1st Interrogatory:

What is your name, age and place of residence and your relationship to the other witness named in this commission?

Answer —

Catherine Gaylor is my name, age forty four years, and I reside at Orford in Lawa County Iowa, and the other witness named in this commission is my husband.

2nd Interrogatory:—

Were you or not acquainted with George Taylor, late of Ogle County, Illinois deceased, and, if yea, when, where and how long did you know him?

Answer:

I was acquainted with the said George Taylor, I first knew him about fourteen years ago at Payne's Point, Ogle County, Illinois and was acquainted with him from that time till his death

3d Interrogatory:

Was or not the said George Taylor ever a member of your family or boarding with you, and, if yea, when, where, how long and under what arrangements?

13

Answer:

The said George Taylor boarded with us (I mean by us myself and husband) He boarded with us at Payne's Point Ogle Co, Illinois. He commenced boarding with us in the fall of 1861 and stayed with us until the last week in March 1863 - At that time we left his house. I think he paid us twelve shillings per week for his board. I do not know what was the arrangement in regard to the use of part of his house which we occupied

4th Interrogatory:

If, in answer to the third interrogatory, you say that said George Taylor did board with you, or was a member of your family, please state what was the condition of his health during said time (or if not uniform how it was at different periods and what periods during said time) and also whether or not there was anything in his conversation, actions or appearance during said period or any portion of it that particularly attracted your attention, and if so what it was - what were the appearances, actions and conversations and the time of each respectively - State all and every of them that you now recollect fully and particularly, and if you know state also

what was the general character of his action
" and conversations during the time or the
" different portions of the time he boarded
" with you or resided in your family?

Answer:-

" His health was poor during the entire time
" he boarded with us. His health was not
" uniform. He had a severe attack of sickness
" during the second winter he boarded with
" us. He had also bad spells sometimes
" twice in a week and sometimes only once
" in two or three weeks. There was something
" peculiar in his conversation during the
" continuance of these bad spells. He would
" come into the house and commence scolding
" me, and would ask me if I could find a
" certain portion of scripture. When I found
" it for him, he would say it was just as he
" thought it was, and appeared to be well pleased,
" but if I failed to find it for him he would
" be angry. During the sickness mentioned
" he appeared delirious, and during a portion
" of that time he was insensible. He appeared
" troubled about his money and property. One
" day about the time he was recovering from
" his sickness, I went into his room and
" found him under the bed, and I asked
" him what he was doing. He said he was
" hunting for his pocket-book which he said

was lock. I asked him if he did not remember of Bolivar (Roe) taking it. He said no. Then I called my husband in and he got said Taylor back into his bed. In a short time I found him out of bed again. I asked him what he wanted. He said he was hunting for his pocket-book. I told him Bolivar (Roe) had it, and when he came I would tell him to give it to him (Taylor). Bolivar Roe came in soon and gave him the pocket book. He also acted and talked very singularly on other different occasions but I am unable to specify the particulars.

3-rd Interrogatory:

Was or not the defendant Bolivar Roe in the habit of occasionally visiting said George Taylor at your house, and if so state when and how frequently and whether their interviews on such occasions (if any) were public or private and whether or not you noticed anything unusual in said George Taylor's actions or conversation immediately after such visits or any of them, and if so what it was, and when and on how many such occasions you noticed it.

Answer:

She said Bolivar Roe was in the habit

of visiting said Taylor at our house. Before said Taylor was sick said Roe came only occasionally. During his sickness he came nearly every day, and after sickness occasionally. Their interviews were mostly private. Immediately after such visits he (Taylor) appeared quite irritable and out of humor about something. I can not specify the occasions, but it was more noticeable after his sickness than before.

6th Interrogatory:

Was or not said George Taylor in the habit of visiting said Bolivar Roe during the time said Taylor boarded or lived with you (if he did board or live with you) and if yea, ~~state~~ how frequently, and state whether or not upon any occasion immediately after such visit you noticed anything peculiar in the conversation or actions of said George Taylor, and if yea, what and on how many different occasions?

Answer:

Said George Taylor was in the habit of visiting said Roe, while said Taylor boarded with us. When able to walk that far he went generally twice a week. Sometimes he was not able to go so far. Immediately after such visits, I noticed that said Taylor

was very irritable. I can not recollect particulars.

