may be five years ago; I wouldn't say which year, sir.

*Q.* And all your acquaintance with him was as builder?

*A.* Building his house for him; dealings with him.

*Q.* In what way?

*A.* Building his house.

*Q.* Outside of that you had no other business relations with him, did you?

*A.* No; building his fence, and some other little work we done for him.

*Q.* And you did not visit him socially, nor he you, did you?

*A.* No, sir.

*Q.* How near to him did you live?

*A.* Well, it is probably a quarter of a mile, not over that, probably not quite.

*Q.* He doesn't live in Summit now, does he?

*A.* He does not.

*Q.* At the time you were building this house where did you live—how far from Mr. Treat's house?

*A.* Probably, at that time I lived, perhaps, nearly a mile from Mr. Treat, where he built his house.

Redirect examination by Mr. Curtis.

*Q.* After you built his house you had occasion to meet him from time to time?

*A.* Yes, sir.

*Q.* Did meet him from time to time?

*A.* Yes, sir.

Recross-examination by Mr. Smith.

*Q.* Where; in the street?

*A.* No, sir; went to his house.

*Q.* To get your money?

*A.* I did.

*Q.* I say, to get your money?

*A.* Yes, sir.

Redirect examination by Mr. Curtis.

*Q.* You met him about town?

*A.* Yes, sir.

*Q.* You knew of him, heard of him about town?

*A.* I did.

*Q.* Did you know Mr. Treat's friends and neighbors?

*A.* Yes, sir.

*Q.* That is all.

*Andrew Jackson Carl*, being duly sworn, testified as follows:

Direct examination by Mr. Riker.

*Q.* Mr. Carl, where are you living now?

*A.* Milburn, New Jersey.

*Q.* How long have you lived there?

*A.* I have lived in Milburn seventeen years.

*Q.* What was your business when you first came to Milburn?

*A.* I was a diamond-setter in the city of New York.

*Q.* When did you give up your business as a jeweler and diamond-setter?

*A.* About five years ago; it will be five years this coming spring—March.

*Q.* You are now employed at the Milburn hotel?

*A.* Yes, sir.

*Q.* And have been for how long?

*A.* It will be five years this coming March.

*Q.* You assist the proprietor at the bar, do you?

*A.* Yes, sir.

*Q.* Do you know Theodore Dumont?

*A.* I used to know him very well.

*Q.* W. M. Chapman?

*A.* Yes, sir.

*Q.* And you know Mr. Treat?

*A.* I am acquainted with Mr. Treat; a good many years before I went there, I used to meet him on the train; for eighteen years we rode together up and down; every day used to meet him; met him pretty much every day for a number of years.

*Q.* Did you ever play whist with him on the train?

*A.* Yes, sir; I have.

*Q.* Now, referring to the years 1883 and 1884, can you remember having seen—and for the purpose of fixing dates, I will tell you that Mr. Dumont's father died in January, 1884—can you remember having seen Mr. Theodore Dumont in 1883 and 1884?

*A.* Oh, yes, sir; I seen him a great many times before his father's death; used to hear him speak of his father's sickness.

*Q.* And did you see him after that?

*A.* Yes, sir.

*Q.* Now, where did you see him?

*A.* I saw him at the hotel.

*Q.* Did you, during those years, see Mr. Treat?

*A.* Yes, sir.

*Q.* Where did you see him?

*A.* Same place.

*Q.* And Mr. Chapman?

*A.* Yes, sir.

*Q.* Tell us, if you can, whether you have ever seen Mr. Treat and Mr. Dumont come to the hotel in Milburn together?

*A.* Oh, yes, sir; frequently together.

*Q.* During the years 1883 and 1884?

*A.* Yes, sir.

*Q.* Do you know how they would come, or how they would get there?

*A.* They would come always that I ever saw them in a carriage.

*Q.* Now, were they usually alone, or were there usually some other people with them?

Mr. Smith—That question is rather leading, Mr. Riker.

*A.* Well, there was often three of them come together, that would be Chapman, Mr. Treat and Dumont; I have seen them together.

*Q.* Did you ever see a gentleman by the name of Mr. Allen with them?

*A.* Often.

*Q.* He would come to the place?

*A.* Often, with them.

*Q.* You have seen Mr. Allen with Mr. Dumont, do I understand you?

*A.* Oh, yes, sir; used to see them very often together, very often.

[This testimony objected to by Mr. Smith as irrelevant and immaterial.]

*Q.* Mr. Carl, when you say you have seen them there together, could you tell how they came to the house, that is, outside, or did you simply see them come in the room together?

*A.* Well, they came—in the winter time they came often in a sleigh; I saw that myself; in the spring and summer they would come in a carriage.

*Q.* Can you give us an idea of how frequently you saw Mr. Dumont and Mr. Treat come in there together?

*A.* Well, I couldn't, they used to come so often; they appeared to be very intimate friends, as intimate as any two could be, as far as I saw.

*Q.* Do you know Mr. Dumont's buggy, or did you know it at that time—horse and buggy?

*A.* I did.



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*Q.* Do you know whether they came with that horse and buggy or not?

*A.* Yes, sir?

*Q.* Mr. Treat and Mr. Dumont?

*A.* Yes, sir.

*Q.* You have said that you have seen Mr. Chapman and Mr. Dumont and Mr. Treat there together; can you recall any time when you saw the conveyance in which they came, or do you simply remember seeing them in the room together?

*A.* That is all.

*Q.* You couldn't say how on those occasions they came?

*A.* No, sir.

*Q.* No more than that they were in the room together?

*A.* Couldn't tell whether they came three on a seat, or two seat.

*Q.* Did Mr. Dumont ever come there alone with Mr. Chapman?

*A.* Oh, frequently.

*Q.* And along with Mr. Allen?

*A.* Yes, sir.

*Q.* Do I understand that it was much more frequent that they came two at a time, or more?

*A.* More frequent together, Chapman and Dumont.

*Q.* What I want to get at is the comparative number of times they were there in twos or threes, and four.

*A.* Mr. Chapman and Mr. Dumont came more frequent together—those two.

Cross-examination by Mr. Smith.

*Q.* Are you the bartender there, Mr. Carl?

*A.* Yes, sir.

*Q.* At this place that you speak about?

*A.* Yes, sir.

*Q.* You have known Mr. Chapman for a number of years, have you, Mr. Carl?

*A.* Yes, sir; known him for over twelve years.

*Q.* He comes there alone sometimes, doesn't he?

*A.* Well, he used to; he is very frequently there later years; two years.

*Q.* Up to within the last two years he was there very frequently alone?

*A.* Well, not very often alone, unless he came with the freeholders, or some of them; he would very seldom come alone.

*Q.* He most generally come with Mr. Theodore Dumont, did he?

*A.* Yes, sir.

*Q.* In Mr. Theodore Dumont's buggy?

*A.* Yes, sir.

*Q.* What days usually of the week?

*A.* Well, it was usually on Sunday; I suppose they had more time.

*Q.* That is the day that you remember most of their coming together?

*A.* Yes, sir.

*Q.* A good many people come into this place, don't they, Mr. Carl, on Sunday afternoons?

*A.* They used to.

*Q.* I mean formerly.

*A.* We have not kept open now——

*Q.* When the place was open.

*A.* Well, it never was open; there was certain friends that used to come in.

*Q.* There were quite a number there usually Sunday afternoons, weren't there?

*A.* Yes, sir.

*Q.* When Mr. Treat and Mr. Chapman and Mr. Dumont were there together, you have no means of knowing whether they came together in the same vehicle or not, have you?

*A.* Well, I think they did sometimes, but at times Mr. Chapman used to have his own conveyance; they would

usually be there together perhaps, if they didn't come together.

*Q.* Yes; but I say you have no means of knowing definitely each time whether they came together or in separate vehicles, have you?

*A.* No; I have not, but if the three come together they generally come in different conveyances.

*Q.* It would be rather unusual for the three of them to come in a small buggy like Mr. Dumont's, wouldn't it?

*A.* Yes, sir.

*Q.* You don't remember any time when the three of them came in a buggy together, do you?

*A.* No, sir, I don't; they came there often, but I couldn't see.

*Q.* You don't remember any time when they came in Mr. Dumont's buggy, the three of them?

*A.* No, sir, I don't.

*Q.* You say you were inside and couldn't see very well how the people came, could you?

*A.* No, sir, I couldn't.

*Q.* Didn't pay very much attention to that, did you?

*A.* [No answer.]

*Q.* You remember Mr. Theodore Dumont, particularly Mr. Theodore Dumont, being there several times, you say, before his father's death—came there during his father's sickness, did he?

*A.* Yes, sir.

*Q.* On Sundays?

*A.* Well, Sundays and week days both.

*William F. Edwards*, being duly sworn, testified as follows:

Direct examination by Mr. Curtis.

*Q.* Where do you reside, Mr. Edwards?

*A.* Summit.

*Q.* How long have you resided there?

*A.* All my life—ever since it was a township.

*Q.* What is your business?

*A.* We are in the machine business.

*Q.* Constructors of machinery?

*A.* Yes, sir.

*Q.* And contractors also in the building of machinery?

*A.* Yes, sir.

*Q.* Do you know Mr. Frederick J. Treat?

*A.* I do.

*Q.* How long have you known him?

*A.* Well, I should say I have known him ten years; I have known him ever since he moved to Chatham.

*Q.* Living in Chatham?

*A.* Yes, sir.

*Q.* Did you know him after he moved to Summit?

*A.* Yes, sir.

*Q.* You have known him ever since?

*A.* Yes, sir.

*Q.* Have you ever held any public office in Summit?

*A.* Yes, sir.

*Q.* What?

*A.* Member of the township committee.

*Q.* When?

*A.* Two years ago.

*Q.* Elected on an independent ticket, weren't you?

*A.* Yes, sir.

*Q.* Although your politics are Republican?

*A.* Yes, sir.

*Q.* Did you ever attend the race-track at Sheepshead Bay?

*A.* I did, sir.

*Q.* Do you remember being there in September, 1883?

*A.* Well, I don't remember the month; I never was at Sheepshead Bay but twice in my life.

*Q.* Did you ever see Mr. Treat there?

*A.* I did.

*Q.* Do you know Mr. William N. Chapman, of Summit?

*A.* Yes, sir.

*Q.* And did you ever see Mr. Chapman there?

*A.* I did.

Mr. Smith—All this line of testimony is objected to as irrelevant and immaterial, not in rebuttal of any testimony produced on the part of the proponent.

*Q.* Did you ever see Mr. Chapman there on the same day that you saw Mr. Treat?

*A.* I did, sir.

*Q.* Have you any way of fixing your recollection as to that fact?

*A.* Well, I can't fix the date exactly.

*Q.* As to the circumstance of meeting them there together?

*A.* Oh, yes; they were together.

*Q.* Well, state how?

*A.* They were together when we met them at the grand stand; it was the day that we went down to see Eole and Bushwhacker run the four-mile race, my two brothers and myself, and that is the day we saw them there.

*Q.* Which won the race?

*A.* Eole won the race.

*Q.* Who was in company with Mr. Treat and Mr. Chapman?

*A.* I don't know as any one; I don't recollect of any one else being with them; I don't remember now.

*Q.* You are quite sure they were together?

*A.* Oh, yes.

*Q.* Did you have any conversation with them?

*A.* Yes, sir.

*Q.* With Mr. Chapman?

*A.* With Mr. Chapman, too; yes, sir.

*Q.* With Mr. Treat?

*A.* Yes, sir.

*Q.* Do you remember any of it?

Mr. Smith—I object to all that as irrelevant and immeterial.

*A.* Yes; I remember distinctly that we wanted to see Parole, that is Mr. Lorillard's famous horse that won the races in England; he was there that day, and Mr. Chapman said he would try to get us in through the fence to go in the stables to see him; we all went over, but we couldn't get in; I remember that distinctly.

*Q.* Who were with you, if any one?

*A.* My brother Charles and my brother John.

*Q.* Do you know Mr. Treat's reputation for truth and veracity, both in Summit and Chatham?

*A.* Good, as far as I ever knew.

*Q.* Do you know Mr. Treat, socially, in both places?

*A.* Yes, sir.

*Q.* Are you acquainted with his friends—were you acquainted with his friends?

*A.* Yes, sir.

*Q.* At the time you were a member of the township committee, was he a candidate or elected to any office?

*A.* He was elected to the office of collector.

*Q.* Did he qualify?

*A.* Well, no; I don't think he did qualify; no, he didn't qualify.

*Q.* What, if anything, did you do towards helping him qualify?

*A.* Well, I was desirous of having Mr. Treat serve as our collector, because I thought he would make an excellent man for it, and he couldn't get the bonds, and I tried to get his bonds for him of some of our friends.

*Q.* You had confidence in his integrity and honesty?

*A.* I did; yes, sir.

*Q.* Would you believe Mr. Treat under oath?

*A.* Yes, sir.

Cross-examination by Mr. Smith.

*Q.* You were not engaged in any business with Mr. Treat—dealings with him in a business way—were you, Mr. Edwards?

*A.* I don't know as we ever did; no, sir.

*Q.* How far did you live from Mr. Treat when he lived in Summit?

*A.* A little over a mile.

*Q.* You don't live right in the village, do you?

*A.* No, sir.

*Q.* Is your manufactory in Summit—or your place of business?

*A.* Yes, sir.

*Q.* In the village, or outside of the village?

*A.* On the outskirts; outside, sir.

*Q.* About how far from the village proper?

*A.* Well, from the depot we call it, sir, it is a mile and a quarter, at least; I should say between that and a mile and a half.

*Q.* Is your residence in that neighborhood?

*A.* Yes, sir.

*Q.* Nearer the business place?

*A.* Yes, sir; nearer the depot.

*Q.* How much nearer?

*A.* Nearly a quarter of a mile, I guess it is, take it by the road.

*Q.* Which of Mr. Treat's friends did you know intimately in Summit?

*A.* I am sure I couldn't answer that; I don't know who were his friends, as I know of.

*Q.* You don't know who Mr. Treat's friends in particular were, do you?

*A.* I don't know as I do; no, I am not particular about that; I never inquired into that business.

*Q.* Who were his intimates, do you know?

*A.* Well, I don't know as I know that either, specially.

*Q.* Do you know any persons with whom Mr. Treat had business relations in Summit?

*A.* I don't know as I do, of my own knowledge.

*Q.* Do you know with whom Mr. Treat had dealings in Summit?

*A.* No, sir; I couldn't say that I do.

*Q.* The time that you speak about being down at the race-course, the first you saw Mr. Treat was at the track, wasn't it, on that day?

*A.* Yes, sir; I think it was.

*Q.* And then he was in the company of Mr. Chapman, was he?

*A.* Yes, sir.

*Q.* When did you say that was?

*A.* I couldn't fix the date.

*Q.* Could you fix the month?

*A.* No, sir, I couldn't.

*Q.* Do you fix the year?

*A.* Well, it was three years ago, at any rate, maybe more; I couldn't tell you the year, either; it was the last time I was at the track.

*Q.* It was three years ago, and maybe more, but you are not positive as to the year?

*A.* No, sir; that was a special day that I went down with my brother to see that race; I never saw a horse-race before.

*Q.* Did you visit at Mr. Treat's house—visit his family?

*A.* No, sir; I don't think I ever visited him when he was there at Summit.

Redirect examination by Mr. Curtis.

*Q.* Do you know Edward A. Dumont?

*A.* No, sir, I am not acquainted with him.

*Q.* Do you know Mr. Chapman?

*A.* Yes, sir.

*Q.* How long have you known him? [Objected to by Mr. Smith as not proper rebuttal of cross-examination.]

*A.* A good many years.

*Q.* Do you know Charles K. Strong, of Summit?

*A.* Yes, sir. [Objected to by Mr. Smith as irrelevant and immaterial.]

*Q.* How long have you known him?

*A.* Well, a good many years; I couldn't tell you the number of years.

*Q.* He was a neighbor of Mr. Treat's, wasn't he?

*A.* Yes, sir.

*Q.* Do you know Dr. Taylor?

*A.* Yes, sir.

*Q.* How long have you known him?

*A.* Ever since he came to Summit.

*Q.* He was a neighbor of Mr. Treat's also, wasn't he?

*A.* Yes, sir.

*Q.* When Mr. Treat lived at Chatham, did you ever meet him socially?

*A.* Yes, sir. [All this objected to by Mr. Smith as irrelevant and immaterial.]

*Q.* Did he call at your house?

*A.* I think he has; yes, sir, at my mother's house; we were all living together then.

*Q.* He called upon your family?

*A.* Yes, sir.

*Q.* Members of it?

*A.* Yes, sir.

*Q.* How large is your acquaintance in Summit and Chatham?

*A.* Well, I know a good many people there.

*Q.* Know a great many people in both places?

*A.* Yes, sir; in Summit new-comers come in, and I am not so well acquainted; Summit changes a good deal, but the old residents, I think I know them all nearly.

*Q.* Do you know where I live?

*A.* Yes, sir.

*Q.* You live as near the station as I do, don't you?

*A.* I think I do; I think we are about on one ring, according to the map.

Recross-examination by Mr. Smith.

*Q.* Did you have any business relations with Mr. Treat in Chatham?

*A.* Don't think we did, sir.

Redirect examination by Mr. Curtis.

*Q.* Do you know Stephen R. Mullen?

*A.* Yes, sir.

*Q.* How long have you known him?

*A.* Several years.

Recross examination by Mr. Smith.

*Q.* Do you know Edward J. Muldowny?

*A.* Yes, sir.

*Q.* Edward B. Kelley?

*A.* Yes, sir.

*Q.* They are residents of Summit, aren't they?

*A.* Yes, sir.

*Q.* These people that you have spoken about knowing, Charles K. Strong, Dr. Taylor, Muldowny and Kelley, you don't know these people socially, do you—visit their houses?

*A.* Don't know as I have.

*Q.* When you say you know them, you know them meeting them on the street and bowing to them, I suppose.

*A.* Meeting them every day and talking to them.

*Q.* You say you know a large number of people in Summit?

*A.* Yes, sir.

*Q.* Did you belong to any political clubs or organizations that Mr. Treat belonged to?

*A.* No, sir.

Redirect examination by Mr. Curtis.

*Q.* Mr. Treat was a Democrat and you were a Republican?

*A.* That is what I have always understood.

*F. J. Treat*, being duly sworn, testified as follows:

Direct examination by Mr. Curtis.

*Q.* Do you recall the time when you first attended a race at Sheepshead Bay, or anywhere else?

*A.* Yes, sir.

*Q.* When was it?

*A.* It was in what they call the September meeting of 1883, that is, the fall meeting of 1883, in September.

*Q.* Do you remember what the particular racing event of that day was?

*A.* Yes, sir; there was a long distance race; I don't exactly remember, but it was between Eole and Bush-whacker.

*Q.* Do you recall many Summit people there that day?

*A.* Yes, sir.

*Q.* From Chatham?

*A.* The three Edwards boys were there.

*Q.* Who were with you?

*A.* Mr. Chapman, at the time I met them.

*Q.* At whose request and invitation did you go?

*A.* Mr. Chapman's.

*Q.* Did you go to the race-course with him?

*A.* Yes, sir.

Mr. Smith—I object to this as not in rebutttal of any testimony offered here; it has already been testified to by Mr. Treat on his direct examination.

*Q.* When Mr. Chapman testifies that you did not go with him to the race-track, is it true or false, the statement?

*A.* It is false; I can tell the way I happened to come to go. [Objected to by Mr. Smith, on the ground that it is not in rebuttal of any testimony offered on the part of the proponents, and that it is irrelevant and incompetent at this state of the case.]

Witness—I was going over on the boat, or walking up Barclay street with Mr. Dumont, I forget which now, and he was talking about going; he used to go over Saturday afternoons to the races; this was Saturday morning; he was talking about going to the races, and

I was inquiring about it; I told him that I had never been to a race-track; he says, "I am sorry; yesterday I was down, and I could have got you a badge;" he says, "You can see Chap," and, says he, "Maybe he can get you Billy O'Brien's badge;" Billy O'Brien was the sporting editor of the paper Chapman was connected with, did the sporting business, that is, got up prize fights, and such things as that; he backed different ones; and so I went to Chapman; Chapman wasn't on the train that morning; he came down later; I went to Chapman's office; he was not in; I went down to the clearing office and met Chapman coming up Murray street; I told him what Thee. had said; he said, "I can't get it; Billy is using his own today; I would like to have you go with me, though; if you will go on my invitation, I will pay all your expenses;" he said, "You come and go; will you go?" I said, "Yes, I will go;" he said, "You meet me around here in about half an hour;" it was then eleven o'clock; I met him and went to the Astor House, and then went down to the Whitehall Street ferry, Whitehall Street and Manhattan Street line, and there we met Thee. Dumont and Phillip Martin on the boat; I was introduced to Martin, and while on the boat, the only thing that I remember was Chapman buying what he called a "tip" on the races; I remember hearing the boys calling it tips on the races; I asked him what it was, and he bought one to show me; I went on the train with him, and he bought my ticket when we got to the track; if you wish, I can tell every race that was run, just what Chapman bet, what horses he bet on, and what horses Dumont bet on.

*Q.* Phillip Martin testifies that you was at the race-track for the first time in company with him, is that a fact?

*A.* No, sir; well, he was there with the company going down, that is, he was with Dumont; when I got aboard the boat he was there with Mr. Dumont—T. Dumont.

*Q.* You didn't go alone with him?

*A.* No, sir; not the first time; no, sir.

*Q.* He also testifies that he advised you not to bet on the races; is that true?

*A.* No, sir; it is not true.

*Q.* He also testifies that you told him not to let Dumont know you had bet on the races; is that true?

*A.* No, sir; it is not, because Dumont loaned me his pass to go there; I told Dumont when I borrowed the pass that I didn't know anything about it; he said, "You go along with Martin; he is a man that knows all about the horses;" he used to be barber at the Astor House or —— House; it is a resort where all the gamblers put up; he said, "If there is any good thing he will get it for you;" he says, "You do as he says, and you will come out all right;" that day I was $290 in; the first race I bet on I won $148.60.

*Q.* This was subsequent to the occasion he told about?

*A.* That was the following June.

*Q.* Mr. McConnell, in his testimony, testifies that it was usual for you, on leaving the ferry-boat in the morning, to leave the boat ahead of Mr. Dumont and himself; is that a fact?

*A.* Not usually; no, sir; I have done it when we have missed the boat, but never any other times; we have missed the boats sometimes at Hoboken—foggy weather, or something like that; when we missed our boat, why, I would run, because I would not get to the bank before quarter past nine.

*Q.* The usual boat fetched you there on time?

*A.* Yes, sir, a few minutes before nine; we got young men coming down on it now, and get there every morning before nine o'clock.

*Q.* Mr. McConnell testifies that he and Theodore Dumont walked up the street together; is that a fact?

[All this line of testimony objected to by Mr. Smith as not rebuttal.]

*A.* I used to walk up with him as far as Church street,

as far as Park Place, up to Martin's barber shop, every morning with him regular; and about every morning he would ask me to telephone for his boy to come down to the barber's; he generally would have a package of flowers; used to have flowers come down on the train from Madison; generally took that box of flowers as far as the barber's; I don't know where he was going to send the flowers; sent them somewhere.

*Q.* Mr. McConnell also testifies, in substance, that you began playing cards at Dumont's house in September, 1884; is that a fact?

*A.* No, sir; I played when I lived at Chatham, and after I lived in Summit.

*Q.* What date was that?

*A.* I moved there in August.

*Q.* What year?

*A.* 1883.

*Q.* When, if you know, did Mr. McConnell begin playing cards at the house with Mr. Dumont?

*A.* If I am not mistaken, it was the spring of—in fact, I know the year; it was either a spring month—it was either June or May, 1885; there was a cause for his coming there to play.

*Q.* How are you able to refresh your memory on that point?

*A.* Because we had a quarrel at Mr. Dumont's house—Mr. De Forest and Mr. Dumont and myself—the Saturday previous to the time he played there, and we were to play Monday night; the Saturday night game was not one of our regular night games; Mr. De Forest got it up on the train—wanted to know if we wouldn't have a game of whist, and they spoke to Mr. Von Doun, and he said he would come, and we went to Mr. Dumont's that night, and Mr. Dumont was continually nagging me on account of the plays I made, and Mr. De Forest took it up, and they had a battle of words; Mr. Dumont ordered him out of the house, and he told him he would go when he got

ready, but he did go, finally; Allen was there that night, I think; I am not certain of that, but pretty sure he was; the next morning—Saturday morning—he went up to Madison and got Mac. to come down and play with him Monday night; after that he went to Von Doun, but Von Doun at first refused to come; he said De Forest —— [Interrupted.] [Objected to by Mr. Smith, as not responsive to the question in the first place, and not material.]

*Q.* Was it the circumstance of that quarrel which enables you to fix the date when Mr. McConnell first played cards at the house?

*A.* Yes, sir.

*Q.* State, if you can, whether or not McConnell had played cards—any circumstance that enables you to recall that Mr. McConnell did not play cards in the fall or summer of 1884 at Mr. Dumont's house?

*A.* No, sir; I know he didn't.

*Q.* Well, how do you recall it?

*A.* I remember as late as the fall of 1884, I think it was October, that we had a political meeting there at Summit at the square in front of Kelley's store, and that the club from Madison came down; Mr. Hopkins, Mr. McConnell, and I forget how many more, they were the officers, and after they got there I met them in the crowd; I forget who they were; I know McConnell was there; I am pretty sure Hopkins was; they inquired where Dumont lived—Mac. did

*Q.* Mr. McConnell inquired?

*A.* Yes, sir; I said, "If you want to see him, he is up on the stand there now;" he did not at that time know where he lived.

*Q.* Did you direct him to his house?

*A.* No, sir, I didn't; I told him he was on the stand.

*Q.* He asked you where he lived?

*A.* He asked me where he lived.

*Q.* That was the presidential election?

*A.* Presidential election of 1884; yes, sir.

*Q.* Mr. Dumont testifies that you did not ride with him once between January and June, 1884; is that a fact?

*A.* No, sir. [Objected to by Mr. Smith on the same ground as before, that it is not proper rebuttal, that it is incompetent and irrelevant.]

*Q.* You say you commenced riding in June, 1884; is that a fact? [Objected to by Mr. Smith on the same ground as before.]

*A.* No, sir; I rode with him as soon as I moved to Summit, off and on; not every Sunday, but very often.

*Q.* Mr. Dumont also states in his testimony that he rarely saw you in the evening, except in playing whist; what is the fact about that? [Objected to by Mr. Smith, on the same ground as before.]

*A.* He used to send his carriage around after me very often.

*Q.* Did he come to your house?

*A.* Yes, sir; been there a great many times.

*Q.* Has he ever been there more than twice?

*A.* Yes, sir; a great many more times.

*Q.* He testifies that you first drove him to Newark in May, 1885; what is the fact about that? [Objected to by Mr. Smith, on the same ground as before.]

*A.* Sooner than that, because there was snow on the ground; he came around after me in a sleigh; I said, "You don't expect to get to Newark in a sleigh, do you?" he said, "Why?" there was snow up there, but I said on the macadamised road there will not be any snow; he went to his house and got his buggy, and came after me; we didn't have sleighing until May, so I don't see how it could have been in May.

*Q.* He testifies that he told you he was sorry you had won on the horse races; is that a fact?

*A.* No, sir. [Objected to by Mr. Smith, on the same ground as before.]

*Q.* Do you know whether or not Mr. Theodore Dumont ever carried a concealed weapon?

*A.* Yes, once I know of his doing it.

*Q.* When was it?

*A.* It was election night.

*Q.* What was the weapon?

*A.* It was a small pocket-dagger.

*Q.* State, if you know, when Mr. Boularger moved to Summit? [Objected to by Mr. Smith, on the same ground as before.]

*A.* He moved there; in fact, I know he did, in 1884.

*Q.* What time?

*A.* Either May or June; first of May or June.

*Q.* And when did you play cards at his house? [Objected to by Mr. Smith, on same ground as before.]

*A.* Not until the next winter; he didn't play with us until the next winter, although I used to play with him on the train at night.

*Q.* Mr. Dumont says he had no conversation with you upon the train, or upon the ferry-boat, regarding his difficulties with his brother, shortly after the death of his father; how about that statement, is it true, or false? [Objected to by Mr. Smith, on same ground as before.]

*A.* False.

*Q.* Have you any means of fixing that conversation on that point? [Objected to by Mr. Smith, on same ground as before.]

*A.* I think that I had another conversation at the same time with him; as near as I can remember, what brought it around, he was telling me about it, and I also told him that he was not the only one that had trouble; that I was having trouble; he asked me what was the matter now; I told him that I was getting behind; it was only sooner or later that I would have to throw my house up; he says, as far as that you owe me is concerned, you can let that go two or three months.

*Q.* At the same time?

*A.* It was at the same time; I had agreed, I believe, to pay him $12.50 a month on a note.

*Q.* As to the place where that conversation was held?

*A.* I am certain it was on the ferry-boat, on the other side; we generally sat on the side where the heater was, but this morning we were on the other side; we crossed over there, I think, and were talking.

No cross-examination.

*Charles P. Edwards*, being duly sworn, testified as follows:

Direct examination by Mr. Curtis.

*Q.* Where do you reside?

*A.* Summit.

*Q.* What is your business?

*A.* Millwright and machinist.

*Q.* How long have you resided in Summit?

*A.* I guess twenty-five years; I lived within a mile of it all my life.

*Q.* You are a brother of William P. Edwards, who has testified here to-day?

*A.* Yes, sir.

*Q.* Associated with him in business?

*A.* Yes, sir.

*Q.* You are now engaged in putting up a paper mill in Waverly?

*A.* Yes, sir.

*Q.* Machinery for a paper mill?

*A.* Putting the machinery in.

*Q.* Do you know Frederick J. Treat?

*A.* Yes, sir.

*Q.* How long have you known him?

*A.* Well, I have known him ever since he has been in Summit, I guess twelve or fourteen years.

*Q.* Do you know him socially?

*A.* Yes, sir.

*Q.* Does he visit your house?

*A.* Yes, sir.

*Q.* Many times?

*A.* Yes, sir.

*Q.* During your acquaintance with him you have met him from time to time?

*A.* Yes, sir.

*Q.* You knew where he lived in Summit?

*A.* Yes, sir.

*Q.* You are acquainted with people in Summit?

*A.* Yes, sir.

*Q.* Pretty generally?

*A.* Yes, sir.

*Q.* Chatham, also?

*A.* Yes, sir.

*Q.* Do you know what Mr. Treat's reputation for truth and veracity is? [Question objected to by Mr. Smith as incompetent.]

*A.* Good.

*Q.* Would you believe him under oath?

*A.* Yes, sir.

*Q.* Did you ever attend the race-tracks in horse-racing?

*A.* Yes, sir.

*Q.* How often?

*A.* Well, I have been at Sheepshead Bay once in my life, that is all.

*Q.* Once?

*A.* Once.

*Q.* Did you see any one there from Summit when you were there?

*A.* Yes, sir.

*Q.* Who?

*A.* I saw Mr. Treat and Mr. Chapman.

*Q.* Were they together?

*A.* Yes, sir.

*Q.* Do you remember the particular racing event of that day?

*A.* Well, I think it was the four-mile race.

*Q.* Between what horses?

*A.* Eole and Bushwhacker; I think those are the names.

*Q.* Which horse won?

*A.* Eole.

*Q.* Did you have any conversation with Mr. Treat and Mr. Chapman?

*A.* Yes, sir.

*Q.* Speak to them?

*A.* Yes, sir.

*Q.* Who was with you?

*A.* My two brothers.

*Q.* What are their names?

*A.* William and John.

*Q.* Can you fix the date positively?

*A.* No, I don't think I can; but it was in September; it was right after this fair broke up.

*Q.* After the fair at Waverly?

*A.* In September? yes, sir.

*Q.* Do you remember the day of the week?

*A.* It was Saturday.

Cross-examination by Mr. Smith.

*Q.* Do you live with your brother?

*A.* No, sir.

*Q.* Live how far from him?

*A.* Well, I have four or five brothers; I don't live with this one.

*Q.* The brother that testified here to-day?

*A.* No, sir; I don't live with him.

*Q.* How far did you live from him?

*A.* Well, I should think it was an eighth of a mile, probably, or a quarter; in sight of the house.

*Q.* And how far from where Mr. Treat used to live in Summit?

*A.* A little over a mile, I should think it was.

*Q.* You did no business with Mr. Treat, did you?

*A.* No, sir.

*Q.* Had any money transactions with him?

*A.* No, sir.

*Q.* Had any dealings with him in any way?

*A.* No, sir.

*Q.* Who in Summit do you know that Mr. Treat did have dealings with?

*A.* Well, I don't know as I know of any one he used to deal with, because I am not in Summit very much; I live in Summit, but it is on the outskirts like; I don't go up there much.

*Q.* About how often do you go to Summit, on an average?

*A.* Well, I go through there sometimes when I take the train; go up and get shaved once in a while.

*Q.* You are principally in Summit when you go to take the train?

*A.* No; it is nearer to Chatham.

*Q.* Chatham?

*A.* Yes, sir.

*Q.* Then you usually took the train at Chatham, did you?

*A.* Yes, sir,

*Q.* Very seldom at Summit?

*A.* Well, take the train from Summit once in a while; not very often.

*Q.* You didn't deal much in Summit, did you?

*A.* No, sir.

*Q.* Mostly Chatham?

*A.* Yes, sir.

*Q.* And your principal acquaintances were at Chatham, weren't they?

*A.* Well, both places.

*Q.* Socially, I mean?

*A.* Yes, sir.

*Q.* There were at Chatham, weren't they?

*A.* Yes, sir.

*Q.* Who of Mr. Treat's friends do you know socially?

*A.* I know his brother; I know Minton Day.

*Q.* Where does he live?

*A.* Chatham.

*Q.* And who else?

*A.* I can name over fifty or sixty.

*Q.* I mean in Summit; who of Mr. Treat's friends he knew socially in Summit do you know socially?

*A.* Well, I don't know; I suppose I know as many as he does, probably, that is, of the old ones that used to live there.

*Q.* Well, can you mention any of Mr. Treat's friends that he knew socially, in Summit, I mean?

*A.* No; I don't know; I don't know who he knew; I don't know who he knows; I know quite a number there.

*Q.* In whose house in Summit have you met Mr. Treat socially.

*A.* No one.

*Q.* Have you ever conversed with anybody as to Mr. Treat's truth and veracity?

*A.* No, they all spoke well of him.

*Q.* Have you ever conversed with anybody as to his truth and veracity?

*A.* No, sir; I never have; no, sir; nor I never heard a word against him.