7th. Interrogatory

State, if you know, the greatest number of sheets and pillow-cases that said George Taylor had at any time, while he lived or boarded with you (if you answer that he did live or board with you) and whether or not he still had the same when he ceased to live with you and what were your means of knowledge of this matter?

Answer:-

There were three coarse sheets, two or three fine ones and one old sheet, belonging to said Taylor while he lived with us. I do not recollect the exact number of pillow-cases, but not more than four pair. He had the same of both when he ceased to board with us. I did his washing and after the death of his wife took care of his bed clothes. There was another and very badly worn sheets which was put around the dead body of his wife and buried with her.

8th Interrogatory:

State whether or not you ever had any conversation with said George Taylor in which he stated to you anything that he said Bolivar Kol had told him about

Mason Taylor the complainant, and if yea, state the same fully and when and where it occurred.

Answer:

I can not now recollect any particular conversation of that character.

9th Interrogatory-

Do you know of any other matter or thing touching the matters in controversy in this cause that may tend to the advantage of the complainant, in addition to what you have already stated? If yea, state the same as fully and at large as if you had been particularly interrogated in referred thereto

Answer

Upon one occasion, immediately after his return from a visit to Bolivar Roe, George Taylor said to me "now that Eleanor (his daughter and Bolivar Roe's wife) is dead and has left her children I think I ought to will more to them"

1st Cross Interrogatory

Does any relationship exist between yourself and Mason Taylor the complainant in this cause - if yea, what is its nature?

Answer:

" There does exist a relationship between
" Mason Taylor and myself - His wife is my
" sister.

" 2nd Cross Interrogatory:

" Q. in answer to the third direct interrogatory,
" you state that George Taylor did live or board
" with you; please state whether or not you ever
" had any difficulty or altercation with the
" said Taylor during the time he so lived or
" boarded with you in relation to his washing,
" the loss of his clothing, the breaking of any
" dish or utensil, or in relation to any other
" matter or thing, and whether or not any
" ill feeling existed between yourself and
" the said Taylor?

" Answer:

" I did have some difficulty with the said
" George Taylor, in regard to his washing
" while he boarded with us. His wife agreed
" to pay me twenty-five cents per week for
" doing their washing. After her death he
" refused to pay it, and I told if he could
" get it done cheaper some other place he
" was at liberty to do so. He took it to Mrs
" L. Taylor. I had no difficulty with him
" about loss of his clothing. I had an
" altercation with him about his breaking
" a saucer. I am not aware that any
" ill feeling existed between us.

3d Cross Interrogatory:

If, in answer to the fourth direct interrogatory, you state that George Taylor's health was not good, please state during what portion of the time said Taylor lived with you (if he did live with you) he was confined to his bed by sickness. Please state the number of times that he was so confined to his bed. the time when each serious illness occurred, and the length of its duration. state fully and minutely.

Answer:

He was confined to his bed by sickness only once - and for nearly three weeks during the second winter he boarded with us. He had only this one serious illness

4th Cross-Interrogatory

If in answer to the fifth and sixth direct interrogatories you state that George Taylor and Bolivar Roe were in the habit of visiting each other, please state for what purpose said Taylor visited said Roe, or what was his avowed object in visiting him and during what portion of the time he lived with you, (if he did live with you) was said Taylor able to walk to said Roe's place of residence, and did the said

Roe have any business with the said Taylor, or perform any service for him which rendered it necessary that the said Taylor and Roe should visit each other, if yea, what was its nature and how often were such visits necessary?

Answer:

Sometimes he (Taylor) said that he want to said Roe's to get shaved. I don't know what his real purpose was. He was able to walk there most of the time except during his sickness and during very cold weather. I do not know of any business which said Roe had with said Taylor or any service which he performed for him (Taylor) which rendered it necessary for them to visit each other

5-th Cross Interrogatory.

Please state whether or not George Taylor ever visited or started to visit his son Samuel Taylor, during the time he lived with you (if he did live with you) - if yea, how often did he go, at what time, by what conveyance and was he accompanied by any one - if yea, how often and at what time, what was the state of his health when he left and when he returned, and how far did the said Samuel live from your place of residence at that time?