*Q.* You have never talked with anybody about it, have you?

*A.* No; have had no occasion.

*Q.* You have never talked with anybody about it, have you?

*A.* No, sir; if there had been anything crooked, I would have heard them talking about it.

*Q.* I don't ask you that; I ask you whether you heard anybody talking about it?

*A.* No, sir.

Redirect examination by Mr. Curtis.

*Q.* Do you know Stephen R. Mullen, of Summit?

*A.* Yes, sir.

*Q.* Do you know Charles K. Strong?

*A.* Yes, sir.

*Q.* Do you know Doctor Taylor?

*A.* Yes, sir.

*Q.* Do you know the Bunnells?

*A.* Yes, sir.

*Q.* Do you know the Littles?

*A.* Yes, sir.

*Q.* William M. Chapman?

*A.* Yes, sir.

*Q.* As far as you know, has Mr. Treat's reputation for truth and veracity ever been questioned?

Mr. Smith—I object to that opinion of the witness.

*A.* No, sir; not that I have heard.

*Q.* Or his integrity or honesty?

*A.* No, sir.

Recross-examination by Mr. Smith.

*Q.* You never talked to any of these people as to his truth and veracity, have you?

*A.* Never had any occasion.

*Q.* The time that you speak about as being to the races—was it at the time your brother was there, as testified to-day?

*A.* Yes, sir; that was the only time I was ever there.

Adjourned to Saturday, October 22d.

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ELIZABETH, N. J., October 22d, 1887.

Examination of witness in the above-entitled matter, continued, pursuant to adjournment.

Appearances as before.

*Frederick J. Treat*, recalled.

Cross-examination by Mr. Smith.

By Mr. Smith—Notice is hereby given that a motion will be made on the hearing to suppress this testimony of Mr. Treat.

By Mr. Riker—All of it?

By Mr. Smith—In relation to—yes, all of it; the testimony taken on the last day, as being a re-examination of the witness on matters testified to by him on his former examination in chief, and as irregular and incompetent.

*Q.* You had frequent conversations with Mr. Dumont, did you not, in relation to the troubles that you were in, financially?

*A.* Yes, sir.

*Q.* You spoke to him several times about it, didn't you?

*A.* Yes, sir.

*Q.* What was there then in the fact of talking to him about your own trouble that refreshed your memory as to the place that you had the conversation with him in relation to his brother's business, shortly after his father's death?

*A.* That is, since my other testimony, do you mean?

*Q.* Any of it; since or at any time?

*A.* I do not exactly understand that question; if you will put it plainer; do you mean what refreshed my memory in regard to where I had the conversation?

*Q.* Yes?

*A.* On the boat? well, I got thinking about it since I gave my testimony and remembered having that conversation with him.

*Q.* You testified on your last examination as follows: "As near as I can remember what brought it around he was telling me about it, and I also told him that he was not the only one that had trouble, that I was having trouble, he asked me what was the matter now, I told him I was

getting behind, and so forth;" what was there in the fact of talking about your trouble at that time that refreshed your memory as to the conversation with him in relation to the difficulties with his brother, and the place?

By Mr. Riker—I object to that, on the ground that the witness has not said that that refreshed his memory in regard to the conversation of Mr. Dumont and the place; the witness in his evidence said that the way the conversation happened to turn upon Mr. Dumont's troubles was from the fact that he had told Mr. Dumont of his own troubles.

By Mr. Smith—Counsel can give any explanation that he pleases; I ask the question now.

[Last question read to witness.]

*A.* Mr. Smith, can I ask you a question?

*Q.* No; I want you to answer the question.

*A.* I cannot answer, simply because I do not exactly understand the question; if you mean what refreshed my memory between my first examination and my last, I can answer that; that is the way I understand the question, if that is what you mean.

By Mr. Riker—

*Q.* Answer it as you understand it?

*A.* What made me think of it was a question Mr. Cranstoun asked me —— [Interrupted.]

*Q.* I did not ask you what made you think of it?

*A.* Well, what refreshed my memory of it afterwards; I came to think of it from a question that Mr. Cranstoun asked me about loaning money to buy my ticket.

By Mr. Smith—I object to that as not responsive.

By the Witness—That is the only thing that I can remember that refreshed my memory.

*Q.* Then the fact that you were talking with him about your trouble had nothing to do with your memory as to the time and place that you had the conversation about his brother's difficulties?

*A.* Certainly it had; I remember the two questions were his troubles and mine.

*Q.* You often talked to him about your trouble, didn't you?

*A.* Yes, sir; and he often talked to him about his.

*Q.* How did the fact then that you and he talked about those troubles fix in your recollection the place where you had this conversation?

*A.* Because I remember his telling me that I need not be in a hurry about paying him; I agreed to pay him so much a month, and I believe I had up to that time, and he said he was not in a hurry, and if I was not in a position to do it I need not do it; I could let it go for a month or two.

*Q.* And that fixed it, did it?

*A.* Yes, sir.

*Q.* Fixed the time and place?

*A.* Yes, sir.

*Q.* Who else went down on the train with you that morning—the morning that you had the conversation in the boat that you have spoken about—from Summit, that you remember?

*A.* I do not remember any one positively.

*Q.* Did you play cards on the way down?

*A.* I don't think I did; no, sir.

*Q.* Are you sure that you did not?

*A.* Almost certain that I did not; I do not think that we played for two or three weeks after Mr. Dumont's father died; he did not play, and I don't think we played every morning—not every morning, only when we could make up a game; I am not certain; we may have played —we may have played, and then, again, we may not have played.

*Q.* You are not certain about that?

*A.* No, sir.

*Q.* You do not remember whether, this morning, you had been playing cards or not?

*A.* No, sir; I do not.

*Q.* Is that the time he had the conversation with you about the $5,000?

*A.* About giving his mother an income of $5,000?

*Q.* Yes?

*A.* Yes, sir.

*Q.* The same time?

*A.* Yes, sir.

*Q.* That is about giving his mother $5,000, I mean?

*A.* Yes, sir, giving her an interest.

*Q.* Yes, an interest of $5,000?

*A.* Yes, sir, during her life.

*Q.* And that, you say, was on the ferry-boat; that you remember now?

*A.* Yes, sir, on the right-hand side, as you go into the door—the gentlemen's side.

*Q.* Did you ever go to Martin's place, that you remember, for him to go with you to the races?

*A.* Yes, sir; I went from Mr. Dumont's office there?

*Q.* What for?

*A.* I got his badge at the office, and I went down there; he told me that Martin would go with me.

*Q.* Is that the day that you won $290?

*A.* Yes, sir.

*Q.* Who did you go with that day?

*A.* Mr. Martin.

*Q.* Martin alone?

*A.* Yes, sir.

*Q.* Did you tell Martin that day that it was the first time you had been to the races?

*A.* No, sir; I was acquainted with the man; I had met him almost a year before.

*Q.* You had never been to the races with him before?

*A.* I was on the track with him before, on the boat and on the cars going there.

*Q.* You did not tell Martin that that was the first time you had been to the races?

*A.* No, sir.

*Q.* You said that you walked up as far as Church street generally with Mr. Theodore Dumont, didn't you?

*A.* I walked up to Broadway and Park Place.

*Q.* Nearly every morning?

*A.* Yes, sir.

*Q.* And you say in your direct testimony that "about every morning he would ask me to telephone to his boy to come to his barber's, and generally brought a basket of flowers;" is that true?

*A.* Pretty nearly every morning.

*Q.* What do you mean by "pretty nearly every morning;" how many times a week?

*A.* Probably two or three times.

*Q.* Well, was it two or three times.

*A.* I am not certain; I know it got to be a by-word the minute I would go into the bank, "Send Johnny to the barber's;" I know I got that greeting every morning.

*Q.* How is it you say "about every morning he told you to telephone for his boy," if you do not know whether it was two or three times, or how many times?

*A.* I am not certain; I know it was a great many times.

*Q.* What do you mean?

*A.* I mean very often.

*Q.* Do you mean two or three times a week?

*A.* I cannot tell you how many times; I know it was a great many times.

*Q.* More than once?

*A.* Yes, sir.

*Q.* More than twice?

*A.* Yes, sir.

*Q.* Sure of that?

*A.* Yes, sir.

*Q.* More than three times?

*A.* Yes, sir.

*Q.* More than four times?

*A.* A great many times; I will not swear how many times, because I don't know.

*Q.* You did telephone for the boy, did you?

*A.* I did; yes, sir.

*Q.* The times he asked you?

*A.* Yes, sir; every time.

*Q.* Do you swear positively that Mr. Dumont, at his house, ordered Mr. De Forrest out of the house?

*A.* He told him if he did not like it he could get out.

*Q.* What did he say to Mr. De Forest at that time that you speak about?

*A.* He told him that he thought I was big enough to take my own part.

*Q.* Who told who?

*A.* Mr. Dumont told Mr. De Forest.

*Q.* Mr. Dumont told Mr. De Forest; what was said exactly by Mr. De Forest or Mr. Dumont?

*A.* I cannot remember the exact language.

*Q.* Well, as near as you remember it, what was said?

*A.* I cannot remember the exact words; I remember the quarrel.

*Q.* You don't remember anything that was said?

*A.* I remember that those words were used.

*Q.* Well, what?

*A.* Mr. Dumont told him—or Mr. De Forest said that he was tired of it; that I did not seem to take my part at all, and he would, or some such remark as that, and Mr. Dumont told him as much as if he did not like it he could get out; he said he could do it.

*Q.* Dumont told him as much as that?

*A.* Yes, sir.

*Q.* What did he tell him?

*A.* I don't know; I forget; I could not attempt to tell all he said.

*Q.* Can you tell anything—can you give any word that he used?

*A.* No, sir; not the exact words.

*Q.* What do you mean, then, in your direct examination by saying that Mr. Dumont ordered him out of the house, and he told him that he would go when he got ready, if you do not remember anything at all that was said?

*A.* He may have said that.

*Q.* Did he say it?

*A.* I think he did.

*Q.* You swear now that Mr. Dumont ordered Mr. De Forest out of the house?

*A.* To the best of my knowledge and belief.

*Q.* I did not ask you that?

*A.* I have not got to swear to anything else, have I?

*Q.* Yes, you are to swear to facts, if you remember them; if you do not remember, say so?

*A.* To the best of my knowledge and belief.

*Q.* That is the way you are testifying, is it?

*A.* Yes, sir; I don't know whether it was exactly those words, but words to that effect, any way.

*Q.* That is to the best of your knowledge and belief, is it?

*A.* Yes, sir.

*Q.* What did Mr. De Forest do then; do you remember that?

*A.* I remember we broke up after that—when that hand was out we broke up.

*Q.* When Mr. Dumont, as you remember, to the best of your knowledge and belief, ordered him out of the house, what did Mr. De Forest do?

*A.* He didn't do anything, I guess, but sat there.

*Q.* Did he go out?

*A.* Not until we got through playing—finished the hand.

*Q.* Were you playing in that hand?

*A.* Yes, sir.

*Q.* Did you break up and go away then, at the time you finished that hand?

*A.* I think we did.

*Q.* You swear positively to that?

*A.* Not positively; but I am pretty certain.

*Q.* Didn't you stay two or three hours afterwards?

*A.* No, sir.

*Q.* Didn't you go to sleep on the lounge?

*A.* No, sir.

*Q.* Didn't you remain sleeping on the lounge for two or three hours?

*A.* No, sir.

*Q.* That you swear to?

*A.* Yes, sir.

*Q.* Do you know that Mr. De Forest did not play cards there for two or three hours afterwards?

*A.* No, sir.

*Q.* You are certain that when you got through that hand you broke up and went away?

*A.* I am not certain; but I am pretty certain we did.

*Q.* That is to the best of your knowledge and belief, too, is it?

*A.* Yes, sir.

*Q.* But you are not certain about anything?

*A.* I am certain that the quarrel took place.

*Q.* But you are not certain as to what took place afterward, are you?

*A.* No, sir.

*Q.* What election night was it that you saw Mr. Dumont, as you say, with a weapon?

*A.* Election night — let me see — the spring of 1884, March, 1884.

*Q.* The spring election?

*A.* Yes, sir.

*Q.* Do you remember what time in March it was, the date of it?

*A.* The second Tuesday, I think; the spring elections, I think, are always the second Tuesday in March.

*Q.* Where did you first see Mr. Dumont at the time you speak about?

*A.* That day?

*Q.* Yes?

*A.* I saw him in the morning before voting, and I saw him — I telegraphed to Chapman in the morning for Chapman and Mr. Dumont to come out; they came out in the afternoon train, I forget whether it was half-past four or half-past three.

*Q.* You first saw Mr. Dumont in the morning?

*A.* Yes, sir.

*Q.* Where?

*A.* At the polls.

*Q.* Did you go with him to the polls?

*A.* No, sir; I was there at the polls when the polls opened.

*Q.* When did they open, what time?

*A.* Seven o'clock.

*Q.* What were you doing there at that time?

*A.* I was a candidate at that time.

*Q.* What time did Mr. Dumont vote?

*A.* About half-past seven, I should say; it was just before our regular train, the Dover express, left, I think it was; then again, it may have been later; I think it was the Dover express, just before that left.

*Q.* And you saw him vote, did you, at that time?

*A.* Yes, sir; I am positive.

*Q.* That you swear to positively, that you saw him vote that election?

*A.* Yes, sir.

*Q.* Then did he go away and take his train?

*A.* Yes, sir.

*Q.* What time did he come back?

*A.* In the afternoon.

*Q.* What time did you see him next at the polls?

*A.* When he came back.

*Q.* How long did he stay there?

*A.* Until they were closed.

*Q.* Until the polls were closed?

*A.* Yes, sir.

*Q.* How long did he remain there?

*A.* Until they were closed.

*Q.* What time was that?

*A.* Seven o'clock.

*Q.* What did he do then?

*A.* We took a carriage, I think—a carriage, or walked, I don't know which.

*Q.* He took a carriage?

*A.* I went with him.

*Q* Where did you go?

*A.* To his house.

*Q.* How long did you stay there?

*A.* Until time for supper—until we had supper.

*Q.* And then what?

*A.* We went back to the polling place.

*Q.* Did he go with you?

*A.* Yes, sir.

*Q.* What kind of a weapon was this that you call a dagger; what was it like?

*A.* I am not certain it was a dagger; it was a small instrument, something in the shape of a dagger.

*Q.* What is a dagger?

*A.* I have not got one with me; I don't know as I can describe one; it was an instrument to do some cutting with, any way, whether it was a dagger or not.

*Q.* A knife is to do some cutting with, isn't it?

*A.* It was not a knife; it was different from a knife.

*Q.* It was a small instrument for cutting?

*A.* Yes, sir; I should say so.

*Q.* You should say so, well, was it?

*A.* Yes, sir.

*Q.* How many blades?

*A.* No blades about it, just a large handle.

*Q.* Wasn't there any blade to it?

*A.* There was a blade to it, but no blades; there was a blade to it.

*Q.* There was one blade then?

*A.* Yes, sir.

*Q.* Where did you first see it?

*A.* In his hand.

*Q.* Where?

*A.* I think it was in the hall when he was putting his coat on, if I am not mistaken; I am pretty certain it was.

*Q.* In the hall of his house?

*A.* Yes, sir.

*Q.* Where did he get it from?

*A.* I think he took it from his hip pocket.

*Q.* Do you know whether he did or not?

*A.* I am not certain of that; no, sir.

*Q.* And you saw the blade as he held it in his hand?

*A.* I remember seeing the handle.

*Q.* You remember seeing the handle?

*A.* A handle; yes, sir.

*Q.* What kind of a handle was it?

*A.* I could not tell, sir; I forget now; I remember it had a handle to it.

*Q.* You only remember seeing the handle, but not the blade; is that it?

*A.* Yes, sir; I saw the blade, but what kind of a blade I could not tell; I only saw it for an instant.

*Q.* But you saw the blade and handle, did you?

*A.* Yes, sir.

*Q.* It was only for an instant?

*A.* Yes, sir.

*Q.* That is the only time you saw it, was it?

*A.* Yes, sir.

*Q.* Did you ever see that ssme instrument before?

*A.* No, sir.

*Q.* Or afterwards?

*A.* No, sir.

*Q.* Was it in a sheathe?

*A.* I think the blade was; if I am not mistaken, he pulled it out of the sheathe—the blade part; I am not certain of that, though.

*Q.* You think it was?

*A.* Pretty certain it was; yes, sir; yet I am not positive.

*Q.* You are not positive whether it was in a sheathe or not, are you?

*A.* I think it was, but I am not positive.

*Q.* You do not remember what kind of a handle it was?

*A.* No, sir.

*Q.* Whether a white handle or a black handle?

*A.* I am certain it was not a white handle.

*Q.* Was it a black handle?

*A.* I am not certain about that.

*Q.* Did you ever play cards at Mr. Theodore Dumont's house with Mr. McConnell?

*A.* Yes, sir; a few times.

*Q.* What do you mean by "a few times?"

*A.* I think I played with him off and on about three months.

*Q.* Was he one of the regular set?

*A.* The last three months; yes, sir; at night.

By Mr. Curtis.

*Q.* The last three months that you played?

*A.* Yes, sir.

Further cross.

*Q.* Didn't you play with him more than three months?

*A.* No, sir; not around at the houses.

*Q.* Did you play with him as much as three months?

*A.* I don't think I did three months.

*Q.* Two months?

*A.* I think about two months and a half; I think it was in April, if I am not mistaken.

*Q.* And that was in the regular set, playing around from house to house?

*A.* Yes, sir.

*Q.* You did not play at your house, did they?

*A.* No, sir.

*Q.* And they played at Mr. Dumont's about every two weeks, didn't they?

*A.* Sometimes we used to play there twice a week?

Redirect by **Mr. Curtis.**

*Q.* You say you played with Mr. McConnell during the last three months, or part of three months, did that include playing at the houses as well as on the train?

*A.* No, sir.

*Q.* You had played with him longer than that on the train?

*A.* Oh, yes, sir.

*Ida D. Treat,* a witness called and sworn for the caveator, testified as follows:

Direct examination by Mr. Riker.

*Q.* You are the wife of Frederick J. Treat?

*A.* Yes, sir.

*Q.* And you live now at South Orange?

*A.* Yes, sir.

*Q.* Can you tell us if you lived at Summit, and during what years?

*A.* I moved there the fall of 1883.

*Q.* And you moved away from there when?

*A.* The fall of 1885.

*Q.* Where did you live previous to your moving to Summit?

*A.* Since I have been married?

*Q.* No; just previous?

*A.* I moved from Chatham.

*Q.* How long had you been in Chatham?

*A.* Three months.

*Q.* Do you know Mr. Theodore Dumont?

*A.* Yes, sir, I do.

*Q.* And Mr. Wilmont M. Chapman?

*A.* I met him once.

*Q.* When did you first became acquainted with Mr. Theodore Dumont?

*A.* He called there the first Sunday night that we lived in Summit.

*Q.* That is the first time you remember meeting him?

*A.* That is the first time I ever met him.

*Q.* How frequently did you see him after that?

*A.* Well, I cannot state just now how many times he called, but he called quite often during that fall and winter, probably six or eight times at the house, and drove in the yard very often.

*Q.* For what purpose would he drive in the yard?

*A.* Generally to take Mr. Treat driving.

*Q.* I understand you to say that this began in the fall, soon after you moved to Summit?

*A.* Yes, sir.

*Q.* And it was continued how long?

*A.* It was continued more or less until June of 1885.

*Q.* Confining yourself now to the first fall you were in Summit, were there any particular days upon which Mr. Dumont would drive with Mr. Treat?

*A.* Well, he very seldom drove in the day-time, except on Sunday; he came very often on Sunday.

*Q.* On week days what time would he come?

*A.* I do not remember of his stopping there, except on Thanksgiving Day, on week days; he was there on Thanksgiving Day with his niece; he merely stopped at the gate that day.

*Q.* So that, during that first fall, the only drives that he took with Mr. Treat were on Sundays?

*A.* In the day-time.

*Q.* Can you recall any time in the evening that he drove during that fall?

*A.* Yes, sir; I think he was out with him during the evening.

*Q.* Now, in the winter, can you remember any times of their being sleigh-riding?

By Mr. Smith—All this line of examination is objected to as irrelevant, immaterial, and not proper in rebuttal of any evidence given by the proponents.

*A.* Yes, sir; I can remember.

*Q.* Recall any of the instances, if you can?

*A.* Well, I remember one particularly; he called there with Mr. Chapman, and Mr. Chapman came in the house; that is the time I met him.

*Q.* The only time you met Mr. Chapman?

*A.* Yes, sir, and they went sleigh-riding together.

*Q.* You say "they;" whom do you mean by that?

*A.* Mr. Dumont, Mr. Chapman and Mr. Treat.

*Q.* That was, then, in the winter of 1884?

*A.* It was in January of 1884.

*Q.* Did Mr. Dumont come for Mr. Treat on other occasions beside that one, during the winter?

*A.* Yes, sir.

*Q.* Can you say whether he came on Sundays during that winter? [Objected to for the same reasons as before, and as leading.]

*A.* Yes, sir.

*Q.* Now, from that time on, about how frequently did you see Mr. Theodore Dumont?

*A.* Well, as near as I can state, probably once a week.

*Q.* And how would you see him—where would he be?

*A.* He generally drove to the house.

*Q.* And Mr. Treat would go driving with him?

*A.* Yes, sir.

*Q.* You say that this was continued for some months, and up to, I think, June, 1885?

By Mr. Smith—Does she say so?

By Mr. Riker—Yes, sir.

By Mr. Smith—I do not remember her saying so.

*Q.* Can you tell me during what hours Mr. Dumont and Mr. Treat were usually driving on other days than Sundays during that time?

*A.* Generally in the evening.

*Q.* By what time in the evening would they start?

*A.* Well, between seven and eight, as near as I can remember.

*Q.* After Mr. Treat had had his supper?

*A.* Yes, sir.

*Q.* And what was his usual supper hour?

*A.* About six.

*Q.* And about what time would they come in after their drive?

*A.* I cannot state positively what time; sometimes they took longer drives than others.

*Q.* Would it be before dark or after dark?

*A.* After dark.

*Q.* When they reached your house?

*A.* Yes, sir.

*Q.* Did you ever have any conversation with Mr. Dumont in regard to his ability to drive in the dark? [Objected to for the same reasons as before.]

*A.* Well, I remember once I suggested to Mr. Treat that he had better go home with him as he complained of being near-sighted, and he said the horse knew the way home.

*Q.* Can you recall what time of day that conversation took place?

*A.* It was near nine o'clock.

*Q.* In the morning?

*A.* In the evening.

*Q.* Can you say whether Mr. Dumont ever came to the house in the evening without his horse?

*A.* Yes, sir.

*Q.* How many times?

*A.* Probaby half a dozen times; as many as that.

*Q.* When you say in the evening do you mean before or after dark?

*A.* After dark.

*Q.* You know when your husband was a candidate for collector of taxes in the township of summit?

*A.* Yes, sir.

*Q.* You can recall that time

*A.* Yes, sir

*Q.* Do you know when Mr. Robert Dumont died?

*A.* Yes, sir.

*Q.* Those periods are fixed in your memory?

*A.* Yes, sir.

*Q.* Can you say whether between those two periods Mr. Treat and Mr. Theodore Dumont drove away from your place together on Sunday? 10

*A.* Yes, sir. [Question objected to for same reasons as before.]

*Q.* They have so driven?

*A.* Yes, sir.

*Q.* Did your husband, so far as you can remember, ever state to you the substance of any conversation which he said he had had with Theodore Dumont?

*A.* He stated a great many that he had had with him.

*Q.* Did he ever state that he had had any conversation with him respecting the business in which William Dumont 20 was engaged? [Objected to as irrelevant and immaterial and incompetent, and not in rebuttal, and that it should have been proved, if at all, on the original case made by the caveator.]

*A.* Yes.

*Q.* You recall that such a conversation was stated to you?

*A.* I do.

*Q.* Was that conversation, as related to you, one in reference to a difficulty between Theodore and William in 30 relation to the estate? [Objected to for the same reasons as before, and as leading, and that conversations between the witness and her husband are immaterial, improper and irrelevant.]

*A.* Yes.

*Q.* State whether your husband ever related to you a conversation which he said he had had with Theodore Du-

mont, in which Theodore Dumont had spoken of a difficulty with his brother in relation to his father's business and estate, and if so, when that conversation took place between you and your husband? [Objected to for the same reasons as before.]

*A.* I think about a month after his father's death.

*Q.* Such conversation did take place?

*A.* Yes, sir.

*Q.* When?

*A.* About a month, as near as I can place it.

*Q.* Subsequent to the death of Robert Dumont?

*A.* Yes, sir.

*Q.* Was it before or after your husband was elected collector? [Objected to for the same reasons as before.]

*A.* Before.

*Q.* The time that you met Mr. Chapman at the house did you see him leave the house?

*A.* I did.

*Q.* What did he do?

*A.* He walked out to the street and got in the sleigh and drove away.

*Q.* Who was in the sleigh with him when he drove away?

*A.* Mr. Theodore Dumont, Mr. Chapman and Mr. Treat were in the sleigh.

*Q.* And they drove away together?

*A.* Yes, sir.

Cross-examination by Mr. Smith.

By Mr. Smith—Notice is given that application will be made on the hearing to suppress all the testimony of Mrs. Treat, and particularly the parts of it relating to conversations between herself and her husband, and statements of her husband to her of conversations with Theodore Dumont, as immaterial and irrelevant, and improper at this stage of the case.

*Q.* Where you subpœnaed to come here to-day?

*A.* I was not.

*Q.* Who asked you to come?

*A.* Mr. Treat.

*Q.* Your husband?

*A.* Yes, sir.

*Q.* When?

*A.* Well, I think it was this week sometime; I cannot state just the day.

*Q.* Did he tell you why he wanted you to come?

*A.* He told me that he wanted me to come to testify to what I knew about his intimacy with Mr. Dumont; that is about all.

*Q.* He took considerable interest in your coming, didn't he—seemed to be anxious that you should come?

*A.* Oh, yes.

*Q.* Have you talked with him about what you have testified to here to-day?

*A.* Yes.

*Q.* When?

*A.* Different times.

*Q.* Different times since he told you to come?

*A.* Yes.

*Q.* Have you talked to him this morning about it?

*A.* Not at all—I beg pardon, I did speak of it over here [referring to another part of the room]; I thought you had reference to before I came here.

*Q.* You talked with him since you have been here, have you not?

*A.* Yes, sir.

*Q.* When was the first that you communicated to your husband the fact of your knowledge of what you have testified to here to-day?

*A.* I could not tell you.

*Q.* Do you know that he testified before in this case?

*A.* I knew that he did, but I cannot state the date.

*Q.* Was it since that time or before?

*A.* It was since that time.

*Q.* Did he tell you what he testified to here?

*A.* Yes, sir.

*Q.* And then you told him what you knew about it?

*A.* No.

*Q.* Did he ask you whether you remembered certain things?

*A.* Well, I believe he asked me some questions, but I cannot tell you just what they were.

*Q.* It was in relation to the matters that you have testified to to-day, wasn't it?

*A.* Yes, sir.

*Q.* He tried to refresh your recollection, didn't he?

*A.* Not much.

*Q.* Did you try to refresh his?

*A.* Not at all.

*Q.* How long after you had been to Chatham was it; did Mr. Dumont ever call upon you there, in Chatham?

*A.* No.

*Q.* The first that he called at the house where you resided was after you moved to Summit?

*A.* Yes, sir.

*Q.* Do you remember the occasion of his first call at the house?

*A.* I do.

*Q.* How long after you had been at Summit?

*A.* We moved there on Wednesday, and he called the following Sunday evening.

*Q.* Alone?

*A* He came in the house alone.

*Q.* Was there anybody with him, do you know?

*A.* I think there were some children outside.

*Q.* Did he come in a carriage?

*A.* I think not.

*Q.* Do you know whether he did or not?

*A.* Well, it was after dark; I only know he said he walked over with his nieces, I think.

*Q.* He said he walked over with his nieces; and his nieces remained outside, did they?

*A.* They certainly did.

*Q.* What did he come to see about that time?

*A.* I do not think he came to see about anything.

*Q.* He did not come to make a call, did he?

*A.* I could not tell you what he came for; he called.

*Q.* Don't you remember what the occasion was of his coming at that time?

*A.* There was no occasion for his coming at all, that I know of.

*Q.* It would be rather singular if he came to make a call that he should leave his niece standing outside, would it not?

*A.* Yes, sir.

*Q.* Were you present in the room?

*A.* I was.

*Q.* Did he speak about anything that you remember particularly?

*A.* I think he came to see Mr. Treat.

*Q.* About anything particular?

*A.* Nothing particular.

*Q.* You don't remember anything that was said; how long did he stay?

*A.* I could not tell you.

*Q.* When was the next occasion that you remember of his coming to the house, how long after this?

*A.* I could not tell you.

*Q.* Do you remember anywhere near the time that he called the next time at the house?

*A.* I cannot state any time.

*Q.* Do you remember any particular circumstance connected with any of his visits at the house?

*A.* Well, I remember he called one Sunday evening with his niece and brought his dog with him, that had been lost; that is the only particular circumstance that I can remember.

*Q.* Didn't he call to see about the dog that had been lost?

*A.* I do not know why he should call to see about it; he called with it; he brought it to us.

*Q.* Didn't your husband borrow his dog?

*A.* Not that I am aware of.

*Q.* You never knew about that?

*A.* I never knew that he borrowed it.

*Q.* You remember of their being a dog there at your house?

*A.* I do.

*Q.* Whose dog was it?

*A.* Mr. Dumont's.

*Q.* When was that, that the dog was there?

*A.* That was the first fall that we lived there; the fall of 1883.

*Q.* If it was Mr. Dumont's dog, and the dog was at your house, how is it that you do not remember whether your husband borrowed it or not?

*A.* I did not consider it as borrowing; I considered that we were keeping it as a favor; it was not any pleasure for me to take care of his dog.

*Q.* There was a dog, then, at your house?

*A.* Yes, sir.

*Q.* Mr. Dumont's dog?

*A.* Yes, sir.

*Q.* And you remember Mr. Dumont coming over there to see something about that dog, that you remember?

*A.* No; I do not remember about his coming to see about the dog.

*Q.* Didn't you just speak about a dog that had been lost?

*A.* He brought it with him; he did not come to see about it; he brought it with him.

*Q.* Wasn't the dog lost from your house?

*A.* Yes, sir.

*Q.* And he brought this lost dog in your house, did he?

*A.* He did.

*Q.* Do you remember that?

*A.* I remember that.

*Q.* When was that?

*A.* That was one Sunday evening.

*Q.* How long after the first time he had been there?

*A.* I could not tell you.

*Q.* That circumstance you remember particularly, in relation to Mr. Dumont's visits to the house?

*A.* I do.

*Q.* What other circumstances do you remember—Mr. Dumont did not visit your family socially, did he?

*A.* Well, he called there.

*Q.* As you have stated, he called there.

*A.* He called there.

*Q.* He called that way—he did not play cards at your house?

*A.* Never.

*Q.* His family did not visit your house?

*A.* No.

*Q.* And you did not visit Mr. Dumont's family?

*A.* No.

*Q.* After this time that he came to see about the dog, do you remember the next time that Mr. Theodore Dumont called at the house—how long after that?

*A.* I could not tell you.

*Q.* How long before that had he called at the house?

*A.* I could not tell you.

*Q.* What Thanksgiving Day was it that Mr. Dumont came to the house to drive?

*A.* He stopped at the gate the Thanksgiving of 1883.

*Q.* That was the first season that you were at Summit?

*A.* Yes, sir.

*Q.* That you remember particularly, you say?

*A.* I do.

*Q.* That was in November?

*A.* Yes, sir.

*Q.* 1883?

*A.* Yes, sir.

*Q.* Did Mr. Dumont call for Mr. Treat to go riding with him the Sunday before Thanksgiving?

*A.* I could not tell you.

*Q.* Or the Sunday after Thanksgiving?

*A.* I could not say.

*Q.* Do you remember any Sunday after that time that Mr. Dumont called there—about Thanksgiving time—for your husband?

*A.* Yes, I remember one Sunday, I think it was in November, but I cannot positively say; it was in the fall —in cold weather.

*Q.* Before or after Thanksgiving?

*A.* It might have been before, and it may have been the 1st of December—the first part of December—I cannot remember, but he called there one Sunday afternoon and took Mr. Treat driving.

*Q.* That one Sunday you remember particularly?

*A.* Yes, sir.

*Q.* Why, and how?

*A.* Because we only had one fire at that time, and we were all in one room; I remember that distinctly, that he drove in; that is the only thing I can recall to mind that particular time.

*Q.* That is the only thing you remember it by?

*A.* That is the only thing I remember it by.

*Q.* Except that Sunday, you have nothing to refresh you as to any particular Sunday?

*A.* He called there very often Sunday afternoons, but there was nothing particular about those occasions.

*Q.* About that time?

*A.* Yes, sir; about that time he called on every Sunday afternoon.

*Q.* After Thanksgiving?

*A.* Yes, sir.

*Q.* The next Sunday after?

*A.* I could not say.

*Q.* The following Sunday.

*A.* I could not tell you.

*Q.* You could not tell any particular Sunday?

*A.* I could not.

*Q.* How was it in the fall of 1884 about Mr. Dumont coming there?

*A.* Well, he came there.

*Q.* How often did he come then on Sundays?

*A.* Quite often.

*Q.* Oftener than he did in 1883?

*A.* I do not remember that he came oftener.

*Q.* Well, how often did he come, as you remember, in 1884?

*A.* On Sunday do you mean?

*Q.* Yes.

*A.* Well, I really could not tell you how often; he came there every Sunday for three or four Sundays, and then would stop.

*Q.* For how long?

*A.* I could not tell you; I do not remember.

*Q.* How was it in 1885 about Mr. Treat driving with Mr. Dumont?

*A.* What part of 1885?

*Q.* Any part that you remember?

*A.* Well, he drove during the winter of 1885, and the spring occasionally.

*Q.* On what days of the week?

*A.* On Sunday; I remember distinctly the spring of 1885, for a time he came every Sunday.

*Q.* What do you mean by the spring?

*A.* I mean the spring.

*Q.* What month?

*A.* I cannot tell you the month; probably through April and May.

*Q.* Pleasant weather, was it?

*A.* Yes, sir.

*Q.* Through May he came every Sunday for your husband, that you remember?

*A.* I cannot say every Sunday through May.

*Q.* Did he come any Sunday in May?

*A.* Yes, sir; I think he did.

*Q.* Which Sunday?

*A.* I cannot tell you.

*Q.* You are not positive about that, are you?

*A.* About what?

*Q.* That Mr. Dumont came for your husband any Sunday in May, 1885?

*A.* Yes, sir.

*Q.* Which Sunday?

*A.* I cannot tell you.

*Q.* If you are positive, you can tell which Sunday it was, whether the first Sunday or the last Sunday?

*A.* No, I cannot.

*Q.* How can you be positive, then?

*A.* Because I am.

*Q.* Without knowing what Sunday he came, you are positive he came some Sunday in May, 1885?

*A.* Yes, sir.

*Q.* There is nothing about either one of those Sundays to particularly fix the Sunday, is there, in May—no circumstance connected with either of them?

*A.* Well, if I was not on my oath I would say he came almost every Sunday through May, but I cannot swear to it.

*Q.* You say there is no particular circumstance in connection with his coming in May that fixes it particularly to any Sunday?

*A.* Yes, he used to come on Sunday morning and ask Mr. Treat to drive him to Newark, and I remember it must be in May because it was the time of the blossoms; that is the only way I can state it was in May.

*Q.* You remember his coming and asking your husband to drive him to Newark in May, 1885?

*A.* Yes, sir.

*Q.* The blossoms were out then?

*A.* Yes, sir.

*Q.* When was that, in the winter?

*A.* Well, I don't think it was.

*Q.* You are quite positive it was in May?

*A.* I am quite positive the blossoms were not out in the winter.

*Q.* Did your husband go with him to Newark?

*A.* Yes, sir.

*Q.* You remember the fact of his driving him to Newark?

*A.* Yes, sir.

*Q.* When was it that Mr. Dumont came there in the week days to drive with your husband?

*A.* Well, he came there all the summer of 1884, about every night in the week for a while.

*Q.* Commencing with what month?

*A.* I cannot tell you just the month.

*Q.* Your husband took his vacation during the summer of 1884, didn't he?

*A.* Yes, sir.

*Q.* Do you remember when?

*A.* He had it at different times.

*Q.* A day at a time?

*A.* Yes, sir.

*Q.* And during this summer of 1884, Mr. Dumont would come there nearly every day and take him out driving?

*A.* Yes, sir.

*Q.* Mr. Dumont would not come into the house when he came there with him those times, would he?

*A.* Not when he went driving.

*Q.* Do you remember any particular Sunday in January that your husband went driving—January, 1884, that your husband went driving with Mr. Dumont?

*A.* Yes, sir.

*Q.* Is that the month that you referred to when Mr. Chapman was there?

*A.* That is it.

*Q.* What Sunday was that?

*A.* I cannot tell you.

*Q.* The early or latter part of January of 1884?

*A.* I could not say; I think it was the first snow we had.

*Q.* In January?

*A.* In January.

*Q.* That is fixed in your mind from the fact that Mr. Chapman was along, isn't it?

*A.* From the fact that Mr. Chapman came into the house.

*Q.* Can you fix any Sunday in February that your husb nd went driving with Mr. Dumont in 1884?

*A.* No, I cannot.

*Q.* There is nothing particular about it that impresses it as it did the Sunday that Mr. Chapman came?

*A.* No.

*Q.* Can you fix any Sunday in March, 1884, that your husband went riding with Mr. Dumont?

*A.* No.

*Q.* How long after you moved to Summit was it that this dog of Mr. Dumont's was brought to your house?

*A.* Well, I cannot tell you just exactly how long.

*Q.* Was it that fall?

*A.* It was that fall.

*Q.* Fall of 1883?

*A.* The fall of 1883.

*Q.* When was it that this conversation with your husband in relation to conversations that he had had with Mr. Dumont, took place?

*A.* What conversation?

*Q.* The conversation between your husband and you as to what Mr. Dumont had told your husband?

*A.* About what?

*Q.* About the matter that you have testified to here today; you testified, in answer to certain questions, that your husband related to you a conversation that he had with Mr. Dumont, didn't you?

*A.* Yes, sir.

*Q.* About certain matters?

*A.* Yes, sir.

*Q.* When was it that that conversation took place between you and your husband?

*A.* About the time it took place between him and Mr. Dumont.

*Q.* When was that?

*A.* As near as I can place it, it was about the month after his father's death.

*Q.* What do you place it by?

*A.* Well, I remember at the time, I thought he was beginning to talk very soon about such things after his father's death; that is the only thing.

*Q.* That is the only thing that fixes any time?

*A.* Yes, sir; that is the only thing that fixes it in my mind.

*Q.* Do you remember any Sunday in May, 1884, when your husband went riding with Mr. Dumont?

*A.* Any particular Sunday in 1884?

*Q.* Yes, 1884—in May.

*A.* Not particularly, in 1884.

*Q.* Do you of April, 1884?

*A.* No.

*Q.* Do you, in 1885, other than Sunday when they went to Newark, when Mr. Dumont came and asked him to go to Newark, in 1885?

*A.* Yes, sir; he came several times for Mr. Treat to go to Newark with him on Sundays.

*Q.* He stopped at the house for him, did he?

*A.* Yes, sir.

*Q.* How do you know that he came for him to go to Newark?

*A.* Well, Mr. Treat told me.

*Q.* It is only what Mr. Treat told you afterwards?

*A.* Well, no; he generally came in the house and prepared to go, and told me at that time.

*Q.* Told you he was going to Newark with Mr. Dumont?

*A.* Yes, sir.

*Q.* That is the way you knew they were going to Newark?

*A.* That is the only way.

Redirect by Mr. Riker.

*Q.* You were asked to recall particular occasion when Mr. Theodore Dumont called at your house, and came into the house; you have related some; can you recall any occasion when Mr. Dumont came to the house—came in the house—when Mr. Treat was not at home?

*A.* Yes.

*Q.* When was that?

*A.* It was in the fall of 1883.

*Q.* Who was with Mr. Dumont?

*A.* His niece, Miss Bessie.

*Q.* How long did they stay?

*A.* Well, I could not tell you exactly—about an hour, I should say.

*Q.* Did Mr. Treat come home while they were there?

*A.* Yes, sir.

*Q.* Do you remember any conversations of Mr. Theodore Dumont, when he was calling, by which you can recall the particular times; do you remember his saying anything about Mr. Chapman?

*A.* I remember once, in the spring, after the election, he called one evening during the week. [Objected to as not proper re-examination of the witness, being a matter-in-chief that should have been covered by the examination-in-chief.]

Recross by Mr. Smith.

*Q.* This time that you speak about his coming with his niece, Miss Bessie, was that the time they came to see about the dog?

*A.* He had Miss Bessie with him when he came to see about the dog, and he had Miss Bessie with him when he called to see Mr. Treat and Mr. Treat was not at home.

*Q.* Was that before or after he came to see about the dog?

*A.* I think it was after.

*Q.* How long after, do you remember?

*A.* No, I cannot tell you just how long.

*William H. Dumont* recalled.

Direct examination by Mr. Curtis.

*Q.* Mr. Theodore Dumont testified that the highest salary you ever received in Cincinnati was $60 a month, was that a fact?

*A.* It was not.

*Q.* What was the highest?

*A.* $1,200.

*Q.* $1,200 a year?

*A.* A year.

*Q.* And he also testified that you were paid $25 a month to keep your mouth shut while you were in Cincinnati, is that true?

*A.* It is not.

*Q.* He also testifies that your father repeatedly told you that the business must be preserved for your mother and sister, is that fact?

*A.* It is not.

*Q.* What did your father tell you about the business?

*A.* Father always told me that the business would be mine after he was gone; he often spoke of it.

By Mr. Smith—I object to the last question and answer, on the ground that witness has already been examined in

chief on that subject on his former examination, and it is not a proper subject of re-examination at this time.

*Q.* Did your father ever tell you that the business must be preserved for your mother and sister?

*A.* He did not.

*Q.* I show you *Exhibit for proponent, June 17th, 1887*, and ask you whether that list was made out before or after your father's death?

*A.* It was made out after my father's death.

*Q.* Did you make out and give to your father any such list before his death?

*A.* No, sir; I know my father never saw this.

*Q.* Whose handwriting is that?

*A.* My own.

*Q.* When did you make out the memorandum attached to *Exhibit for proponent, June 17th, 1887*, which sets forth the income of your mother's estate?

*A.* I think I made this out; I know I did, in fact, at the same time I made out the other; made them both out together.

*Q.* He also testifies that in the conversation held with you on the ferry-boat, in the spring of 1884, referring to your mother and the control of her affairs, that you made the reply to him, and he stated, in substance, "Do you suppose I would leave mother in your charge;" and you replied, "By God, she has got to be;" did you use any such expression as that?

*A.* I do not remember using any such expression.

By Mr. Smith—I object on the ground that there is no testimony that Mr. Theodore Dumont ever said any such thing as that.

*Q.* He testifies that he said to you, "Do you suppose I am going to leave mother at your mercy," and that you replied, "By God, she has got to be;" did you make any such reply, that you remember?

*A.* Not that I remember; no, sir.

*Q.* Theodore Dumont testifies that he never carried a

revolver in his life, except when he was in the army, is that statement true?

*A.* No, sir.

*Q.* Do you know whether or not he did carry a revolver at any other time?

*A.* I have seen him carry one.

*Q.* When and where?

*A.* He carried one in Jersey City, and I came home with him once and went down town with him and he had a revolver then; the first time he called on Minnie he had a revolver in his pocket.

*Q.* Minnie who?

*A.* Miss Bowers; I saw him carry one in Cincinnati; it was not a revolver, it was a pistol.

Cross-examination by Mr. Smith.

*Q.* Was this while your brother was in the army that you saw him with a pistol?

*A.* I saw him have one when he was in the army; I do not know whether he was in the army at that time or out of the army, he was at home I know.

*Q.* Then he was in the army?

*A.* Yes, sir; I saw him before he was in the army—this time I speak of he was in the army; I was in the navy and, I think, he was in the army at the time.

*Q.* This last time was while he was in the army?

*A.* Yes, sir.

*Q.* When was it?

*A.* When he lived in Jersey City.

*Q.* What year was that?

*A.* I do not remember; I could not say.

*Q.* Don't you know what year you lived in Jersey City?

*A.* We lived there a good many years—while we were living in Grand street, about 1857, I suppose it was; somewhere along there; I could not remember; don't ask me dates for I very rarely remember them.

*Q.* While you were living in Grand street, Jersey City?

*A.* Yes, sir.

*Q.* In 1857, you think, as near as you can get to it?

*A.* Yes, sir; somewheres along there; I know it was—I think it was—I don't know—I cannot place it; I think it was after he got home from China, before I went—between the two intervals; I know he had one and I had one.

*Q.* How old was he at that time?

*A.* I don't know; about fifteen years old—fourteen or fifteen.

*Q.* Those were the two times that you remember, is it?

*A.* I remember out in Cincinnati, he had a pistol out there; I don't know whether he carried it in New York or not; it was one of those short pistols, and it carried a very large ball; you could carry it in your hand and use it for a knuckle; I saw him with it once or twice in Cincinnati.

*Q.* That was during the war time, wasn't it?

*A.* Which, that last time?

*Q.* Yes, in Cincinnati.

*A.* No; I had resigned from the navy then.

*Q.* I say, it was while the war was going on, wasn't it?

*A.* No, sir; it was not during the war; I did not resign from the navy until after the war.

*Q.* It was the close of the war that you saw it?

*A.* I don't remember that.

*Q.* Where did you see it, then?

*A.* He showed it to me.

*Q.* Where?

*A.* I think the first time I saw it was in Collier & Hodgson's office, and the next time was in a beer saloon on Main street; he was showing it to some parties there.

*Q.* How did he come to show it?

*A.* I do not know; I do not remember.

*Q.* Don't you remember the circumstance connected with his showing it to you?

*A.* I do not.

*Q.* Don't you remember he showed it to you as having been presented to him by a gentleman?

*A.* He told me it was presented to him by a gentleman.

*Q.* He was showing it as a present given to him by some gentleman?

*A.* I do not remember; he had it in his hand; when I came up, he was showing it to somebody else.

*Q.* You remember something was said about it being presented to him?

*A.* I do not remember anything about it.

*Q.* You knew the pistol was presented to him?

*A.* I suppose it was; yes sir.

*Q.* When you saw it he had it in his hand showing it?

*A.* To somebody else; yes, sir.

*Q.* That was in this saloon, was it?

*A.* No, sir; that was in Hodgson's office; I do not know how he came to show it in the saloon.

*Q.* Do you remember who else was there at that time?

*A.* I do not.

*Q.* There were others there beside you?

*A.* Yes, sir; there were one or two there he was showing it to when I came in.

*Q.* When you saw it in the saloon he was showing it there too, wasn't he?

*A.* Yes, sir.

*Q.* Was he showing it as you came in?

*A.* No; I think he came in after I did; I was at one end of the counter and he was at the other.

*Q.* You say you never made any statement or list of securities previous to this one that you have made here — *Exhibit, June 17th, 1887.*

*A.* No; father used to have them in a little memorandum book that he carried in his pocket, or at least I don't know where he did keep it.

*Q.* Your father used to have them in a little memorandum book?

*A.* Yes, sir.

*Q.* Did you enter any of the securities in that book?

*A.* I do not remember; I have seen the book; I don't remember whether I wrote in it or not.

*Q.* Didn't you put a list of the securities in the book as they were got?

*A.* No; father put them in himself, as a general thing; I may have put them in sometimes, but I don't remember doing so.

*Q.* When did your father do that — put those in this book that you have spoken about?

*A.* I could not tell you; I used to see him looking at this book, and he told me what it was; in fact, I saw it was a security book — an old book he had for years.

*Q.* You used to see him with the book?

*A.* Yes, sir; I saw it in his hands.

*Q.* And he entered the list of securities in that?

*A.* Yes, sir; I believe so.

*Q.* And that book he carried with him?

*A.* Yes, sir, I suppose he did; I don't know what he did with the book, whether he kept it in his desk at Summit or not.

*Q.* Did your father put those down himself in the book or get it from you?

*A.* He used to put it down himself; he used to get it from me, I suppose—asked me what it was; in fact, he used to tell me to buy things, and put it down before it was bought.

*Q.* [Book shown witness.]—Is that the book that you have referred to?

*A.* No, sir, it is not; his book was not a quarter the size of that; it was an old custom-wares book.

*Q.* Is there a list of securities in that book?

*A.* No; this looks more like subscriptions—yes, there is one in this.

*Q.* Whose handwriting is that?

*A.* Part mine and part his.

*Q.* What part is yours?

*A.* That is mine, and this is his [indicating].

*Q.* That is, on the first page is yours?

*A.* Yes, sir.

*Q.* This first page of the securities is yours, and the second page of the securities, is that all your father's?

*A.* No; part his and part mine.

*Q.* Which is your father's?

*A.* In lead pencil.

*Q.* All the securities, then, in that book that are in ink is in your handwriting?

*A.* Yes, sir.

*Q.* And all in lead pencil is your father's handwriting?

*A.* Yes, sir.

*Q.* When did you enter this in this book?

*A.* I could not tell you; I remember his old book—a little book he used to carry in his pocket—but I don't remember this at all.

*Q.* You don't remember when you entered them in, or how you came to enter them in?

*A.* No; I have no recollection of it whatever—not the slightest recollection of it.

[Said book offered in evidence, and marked *Exhibit 4, for proponents, October 22d, 1887.*]

By Mr. Riker—For what purpose is this book offered in evidence, Mr. Smith?

By Mr. Smith—It is offered in evidence to confirm Mr. Theodore Dumont.

By Mr. Riker—In regard to what part?

By Mr. Smith—Of the statement delivered to his mother, by his father, of the securities.

By Mr. Riker—We make objection to the admission of the book in evidence.

*Q.* [Letter shown witness]—Under date of February 9th, 1884, in whose handwriting is that letter?

*A.* It is in mine; my handwriting.

*Q.* That is your handwriting, is it?

*A.* Yes, sir.

*A.* Are the papers that are attached to that the papers mentioned in that letter?

*A.* That I could not say; I suppose so, though.

*Q.* The letter refers to papers, doesn't it?

*A.* Yes, sir.

*Q.* To bills paid?

*A.* Yes, sir.

*Q.* Are not those the bills referred to in that letter?

*A.* That I could not say.

*Q.* What is your best idea of it now?

*A.* I suppose they are, but I could not say, for I don't know.

*Q.* What bills does the letter refer to then?

*A.* I don't know.

*Q.* If it does not refer to those?

*A.* I don't know what they are; it says, "Enclosed find the bills you wanted;" I don't know what they are; probably those are the ones.

*Q.* You do not know of any others she asked for?

*A.* I do not remember of any; I don't remember that.

*Q.* You do not remember any others?

*A.* No, I do not remember that even.

[Letter, with the papers attached, is offered in evidence, marked *Exhibit 5 for proponents, October 22d, 1887.*]

By Mr. Riker—We object to the letter, and the papers attached, on the ground that they are not proper for the purpose of cross-examining this witness, we having asked for them on redirect, which would make their introduction incompetent and improper. We wish to enter a further objection to the introduction of this letter, with the papers attached, on the ground that the papers mentioned in the letter are those claimed to be those mentioned in a letter written by Mrs. Dumont to William H. Dumont, which letter has not been called for or offered in evidence. We also object to the introduction of the papers attached, on the ground that there is no proper proof that they were the papers which accompanied the letter, to which they are

attached. We also object to them on the ground that they are irrelevant, immaterial and incompetent.

*Q.* You say that your father always told you that the business would be yours; when do you remember that he first told you that?

*A.* He told me that the first time when he spoke about my going into partnership with him, after my brother's death.

*Q.* Why, you were brought on from the West for that purpose, weren't you?

*A.* For what purpose?

*Q.* Of going into the business?

*A.* I was; yes, sir.

*Q.* And was it for the purpose of making the business yours that you were brought on?

*A.* Yes, sir; father said he wanted to leave it to one of his children.

*Q.* He wanted you to come on from the West to secure the business for you, was that the reason?

*A.* Yes, sir; I suppose so.

*Q.* Was that the reason?

*A.* That is what I understood.

*Q.* Your father stated that before you went into the concern as a partner, did he?

*A.* I understood so, sir.

*Q.* While your brother was living?

*A.* Yes, sir.

*Q.* Why didn't he take you in right away when you came on from the West, as a partner?

*A.* My brother objected.

*Q.* Your brother objected to what?

*A.* To my going in as a partner; father wanted me to go in at the time my brother did.

*Q.* Then your brother objected to your being taken in to have the business for yourself, in case of your father's death?

*A.* Yes, sir.

*Q.* Did you so understand it?

*A.* That is the way I understood it; he said he did not want too many eggs in the basket; that is what my brother said.

*Q.* Your brother was competent to take this business, in case of your father's death, wasn't he?

*A.* My brother was not competent to take the business at any time; that was what I was brought on for.

*Q.* You did not take his place until after his death, did you?

*A.* No, sir.

*Q.* And the whole object that your father had in bringing you on from the west was to secure this business for you, in case of his death?

*A.* Yes, sir; that is the way I understood it; he wanted to keep it himself as long as he lived.

*Q.* But, in case of his death, he wanted to secure the business for you?

*A.* Yes, sir.

*Q.* What did you expect was going to become of your mother and sister, then, in case of your father's death?

*A.* They were supposed to have enough; my brother's life insurance was made payable to them.

*Q.* Your brother was not dead then?

*A.* As long as he lived he was interested in the concern.

*Q.* You did not know how long he was going to live, did you?

*A.* I did not; I did not expect him to live from month to month.

*Q.* What did you suppose was going to become of your mother and sister?

*A.* It is not likely they would have suffered if I was in the business; father had confidence enough in me for that.

*Q.* There was no talk about it?

*A.* No, sir; there was not.

*Q.* Your father had confidence enough in you, is that so?

*A.* Yes, sir; to trust me if they needed it.

*Q.* Did he say that to you?

*A.* No, sir; but he told me after my brother's death "there was plenty for my mother and sister now."

*Q.* Did you ever say to him that you would take care of them, in case of his death?

*A.* No, sir; there was nothing said about that.

*Q.* There was nothing said by your father about taking care of your mother and sister, in case of his death?

*A.* No, sir; he spoke about there being property for them, after his death.

*Q.* But, during the first part of the time you were in that concern, just before you were taken in, and immediately afterwards, you did not know what would be their prospects, did you?

*A.* No.

*Q.* It was rather a generous thing in your father, was'nt it?

*A.* He had to take somebody in.

*Q.* I say, it was rather a generous thing?

*A.* In what respect?

*Q.* To take you in and secure the business for you?

*A.* He had to take me in or an outsider in.

*Q.* I say it was a generous thing?

*A.* No; my father was always generous.

*Q.* And make no provision for his wife or for your sister?

*A.* Yes, sir.

*Q.* That was generous?

*A.* Father had to take me in—he had to take somebody in.

*Q.* To take you in and secure the business for yourself, and not make any provision for your mother or sister, was a very generous and unusual thing on his part?

*A.* No, sir; he had to take somebody in, he was getting old and he was afraid of losing it himself.

*Q.* But it was not necessary, because he took you in, to secure the business for you alone?

*A.* How could he help himself?

*Q.* Why couldn't he?

*A.* Because I was the business after I was in there; I could have left him years before he died and taken the business with me; I was the active man in the concern.

*Q.* How many times after you were taken in did your father speak about this thing?

*A.* I don't remember that; he spoke of it several times.

*Q.* Your brother's life insurance was for your mother, wasn't it?

*A.* Yes, sir; made payable to mother.

*Q.* Well, what did your father say—did he say anything about your sister?

*A.* My father?

*Q.* Yes.

*A.* No, sir.

*Q.* About providing for her?

*A.* No, sir; my brother had my mother to make a will before he died.

*Q.* After he took you in the business—talking about securing the business for you, did your father say anything to you about provision for your sister?

*A.* Not a word.

*Q.* She was not married then, was she?

*A.* No, sir.

*Q.* Not a word was said about that?

*A.* Not a word.

*Q.* Nor about any member of your family except yourself alone?

*A.* That is all, sir.

*Q.* How long had your brother been sick before his death?

*A.* He was sick for years.

*Q.* Eight or ten years?

*A.* Yes, sir; a great many years.

*Q.* And there was no more certainty of his death then

than there was five or six years before, was there, before you came on?

*A.* No, except he was not fit for business at all; he spent that winter in Florida, I know.

*Q.* Didn't he go to his place of business every day, except when confined to his bed?

*A.* Yes, sir; he went to business and staid about an hour or two.

*Q.* He attended to it the same as he was attending to it for some time before?

*A.* I do not know how he had been attending to it.

*Q.* Before your brother went with your father in business, what employment was he in then?

*A.* In the custom-house.

*Q.* With whom?

*A.* He was in the custom-house as a clerk.

*Q.* Clerk for whom?

*A.* He was in the auditing office.

*Q.* What was his condition of health then?

*A.* Very poor.

*Q.* That was how long before he was in partnership with your father?

*A.* He left there to go into partnership with my father.

*Q.* He had been in poor health for a great many years?

*A.* Yes, sir; a great many years.

Counsel for caveator stated that they desired to take testimony in New York on commission, or before a master by consent, and an adjournment was then taken.

Adjourned until December 2d, 1887, at ten A. M.

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ELIZABETH, N. J., December 2d, 1887.

Examination of witnesses in the above-entitled matter continued before James J. Gerber, Esq., Master in Chancery of New Jersey, by consent.

Appearances as heretofore, with the exception of Mr. Curtis.

*Frederick J. Treat*, recalled for the caveator.

Direct examination by Mr. Riker.

*Q.* Mr. Treat, you had a conversation with Mr. Apgar, the cashier of your bank, in which your relations with Mr. Theodoore Dumont were discussed; can you fix the time of the first discussion?

By Mr. Smith—Objected to, on the ground that there is no evidence in the case of any conversation with Mr. Apgar in which the relations of Mr. Treat with Mr. Dumont were discussed, and also as immaterial, and not in contradiction of any evidence produced on the part of the proponent in this case.

*A.* Yes, sir.

By Mr. Riker—I simply put the form of the question in that way to save time, but strike out the question, and I will put it again in another form.

*Q.* Did you have a conversation with Mr. Apgar, the cashier of your bank, in regard to your relations with Mr. Theodore Dumont?

*A.* Yes, sir.

*Q.* When did this conversation take place?

*A.* It was two or three days before I was subpœnaed.

*Q.* To testify in this case?

*A.* Yes, sir.

*Q.* How many days before you first testified?

*A.* I think it was three or four days, I don't think it was any longer than that.

*Q.* Three or four days before you testified?

*A.* Yes, sir.

*Q.* Was anything said about Mr. Richardson in that conversation?

By Mr. Smith—All this line of examination is objected to on the ground that it is immaterial and irrelevant, and

not in contradiction of any testimony offered on rebuttal on the part of the proponent.

*Q.* Did Mr. Apgar in that conversation state how he knew that your relationship with Mr. Theodore Dumont was not of the pleasantest? [Objected to for the same reasons as before.]

*A.* Yes, sir.

*Q.* How? [Same objection as before]

*A.* He asked me what the row was between myself and Mr. Dumont—what row I had with him; I told him, "Not much of any any more than a few words, that was all."

*Q.* What I asked you was, did you learn from what source he had received the information? [Objected to for the same reasons as before.]

*A.* The cashier?

*Q.* Yes?

*A.* Yes, sir; he told me Mr. Richardson. [Objected to for the same reasons as before, and on the further ground that any statement made by Mr. Apgar to Mr. Treat is not proper evidence in this case.]

By the witness—He told me that Mr. Richardson had been to see him about me.

By Mr. Smith—The last questions and answers are objected to, on the further ground, as being an attempt to contradict the evidence of Mr. Apgar and Mr. Richardson, who have already testified and been sworn on part of the caveator.

By Mr. Riker—Counsel for caveator disclaims any such intention.

Cross-examination by Mr. Smith.

*Q.* This conversation, as I understand, took place, you say, before you had been subpœnaed?

*A.* Yes, sir.

*Q.* And testified?

*A.* Yes, sir.

*Q.* That would be about when?

*A.* I do not know whether it was February or March that I was subpœnaed; I think it was February, if I am not mistaken.

*Q.* Was it February or March?

*A.* I think it was February, as near as I can place it.

*Q.* February, when?

*A.* Last February — 1887; I think it was the first part of February, the first week in February.

*Q.* You "think?"

*A.* I know it was.

Redirect.

*Q.* In fixing the fact that it was before the — that the conversation took place before you were subpœnaed, can you recall anything which fixes that in your mind?

*A.* Yes, sir.

*Q.* What?

*A.* I told the cashier that I had no trouble with him outside — or he asked me what was the matter, and I told him I didn't know, that I hadn't spoken to the man for two years —— [Interrupted.]

*Q.* I want what fixes it in your mind?

*A.* Because I told him that I was subpœnaed or was going to be subpœnaed.

*Q.* That you were subpœnaed or expected to be subpœnaed?

*A.* Yes, sir.

*Q.* You are sure then that you had not testified?

*A.* No, sir; I know that I had not.

*Q.* I call your attention to the fact that the record shows, or seems to show, that your testimony was given on March 30th, 1887; if you in fact gave your testimony on March 30th, 1887, when would you place this conversation with Mr. Apgar? [Objected to for the same reasons as before, and as leading.]

*A.* Three or four days before; the reason why I said February, my little boy was sick with pneumonia in Feb-

ruary and March; he had two attacks of that; one was in February and another was in March; I thought it was the first attack; I remember the day I came down here I left him very sick at home; it may be March that I testified, but I was under the impression that it was in February.

Recross.

*Q.* Why, then, did you say you were sure that it was the first week in February?

*A.* Because I thought that it was the case.

*Q.* You are not swearing to what you think; you are swearing to facts.

*A.* That is the only way I can refresh my memory, in regard to my little boy being sick.

*Q.* Why didn't you say that when I asked you the question; why did you say it was February—the first part of February?

*A.* I meant to say, to the best of my knowledge and belief; I am sure it was the time my little boy was sick.

*Q.* Your little boy was sick twice?

*A.* Yes, sir; the first part of February and then in March.

*Q.* And since Mr. Riker has called your attention to the fact that you testified in March, you are now sure that it was in March that you had this conversation?

*A.* He has the dates there; yes, sir, I am; I could not place the month; I told you in the first place it was February or March.

*Q.* Why did you state subsequently that you were sure that it was the first part of February?

*A.* Because I placed my boy's sickness at that time.

*Q.* You knew at that time that your boy had been sick twice?

*A.* Yes, sir; but I thought it was the first time.

*Q.* You have testified, then, from your impression, is that it?

*A.* Yes, sir; I did not look up the date.

*Q.* Was it the last of February or early in March?

*A.* Either one of those months.

*Q.* Which was it?

*A.* I am not certain; it was two or three days before I testified.

*Q.* You mean two or three days before you actually testified, or two or three days before you were subpœnaed to testify?

*A.* I was subpœnaed before I testified.

*Q.* Was it after you had been subpœnaed or before?

*A.* It was before.

*Q.* Before you had been subpœnaed?

*A.* Yes, sir.

*Q.* Did you tell Mr. Apgar that you had been subpœnaed, or was going to be subpœnaed, when you had the conversation with him?

*A.* I told him that I had, or expected to be.

*Q.* Which did you tell him?

*A.* Because I had been told by Mr. Curtis —— [Interrupted.]

*Q.* Which was it?

*A.* I am not certain.

*Q.* Did you tell him that you had been subpœnaed, or was going to be subpœnaed?

*A.* That I expected to be subpœnaed; I think that is what I told him.

*Q.* You are sure of that?

*A.* I am not sure—to the best of my knowledge and belief.

*Q.* You are not sure?

*A.* I think I said I expected to be subpœnaed.

*Q.* As near as you can get at it, that was what you told him, was it?

*A.* Yes, sir.

*Q.* Was that the first conversation that you had with Mr. Apgar in relation to this matter?

*A.* Yes, sir.

*Q.* Did you have any other conversation beside this one that you speak about with Mr. Apgar?

*A.* Yes, sir.

*Q.* Later?

*A.* Yes, sir.

*Q.* When?

*A.* Two or three months afterwards.

By Mr. Smith—We will move to strike out, on the hearing, all this testimony of Mr. Treat's, taken to-day, on the ground as already stated in the objections.

Caveator rests.

Adjourned until Wednesday, December 7th, 1887, at ten A. M.

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The taking of testimony in the above entitled cause continued, before James J. Gerber, Esq, Master in Chancery of New Jersey, in pursuance of an order of the Orphan's Court of said Union county, on Wednesday, the seventh day of December, A. D. 1887.

Appearances as heretofore.

*Othniel De Forest,* a witness called and sworn on part of the proponents, in rebuttal, testified as follows:

Direct examination by Mr. Smith.

*Q.* You reside where?

*A.* New York city.

*Q.* Are you in the habit of visting Summit?

*A.* Yes, sir.

*Q.* You have relatives living there, have you not?

*A.* Yes, sir; my father and mother.

*Q.* Do you know Mr. Frederick J. Treat?

*A.* Yes, sir.

*Q.* In 1883 and 1884, where did you reside?

*A.* I resided in New York city.

*Q.* You are in the habit of spending some part of the time at Summit, are you not?

*A.* Yes, sir.

*Q.* In the summer time particularly?

*A.* Yes, sir.

*Q.* A week or two at a time, I suppose?

*A.* Before 1884?

*Q.* Yes.

*A.* I spent every summer there.

*Q.* Before 1884?

*A.* Yes, sir.

*Q.* Do you remember an occasion in 1884 of being at Mr. Dumont's place of residence in Summit when Mr. Treat was also present, one evening?

*A.* Yes, sir.

*Q.* You were there playing cards, I believe?

*A.* Yes, sir.

*Q.* On this occasion that I refer to?

*A.* Yes, sir.

*Q.* Mr. Treat swears in his testimony, in regard to that occasion, that Mr. Dumont ordered you out of the house; do you remember anything of that kind, at this time?

*A.* I remember that we had a little talk about Mr. Treat, but I am sure that Mr. Dumont did not order me out of the house.

*Q.* What was the occasion of this talk, do you remember?

*A.* Mr. Dumont was blackguarding Mr. Treat, so to speak, for playing badly.

*Q.* He was playing with him?

*A.* Yes, sir, and I simply objected to it, because it was rather annoying to me, as another player.

*Q.* And as the result of your remarks, made at that time, did Mr. Dumont order you out of the house?

*A.* No, sir.

*Q.* What did Mr. Treat do, after the game was played

that you were then playing, when these remarks were made?

*A.* To the best of my knowledge and belief we continued —the rest of us continued playing—and Mr. Treat went to sleep on the sofa.

*Q.* How long did you continue playing?

*A.* That would be very hard for me to say; I should think we played two or three rubbers, I should say.

*Q.* An hour or so?

*A.* Yes, sir; we did not break up right away.

*Q.* Not until some time after?

*A.* No, sir.

*Q.* And in the meantime, as you remember, Mr. Treat went to sleep on the sofa?

*A.* To the best of my knowledge and belief, he did.

*Q.* As you remember it now?

*A.* As I remember it now.

*Q.* He did not go away?

*A.* No, sir; he did not go away.

*Q.* He remained there, did he, or in the house?

*A.* He remained in the house.

*Q.* He did not play afterwards in the game—Mr. Treat did not—did he?

*A.* No, I think not.

*Q.* That evening?

*A.* No, sir.

*Q.* Did Mr. Dumont, at any time that you remember, when Mr. Treat was present, and you were playing cards there, order you out of the house?

*A.* No, sir.

Cross-examination by Mr. Riker.

*Q.* How old are you?

*A.* I am twenty-seven.

*Q.* This is four years ago?

*A.* Yes, sir.

*Q.* Were you in the habit of playing cards at Mr. Dumont's?

*A.* Yes, sir.

*Q.* You say that you had some words with Mr. Dumont; do you remember what those words were?

*A.* No, further than I said already.

*Q.* You have not said already, except that you had some words with him?

*A.* That is all I can say.

*Q.* Were the parties smoking and drinking at the time?

*A.* Yes, sir.

*Q.* What were they drinking?

*A.* I don't remember.

*Q.* Were you drinking?

*A.* I don't remember; probably I was.

*Q.* Do you remember the character of the words that you had with Mr. Dumont; were they pleasant?

*A.* Well, they were unpleasant for a moment probably.

*Q.* You say that he did not order you out of the house, can you remember whether he did or not?

*A.* He did not order me out of the house.

*Q.* How do you know?

*A.* Because I would have remembered it if he had.

*Q.* But you do not remember what he said?

*A.* I do not remember the words he said; no.

Redirect.

*Q.* You used the words "blackguard, so to speak," in speaking about it; was this remark in relation to Mr. Treat's playing?

*A.* Yes, sir, in relation to Mr. Treat's playing.

*Q.* His manner of playing?

*A.* Yes, sir.

*Q.* You do not remember what Mr. Dumont said about it then, now?

*A.* No, I do not remember.

*Q.* What the words were?

*A.* No, sir; I think Mr. Dumont said he seemed to play worse and worse.

*Q.* As you remember?

*A.* As I remember.

*Q.* It was in 1884, as you remember?

*A.* Yes, sir, as I remember.

*Q.* Were you in the habit of playing around from house to house?

*A.* Yes, sir.

*Q.* And there was usually some little entertainment furnished at the houses?

*A.* We usually had a little something to eat, and beer as a general rule, although we had other things at times.

*Q.* You visited Mr. Dumont's house afterwards did you?

*A.* Yes, sir.

*Q.* Played cards there? [Objected to as not proper redirect.]

*A.* Played cards there.

*John Muhlenfelds,* a witness called and sworn on the part of the proponents, testified as follows:

Direct examination by Mr. Smith.

*Q.* What business are you engaged in?

*A.* The railroad business.

*Q.* Are you in Mr. Dumont's employ?

*A.* Yes, sir.

*Q.* Theodore Dumont's employ?

*A.* Yes, sir.

*Q.* In the employ of the company that Mr. Dumont is connected with?

*A.* Yes, sir.

By Mr. Riker—Which is it?

*Q.* Are you in the employ of Mr. Dumont or the employ of the company?

*A.* In the employ of the company.

*Q.* But your place of business is in the same place as Mr. Dumont's?

*A.* Yes, sir.

*Q.* How long have you been engaged there, at that place?

*A.* In the present place do you mean?

*Q.* Yes?

*A.* About two years—two years the first of this month.

*Q.* How long have you been engaged in the business where Mr. Dumont is engaged?

*A.* About five years I guess.

*Q.* You were engaged there in 1884, weren't you?

*A.* Yes, sir.

*Q.* Do you remember, in 1884, of being telephoned for, or to, by Mr. Treat to go down and get flowers that Mr. Dumont had sent down for him on the railroad, or brought down?

*A.* Yes, sir; I recollect that, but I don't know who telephoned me though.

*Q.* You were telephoned for by somebody?

*A.* Yes, sir.

*Q.* To do what?

*A.* Well, generally, to bring flowers.

*Q.* To go down and get flowers?

*A.* Yes, sir.

*Q.* How often were you telephoned for—how often each week were you telephoned for to go down and get flowers?

*A.* Never more than once a week, and some weeks I did not go down at all.

*Q.* Some weeks you did not go at all?

*A.* No, sir; some weeks I didn't go at all.

*Q.* And never more than once a week?

*A.* Maybe on rare occasions I may have gone down twice, but very seldom.

*Q.* That you are quite positive of, are you?

*A.* Yes, sir, I am.

*Q.* Where did you go to get flowers?

*A.* To the barber's—Mr. Dumont's barber.

*Q.* That is Mr. Martin?

*A.* Philip Martin.

*Q.* In Park Place, was it?

*A.* Corner of Park Place; yes, sir.

*Q.* You were sometimes notified by Mr. Dumont to meet him—to come down to the barber's, before he left the office the night before, weren't you?

*A.* Yes, sir.

*Q.* Frequently?

*A.* When I did that he generally told me to meet him and I met him at the ferry.

My Mr. Riker—I object to the style of the questions to this witness as leading.

*Q.* At Mr. Martin's—you generally went there not oftener, as a general thing, than once a week, you say, in response to a telephone? [Same objection.]

*A.* Yes, sir.

Cross-examination by Mr. Riker.

*Q.* How old are you.

*A.* Nineteen.

*Q.* You say that you are in the employ of the railroad?

*A.* Yes, sir.

*Q.* Under the immediate supervision of Mr. Theodore Dumont, I presume?

*A.* Yes, sir.

*Q.* Under his orders?

*A.* Yes, sir.

*Q.* What are your duties in this company?

*A.* My duties are to run messages, sign bills of lading, and so forth.

*Q.* You say that Martin was Mr. Dumont's barber; which Mr. Dumont?

*A.* Mr. Theodore Dumont.

*Q.* Did you answer the telephone, as a rule?

*A.* Yes, sir.

*Q.* How many telephone messages are you in the habit of getting in a day?

*A.* In my present position, I do not attend to it at all.

*Q.* At this time that you are testifying about?

*A.* I was nearly all the time there—around the telephone all time; it was my business to be there.

*Q.* And to run errands?

*A.* Yes, sir.

*Q.* And among those errands was going to the barber's for these flowers?

*A.* Yes, sir.

*Q.* Did you run personal errands for Mr. Theo. Dumont?

*A.* Yes, sir.

*Q.* How many errands would you have in a day—personal errands?

*A.* I could not say how many in a day; maybe not more than once a week all the time.

*Q.* You are quite sure of that?

*A.* Yes, sir.

*Q.* And those personal errands, then, were confined to running to the barber's for flowers?

*A.* Yes, sir.

*Q.* You had no other personal errands?

*A.* Yes, sir; I may have had other personal errands.

*Q.* What were they—what did you do?

*A.* I could not tell you.

*Q.* You do not remember the other personal errands that you were sent to do?

*A.* I do not.

*Q.* But you do remember about these flowers?

*A.* I do; yes, sir.

Redirect.

*Q.* You remember that you did errands generally, I suppose?

*A.* Yes, sir.

*Q.* That you were ordered to do?

*A.* Yes, sir.

*Q.* You cannot specify any particular ones now, is that what you mean?

*A.* Yes, sir.

*Q.* Do you remember going there more than twice at any time for flowers, to the barber's, in any one week?

*A.* I do not; no, sir.

Testimony closed.

Adjourned for argument, before the court, on January 13th and 14th, 1887.

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ORDER TO TAKE TESTIMONY IN NEW YORK.

Upon the written consent of William Cranstoun, Jr., esquire, proctor for proponents, and upon the motion of Riker & Riker, proctors for the caveator, it is, on this fifteenth day of November, eighteen hundred and eighty-seven, ordered that Theodore F. Lozier, esquire, of the city, county and State of New York, be, and he is hereby appointed, commissioner to take the testimony *de bene esse*, in said city, of E. F. Richardson, esquire, and Allen Apgar, esquire, witnesses for caveator, resident in said city of New York, upon notice according to law.

T. F. McCormick,
*Prest. Judge.*
Nathan Harper,
*Judge.*

I hereby consent to the entry of the above order.
Dated Nov. 15th, 1887.

William Cranstoun, Jr.,
*Proctor for Proponents.*

Upon the written consent of William Cranstoun, Jr., esquire, proctor for proponents, and upon the motion of Riker & Riker, proctors for the caveator, it is, on this fifteenth day of November, eighteen hundred and eighty-seven, ordered that Theodore F. Lozier, esquire, of the city, county and State of New York, be, and he is, hereby appointed, commissioner to take the testimony *de bene esse*, in said city, of E. F. Richardson, esquire, and Allen Apgar, esquire, witnesses for caveator, resident in said city of New York, upon notice according to law.

T. F. McCormick,
*Prest. Judge.*
Nathan Harper,
*Judge.*

I hereby consent to the entry of the above order.
Dated Nov. 14th, 1887.

William Cranstoun, Jr.,
*Proctor for Proponents.*

A true copy.

Jas. J. Gerber,
[L. S.] *Surrogate.*

The execution of the within commission appears by the depositions hereto annexed.

Theodore F. Lozier,
*Commissioner.*

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City and County of New York, State of New York, *ss.* —I, the subscriber, do swear that I will faithfully, fairly and impartially execute the annexed commission to the best of my skill and knowledge, so help me God.

Theodore F. Lozier.

Sworn to before me this 22d day of November, 1887.

John M. Tierney,
*Notary Public, New York County.*

I hereby certify that I am authorized to take an oath or affirmation in the county and state of New York, *vide* Code of Civil Procedure of New York, section 842.

Dated November 22d, 1887.

JOHN M. TIERNEY.

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Depositions of witnesses produced, sworn and examined on the twenty-second day of November, eighteen hundred and eighty-seven, at the office of Theodore F. Lozier, commissioner, at No. 140 Nassau street, New York City, under and by virtue of the commission hereto annexed, issued out of the Union County Orphans' Court in the matter of the application for probate of the paper purporting to be the last will and testament of Mary B. Dumont, deceased.

*Allen S. Apgar*, a witness produced on the part of the caveators, being duly sworn according to law, on his oath says:

*Q.* What is your residence and business?

*A.* 40, One Hundred and Twenty-seventh street, New York City, and a cashier of the Merchants' Exchange National Bank; I know Mr. F. J. Treat; he is in the employ of the bank of which I am cashier, and has been so employed as a messenger for about ten years; he is intrusted with the collection of funds as messenger, varying in amount on the route he runs.

*Q.* State, if you can, the amount that he is at times intrusted with—either the amount he collects or the amount he takes to the clearing-house? [Objected to as irrelevant and immaterial, and not in rebuttal of any testimony produced on the part of the proponent.]

*A.* Impossible to answer, as it depends on the nature of the business.

*Q.* Is he intrusted with, at times, the amount of $100,-

000? [Objected to for same reasons as above, and because it is leading.]

*A.* Never, unless another man accompanies him.

*Q.* For what purpose does the man accompany him? [Objected to for same reasons as above.]

*A.* As a matter of safety of the funds.

*Q.* And not because of any distrust of Mr. Treat? [Objected to for the same reasons.]

*A.* We prefer not to rely upon one man to that extent.

*Q.* Give some idea of the amount of money or collections intrusted to Mr. Treat, and of his duties? [Objected to for same reasons as given before.]

*A.* His general duties are making collections for the bank as one of five or six messengers; I can give you no idea of the amount of money he receives; the usual payments for collections is made in checks, to the order of the bank; the amounts vary; some days it might be very small, and other days it may be many thousands; it is a rule of the bank, in sending out money, to send two men; a package is sent to the express office where the amounts are $5,000 or more.

*Q.* Do you know Mr. E. F. Richardson, and have you had any conversation with him referring to Mr. Treat?

*A.* Yes.

*Q.* Did the conversation refer to Mr. Theodore Dumont or a will contest proceeding in New Jersey in the Dumont estate? [Objected to as irrelevant, immaterial and no rebuttal or contradiction of any testimony offered on the part of the proponent.]

*A.* The matter was mentioned.

*Q.* State, to the best of your recollection, what that conversation was? [Objected to for same reasons as above stated.]

*A.* It made no particular impression on my mind, and I can hardly recall it.

*Q.* Have you had more than one conversation with Mr. Richardson on that subject?

*A.* I think three, including one to-day; of the other two the second was on Saturday of last week or Wednesday, when I understood Mr. Richardson had been subpœnaed.

*Q.* State your conversation on the subject to-day? [Objected to for same reasons as before.]

*A.* This is the purport of it: he called and asked me if had been subpœnaed as a witness in the Dumont matter and I said no; he said he understood I was going to be for three o'clock to-day, and I told him there was no use of calling me for I had forgotten all about it; it was a matter in which I had no concern.

*Q.* What conversation took place between you and him last Saturday? [Objected to for the same reasons.]

*A.* I have no recollection, except that I understood that he had been subpœnaed; I was called out from a board meeting, and I think I told him I had no interest in it, and had no time to talk about it.

*Q.* What reason did he assign on either of these occasions for calling upon you? [Objected to for same reasons as before, and on the further ground that any reason assigned by Mr. Richardson would not be evidence in the case.]

*A.* Did not assign any reason that I can recall.

*Q.* What conversation took place at the first interview, in substance, or to the best of your recollection? [Objected to for the same reasons as before.]

*A.* I recall very little of it; I think he was in with regard to some bank matter, and he asked what kind of a man Mr. Treat was, and I said he was a good man as far as I knew; I understood he was mixed up with some will matter in which Theodore Dumont was interested; there was something said about Treat's having made disagreeable remarks about me to Mr. Dumont, and I replied that I doubted that he had done so, as I had never injured him that I was aware of, and had loaned him money for which he was still indebted to me; and that is the only part of

the conversation which made any impression upon me; the rest I would not attempt to repeat and I don't recall the substance of it.

*Q.* Was anything said in that conversation which reflected or tended to reflect upon Mr. Treat's character outside of which you have said? [Objected for the same reasons as before.]

*A.* I told you all I can recall.

*Q.* Was any charge made against Mr. Treat to the effect that he was in the habit of either drinking, or of gambling, or of buying pools on horse-races, or of attending the race-track? [Objected to for the same reason as before.]

*A.* I don't recollect any.

*Q.* Will you swear that nothing was said of Treat's character outside of the conversation you have repeated, and that neither of the charges referred to in the foregoing question was made? [Objected to for the same reasons as before, and as indefinite, and as an attempt to cross-examine their own witness.]

*A.* I have already sworn that I don't recollect any more than I have testified to.

*Q.* Question repeated, and the witness' attention called to the fact that the question does not call upon him for what was said. [Objected to for the same reasons as given to the preceding question.]

*A.* As I cannot recall more of the conversation than I have already testified to, I will not swear as to what was or was not said beyond it.

*Q.* Did Mr. Richardson seek to secure an interview between you and Mr. Theodore Dumont on the subject? [Objected to for same reasons as to the previous question.]

*A.* Not that I recall.

*Q.* Did you tell Mr. Richardson, in substance, that if Mr. Dumont had any charges to make against Mr. Treat, he had better make them in person? [Objected to for the same reasons, and on further ground that Mr. Dumont never made any charges against Mr. Treat.]

*A.* That would be a natural remark for me to make if charges were made by Mr. Dumont through Mr. Richardson, and it might have been made in reply when he stated that Mr. Treat had been talking against me; I have no recollection of it, however.

*Q.* Did Mr. Richardson inform you from whom he had received the reports he made to you, and at whose request he called? [Objected to on the ground that has been already stated, and because there is no evidence in the case that Mr. Richardson made any reports other than the one in relation to talking about Mr. Apgar.]

*A.* I understood he had had a conversation with Mr. Dumont, and beyond that I know nothing.

*Q.* Please fix the time, as near as you can, when this first conversation took place?

*A.* I haven't the least idea; it might have been three and it might have been eighteen months ago; I did not give it a thought, hardly, afterwards; Mr. Richardson is not a regular dealer of the bank.

*Q.* Did you say anything to Mr. Treat upon the subject referred to in Mr. Richardson's conversation? [Objected to as immaterial, irrelevant and not in rebuttal of any testimony on the part of the proponent.]

*A.* I spoke to him about it, I think, the same day, as near as I can recollect; I asked him what the trouble was between him and Dumont, and probably repeated more or less of what Mr. Richardson had told me; he went into some explanation of the causes of the difficulty which related to the will matter, and which has entirely passed from my memory; he denied that he had ever said anything against me, or had occasion to; not seeing any reason why he should have spoken against me, I believed him, and let the matter drop from my mind.

*Q.* How long have you known Mr. Richardson?

*A.* Probably ten or fifteen years, and during that time I had frequent dealings with him as cashier of the bank.

Cross-examination by counsel for the proponents.

All of this above testimony is objected, as not being in rebuttal of anything taken on part of the proponent, and a motion will be made to suppress it on the hearing.

When I spoke of loaning him money, I spoke of Mr. Treat; we have five or six messengers in the bank; a messenger's duty is to make collections and transact the business with the other banks outside; we keep them busy when they are inside at different desks.

The only thing I remember in the conversation with Mr. Richardson, was what was said with reference to my character; the messengers are under bonds to the amount of $5,000 each.

Redirect examination.

*Q.* All the officers of the bank are under bond, except the president?

ALLEN S. APGAR.

Examination taken, reduced to writing, sworn to and subscribed before me this 22d day of November, 1887.

THEODORE F. LOZIER,
*Commissioner.*

*Edward F. Richardson*, a witness produced on part of the caveators, being duly sworn according to law, on his oath says:

*Q.* What is your residence and business?

*A.* I am in the railroad business—general agent of Chicago, Milwaukee and St. Paul Railroad, and live on Long Island; I know Mr. Apgar, and have known him for about ten or fifteen years; I have had business transactions with him; I was a depositor at his bank at one time, but not for five years past; my relations with him have been since then more of a social character, and I know him pretty well; I know Mr. Theodore S. Dumont, and have known him for fifteen years; I have had

no business relations with him, simply social; we are in the same line of business, and have known him as I would know others in my business; I do not know Mr. F. J. Treat; I understood there would be an examination in this case, but not positively; I heard it from Mr. Dumont.

*Q.* Did you have any talk with him about this case?

[This question, as well as the testimony already taken, given by this witness, is objected to as irrelevant, immaterial, and not in rebuttal or contradiction of any testimony offered on the part of the proponent.]

*A.* He said I would probably be called on to testify to our conversation with regard to this matter.

*Q.* What did you say to him? [Objected to for the same reason.]

*A.* I think I said that I did not know what benefit my testimony would be; however, if called upon I would have to go.

*Q.* Did he ask you to see Mr. Apgar.

*A.* No, sir.

*Q.* Did you go to see Mr. Apgar?

*A.* I did, to see if he had been summoned as witness in this case; I understood that we were both to appear as witnesses simply about a little conversation which took place between us last spring.

*Q.* What interest had you in seeing Mr. Apgar in the matter. [Objected to on the same ground as before.]

*A.* Simply to know if he had been summoned as a witness.

*Q.* What conversation took place between you and Mr. Apgar to-day on this subject. [Objected to for the same reasons as last stated.]

*A.* I asked him if he had been summoned, and he replied that he had not; I think that I said something to him like this: I understood that we were to appear at three o'clock to-day, but as neither of us had heard anything, I concluded that they did not want us; that is about all was said.

*Q.* When did you prior to this see Mr. Apgar on this subject? [Objected to for the same reason.]

*A.* I think it was about the middle of last week.

*Q.* What was the occasion of your interview with him on that day. [Same objection offered.]

*A.* I had been informed the day previous of my being summoned to appear here; I expected a summons.

*Q.* What took place between you and him on that day? [Objected to for the same reason, and that conversation between Mr. Richardson and Mr. Apgar is not evidence in any event.]

*A.* We might have referred to this matter again; I think I said to him—asked him—why he had mentioned this conversation to this clerk, Mr. Treat; I asked him what he said to him; he said he did not remember what he did say to him; I guess that will cover that.

*Q.* Did you ask him if he remembered what you said to him on a former occasion about Treat. [Objected to for the same reason.]

*A.* I don't remember of asking him such a question.

*Q.* Mr. Apgar was engaged in a board meeting when you called, was he not?

*A.* I think he was.

*Q.* You interrupted him for the purpose of the conversation you have just stated, and for that alone? [Objected to for the same reason as aforesaid.]

*A.* I did.

*Q.* Have you had any conversation during the year with Mr. T. S. Dumont, concerning Mr. Treat? [Objected to for the same reason.]

*A.* Yes, sir.

*Q.* When, and where, and what was the conversation? [Objected for same reasons as above stated.]

*A.* Last spring, on the street, on Broadway; he related to me something about this case; he knew of my intimacy with Mr. Apgar, and spoke to me about this Mr. Treat—how he had befriended him and loaned him money to pay

a mortgage, and loaned him money on various other occasions, and that he now had turned against him, and appeared as a witness in this case against him.

*Q.* Did he characterize Mr. Treat in any way? [Objected for the same reason.]

*A.* I don't remember that he did; he said, if I remember right, he had talked about Mr. Apgar, and he did not think, if Mr. Apgar knew what kind of a man he was, would have him in his employ, or words to that effect.

*Q.* Did you thereupon report that conversation to Mr. Apgar? [Objected to as leading, and for reason already stated.]

*A.* My conversation with Mr. Apgar, on that subject, was accidental, purely.

*Q.* When was it held?

*A.* At his office, last summer.

*Q.* Can you fix the date?

*A.* No, sir; I did not consider it of sufficient importance.

*Q.* Can you state the month?

*A.* No, sir.

*Q.* What did you say to Mr. Apgar on that occasion? [Objected to for the same reasons as already stated.]

*A.* I think we were referring, as we frequently do, to our Loyal Legion meeting, and Mr. Dumont's name happened to be mentioned; I then said Mr. Dumont has spoken to me rather severely of one of your employees; then that conversation took place which I have repeated.

*Q.* Did you mention the name of the employee?

*A.* I don't remember.

*Q.* Did you repeat the substance of the conversation that Mr. Dumont had with you on the subject? [Objected to as before.]

*A.* I have already said so.

*Q.* What did Mr. Apgar say? [Objected to for the same reason.]

*A.* Mr. Apgar said that he supposed it was some mat-

ter that did not concern him; this young man had been a little loose in money matters, any way, that he owed him money then, and had done so nearly ever since he had been in the bank; that was about all of the conversation, and it dropped out of the minds of both of us from that time until I heard of this summons.

*Q.* Did you tell Mr. Apgar that Mr. Treat had testified or was going to testify in a will contest in which Mr. Dumont was interested? [Objected to for the same reasons and as leading.]

*A.* I have answered the question before.

*Q.* [Question repeated and witness requested to answer categorically, yes or no. Objected for the same reasons as before.]

*A.* I think I did.

*Q.* Are you, Mr. Dumont and Mr. Apgar members of the same chapter of the Loyal Legion?

*A.* Yes, sir.

*Q.* Did not Mr. Apgar request an interview with Mr. Dumont? [Objected to for the same reason.]

*A.* No, sir.

*Q.* Or at any time on this subject?

*A.* No, sir.

*Q.* Did you not request Mr. Apgar to have an interview on this subject with Mr. Dumont? [Objected to for the same reason.]

*A.* Never thought of such a thing.

*Q.* Did you tell Mr. Dumont of the interview you had with Mr. Apgar?

*A.* Don't think I ever mentioned it to Mr. Dumont; I never said or heard of anything of what I said to Mr. Apgar at that time until it was intimated to me that I was to appear as a witness here last week.

*Q.* Have you had any business dealing with the bank during the past year.

*A.* Yes, a little.

*Q.* Of what nature? [Objected to for the reasons

already stated, and upon the further ground that it is of no concern to any party in this case what business relations Mr. Richardson had with the bank.]

*A.* I had some railroad bonds, the coupons of which are payable only at that bank, and had other business relations with the bank.

*Q.* At whose request, if any one's, did you see Mr. Apgar last week and to-day? [Objected to for the same reason.]

*A.* At no one's request.

*Q.* When you called last week to see Mr. Apgar you insisted upon interrupting him at a board meeting for the purpose of speaking to him on this subject, did you not? [Objected to for the same reasons already stated, and on further ground that there is no evidence that he did interrupt him, and as a conclusion of counsel.]

*A.* It was no interruption, Mr. Apgar is my personal friend; it is no interruption for me to call on him at any time on any subject.

*Q.* Did you insist upon the messengers calling him out? [Objected to for same reason that there is no evidence that he did call him out.]

*A.* There was no messenger; I went to the door and asked Mr. Apgar to step out, I wanted to speak to him a moment.

*Q.* You mean to say that you walked to the door of the room in which the board was holding its meeting and spoke to Mr. Apgar without first requesting your name to be taken in to him, or requesting a messenger or clerk to tell him you were there and wanted to see him? [Objected to for same reasons already stated, and as an attempt to cross-examine their own witness on an answer already made by him.]

*A.* I did not send my name by a messenger or clerk to Mr. Apgar; I went to the door of the director's room, if I remember correctly; I did rap on the door before I opened

it; no, I did not request a messenger to take my card or my name to Mr. Apgar.

Cross-examination by Mr. Smith.

*Q.* You were sufficiently intimate with Mr. Apgar to call on him at the bank and speak to him as you did?

*A.* Yes, sir; I think it was some little time after the conversation I had with Mr. Dumont last spring that I related to Mr. Apgar, and the occasion of that was accidental; I did not go there for that express purpose.

*Q.* Did Mr. Theodore Dumont request you at the time you had this conversation with him to mention it to Mr. Apgar.

*A.* He did not; have been thrown in with Mr. Dumont socially and in business considerably since I have known him; I see him every few days, and have seen him two or three times a day.

*Q.* So far as your experience with Mr. Dumont has been, is he of a vindictive character? [Objected to on the ground that it is not proper cross-examination, nor redirect.]

*A.* No, sir.

*Q.* Have you ever seen him carry a dagger. [Same objection made.]

*A.* No, sir.

*Q.* Have you known him to have one? [Same objection.]

*A.* No, sir.

*Q.* Is he in the habit, so far as you have seen, in the habit of becoming intoxicated. [Same objection, and also because it is leading.]

*A.* I never saw him under the iufluence of liquor; the conversation I had with Mr. Apgar as to what Mr. Dumont had told me in relation to Mr. Treat was entirely upon my own responsibility; I was informed that I was one of the parties to be examined in this case last week, and that Mr. Apgar was another to be examined.

Redirect.

*Q.* The stating the conversations had between you and Mr. Dument, or between you and Mr. Apgar, do you mean to be understood as giving the exact words, or only their substance so far as you can recollect?

*A.* The substance, as far as I recollect.

E. F. RICHARDSON.

Examination taken, reduced to writing, sworn to and subscribed, this 22d day of November, 1887.

THEODORE F. LOZIER,
*Commissioner.*

Received December 1st, 1887, in open court.

T. F. MCCORMICK,
*Prest. Judge.*

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## ORDER CONTINUING REFERENCE BEFORE MASTER.

An order of reference having been heretofore made to James J. Gerber, the then surrogate of said county, and it appearing that the taking of testimony under said order has not been concluded, and that said James J. Gerber has ceased to be surrogate of said county, and the counsel of proponents and caveators assenting thereto, and it appearing proper so to do: it is, on this seventh day of December, eighteen hundred and eighty-seven, ordered that said James J. Gerber, one of the Masters in Chancery of this state, continue to take and reduce to writing the testimony produced before him by the respective parties, to whom the matter is further referred for that purpose, and that he file such depositions, together with those taken before him as surrogate, with the clerk of this court, with all convenient speed.

T. F. MCCORMICK,
*Prest. Judge.*

LEWIS S. HYER,
NATHAN HARPER,
*Judges.*

OPINION.

McCormick, *Judge.* After a very careful review of the testimony in this cause, and upon examination of the cases cited bearing upon the points suggested by counsel, I cannot avoid the conclusion that the mind of the testatrix was strong, active, and vigorous, and that her free agency was in no manner destroyed by any influence; and therefore I am of the opinion that the will of Mary B. Dumont, deceased, should be admitted to probate.

March 31st, 1888.

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NOTICE OF MOTION FOR DECREE.

*To Riker & Riker, Counsel for Caveator:*

Please take notice that application will be made to the said Orphans' Court, on Wednesday, the twenty-fifth day of April, instant, A. D. eighteen hundred and eighty-eight, at ten o'clock in the forenoon of said day, or as soon thereafter as the court can attend to the same, to sign the decree admitting the said will of the said Mary B. Dumont to probate, and to fix the allowance to be made to counsel for proponents, as well as for their disbursements in said matter.

William Cranstoun, Jr.,
*Proctor for Proponents.*

Service admitted—Riker & Riker,
*Proctors for Caveators.*

April 25th, 1888.

DECREE.

Depositions having been taken in this matter before James J. Gerber, surrogate of the county of Union, to whom it was referred by order of the court to take evidence, and the court having considered the proofs, and counsel having been heard on behalf of proponents and caveator, and it appearing to the court, and the court adjudging that the will offered for probate was properly executed, and is valid and should be admitted to probate, and, further, that the persons contesting the will had some reasonable cause for contesting the validity thereof, and that certain portions of the bills for disbursements presented and shown to the court, as well as some reasonable allowance for counsel fee to both the caveators and proponents, should be made and paid out of the estate: it is on this thirty-first day of May, in the year of our Lord one thousand eight hundred and eighty-eight, no motion of counsel for proponents, ordered, adjudged and decreed, that the instrument in writing, purporting to be the last will and testament of Mary B. Dumont, deceased, and offered for probate by the proponents, was properly executed, and was genuine and valid; that the said Mary B. Dumont, at the time of executing said instrument, was in all respects competent to execute the same, and was not under restraint or undue influence, and that the said instrument be, and the same hereby is, admitted to probate.

And it is further ordered and decreed that letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in said will.

And it is further ordered that an allowance and counsel fee of two thousand dollars be made to Abel I. Smith, of counsel with the proponents, and that an allowance and counsel fee of one thousand dollars be made to William Cranstoun, Jr., also of counsel with the proponents, and

that the sum of five hundred and sixteen dollars and fifty-three cents be paid them collectively for their disbursements, making in all the sum of three thousand five hundred and sixteen dollars and fifty-three cents for allowance and disbursements to the counsel for proponents; and that an allowance and counsel fee of five hundred dollars be made to each of the counsel—Riker and Riker collectively, and William J. Curtis—for the caveator, and the sum of two hundred and fifty-nine dollars and forty-one cents for their disbursements, making in all the sum of twelve hundred and fifty-nine dollars and forty-one cents for allowance and disbursements to counsel for caveator, and that said several sums be paid by the executors of the said will of Mary B. Dumont, out of her estate.

T. F. McCormick,
*Prest. Judge.*
Lewis S. Hyer,
Nathan Harper,
*Judges.*

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APPEAL.

William H. Dumont, the above-named caveator, being one of the children and legatees, and next of kin of the said Mary B. Dumont, deceased, hereby appeals to the Prerogative Court of the State of New Jersey, from so much of the decree herein entered the thirty-first day of May, eighteen hundred and eighty-eight, as adjudges and decrees "that the instrument in writing purporting to be the last will and testament of Mary B. Dumont, deceased, and offered for probate by the proponents, was properly executed and was genuine and valid; that the said Mary B. Dumont, at the time of executing said instrument, was in all respects competent to execute the same, and was not under restraint or undue influence, and the said instrument

be and the same hereby is admitted to probate," and "that letters testamentary be issued to Theodore S. Dumont, Charles A. Robbins and William H. Dumont, the executors named in said will."

June 13th, 1888.

RIKER & RIKER,
*Proctors of William H. Dumont.*

Filed June 29th, 1888.

GEO. T. PARROT,
*Surrogate.*

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WILL OF MARY B. DUMONT.

I, Mary B. Dumont, of Summit, Union county, New Jersey, do make, publish and declare my last will and testament as follows:

*First.* I direct my executors, hereinafter named, to pay my just debts and funeral expenses as soon after my decease as may be practicable.

*Second.* I give and bequeath to my daughter, Henrietta S. Robbins, all my household furniture, pictures, silver and plated ware, my personal wearing apparel and jewelry and all books, excepting such books as belonged to my late husband.

*Third.* I give and bequeath to my executors, hereinafter named, the sum of five thousand dollars, in trust to invest the same and keep the same invested, and to pay over the net interest and income thereof to my granddaughter, Elizabeth Dumont, until she shall marry or until the death of her father, when, upon the happening of either event, the said principal sum of five thousand dollars shall be paid to my said granddaughter absolutely and in fee. In case my said granddaughter should die before her marriage and before the death of her father, then said five

thousand shall be held in trust in like manner for her sister, Mary E. Dumont, the interest to go to said Mary E. Dumont until she shall marry or until the death of her father, when, upon the happening of either event, the said principal sum shall go to her absolutely and in fee.

*Fourth.* I give and bequeath to my son, William H. Dumont, the sum of one thousand dollars. I thus give to my said son William, a sum estimated to be less than that given to my other children, for the reason that he succeeded to the business built up in part by my late husband, in the city of New York, which was a valuable business, and in the good-will of which my other children have had no share.

*Fifth.* All the rest, residue and remainder of my estate, both real and personal, of whatsoever name and nature, and wheresoever situate, I give, devise and bequeath to my son, Theodore S. Dumont, and my daughter, Henrietta S. Robbins, to be divided between them, share and share alike.

*Sixth.* I hereby name, constitute and appoint my sons, Theodore S. Dumont and William H. Dumont, and my son-in-law, Charles A. Robbins, as executors of this, my last will and testament; and I hereby authorize and empower them, and the survivors of them, and such of them as shall qualify as executors, to sell and convey any or all of my real estate at public or private sale, and upon such terms as they shall deem best, and I hereby revoke any and all wills by me at any time heretofore made.

In witness whereof I have hereunto subscribed my name and affixed my seal, at Summit, aforesaid, this eleventh day of April, in the year eighteen hundred and eighty-four.

MARY B. DUMONT. [L. S.]

The foregoing instrument was subscribed, sealed, published and declared by the testatrix, Mary B. Dumont, as and for her last will and testament, in the presence of each of us, who, at her request, and in her presence, and in the presence of each other, have hereunto subscribed our names

as witnesses attesting the same; this attestation clause having been at the time of such subscription, read aloud to the said testatrix in our presence and hearing.

WILLIAM H. RISK,
Summit, New Jersey.
JAMES S. GREVES,
50 E. 129th St., New York City.

Union County, *ss.*—William H. Risk, one of the witnesses to the annexed writing, purporting to be the last will and testament of Mary B. Dumont, the testatrix therein named, deceased, being duly sworn, says, that he saw the said testatrix sign and seal the said annexed writing, and heard her publish, pronounce and declare, the same as and for her last will and testament.

That at the time of the doing thereof, the said testatrix was of sound disposing mind, memory and understanding, as far as this deponent knows, and as he verily believes; that James S. Greves, the other subscribing witness thereto, was present at the same time with this deponent, and together with him, subscribed his name thereunto as witnesses, in the presence of the testatrix and of each other, at the request of the said testatrix, and that said testatrix died more than ten days ago.

WM. H. RISK.

Sworn before me this 16th day of July, A. D., 1888, at Elizabeth.

GEO. T. PARROT,
*Surrogate.*

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I, George T. Parrot, surrogate of the county of Union, and clerk of the Orphans' Court of said county, do hereby certify that the foregoing is a correct transcript of all the proceedings before the Surrogate and Orphan's Court of

said county, in the matter of propounding for probate a certain paper purporting to be the last will and testament of Mary B. Dumont, deceased, and copies of all papers filed in my said office relating thereto, as also of the evidence taken in said matter, the decree of said Orphan's Court admitting said paper to probate as the last will and testament of Mary B. Dumont, and of the will as admitted to probate in pursuance of said decree. And that I have compared the same with the record and original papers remaining in this office, and have found the same to be a correct transcript therefrom and the whole of said record.

Witness my hand and seal of office the twenty-third day of August, eighteen hundred and eighty-eight.

[L. S.] GEORGE T. PARROT,
*Surrogate of Union County and Clerk of the Orphans' Court of said county.*