Answer:

The said George Taylor did start to visit his son Samuel Taylor during the period mentioned. He went but once. It was during the first summer we lived in his house. He went in his own buggy. He was alone. When he left his health was as good as usual. It was (as nearly as I can now recollect) the same when he returned. Said Samuel Taylor lived about One hundred miles from our place of residence at that Time, at least people said that was the distance

6th Cross Interrogatory

Please state whether or not George Taylor was in the habit of using ardent spirits, and did you or not ever tell Bolivar Roe, that at a certain time the said Taylor had been under the influence of liquor and that it was the cause of unusual or violent actions conversation or conduct on his part.

Answer:

He did use ardent spirits as a medicine I dont think he used liquor for any other purpose. I don't recollect of ever telling the said Bolivar Roe that said Taylor had been under the influence of liquor or that it was the cause of unusual or violent actions, conversation or conduct on his part. In fact I am quite positive I never did tell him any such thing.

Catherine Taylor

Circuit Court Ordinns

123

State of Illinois }
Ogle County } ss

The People of the State of Illinois to M. M. Stivers Esqr. of Toledo in the County of Jama and State of Iowa, Greeting: Whereas it has been represented to us that Rollin Dayton and Catherine Dayton are material witness in a certain cause now pending in our circuit court, in and for the County aforesaid, between Mason Taylor complainant and Samuel Taylor, Bolivar Roe, John Roe, Martha Roe, Mary Frances Roe, George Roe, Eleanor Roe, Elija Taylor, George Taylor, Julia Taylor and Mason Taylor are defendants, and that the said witness reside at the County of Jama in the State of Iowa aforesaid, without the said State of Illinois and that their personal attendance cannot be procured at the trial of the said cause; Now know ye, that we, in confidence of your prudence and fidelity, have appointed you Commissioners to Examine the said witnesses, and do therefore authorize and require you to cause the said witnesses to come before you at such time and place as you may therefor designate and appoint, and diligently to examine the said witnesses, on the oath or affirmation of the said witnesses, by you first duly in that behalf administered, and faithfully to take

the deposition of the said witnesses upon all interrogatories indorsed with or attached to these presents, both on the part of the said plaintiff and of the said defendant, and none others, and the same when thus taken, together with this commission, and the said interrogatories, to certify into our said Circuit Court, with the least possible delay.



Witness J. G. Petrie clerk of said Court and the seal thereof at Oregon in said County this Eleventh day of June A. D. 1864

J. G. Petrie, Clerk.

Depositions Endorsed
Opened by leave of Court and filed
June 24th 1864
J. G. Petrie Clerk

The complainant next introduced Hiram Wood, who, being duly sworn and qualified in said cause, deposed as follows:

I knew George Taylor. Lived for last three or four years of his life less than half a mile from him. Have lived there seventeen years. Saw him often, generally once a week - as often as that. My house was between his residence and that of Balivas Roe. He frequently called on his way to Balivas Roe's. Most generally called. Recollect when he had a severe illness in 1864. Saw him frequently after. At times he appeared a little singular - at other times rational. Noticed it all along after his illness. Appeared to be absent-minded. At one time, was at our house - started home went to the pantry door and then to the stair door. Said he wanted to go to Balivar's. Showed him the way. Pantry door on the east end of partition - Stair door next, then bed-room door on the west side. One outside door east and one west. Neither outside door on same side as pantry door. Was toward evening - not yet sun-down. Had been in the room often before. I presume one hundred times. One time he took his washing to Lurman Taylor's and brought them and wanted my folks to wash for him. I went up with him, and

carried the clothes part of the way. Got part way and he lay down or fell down in the road. Snow on the ground. Should say nearly half an hour before I could get him up. He wanted to know where Luman Taylor lived. I felt scared - thought he would die in the road. No other instances that I know of. Appeared childish. Imagined things that I thought not so. Thought they were trying to get his property from him. Said Rollin Dayton was stealing from him, and Mason Taylor's wife agreed to it. Spoke of some sheets and pillow-cases. Said it to Dayton's wife, but thought Mason's wife agreed to it. I heard him speak of it three or four times - may be more. When he spoke of it would seem quite agitated and excited. He thought he would pay them for it some day. Did not always call going and returning from Rock's - generally when returning he called. Was times when I thought there was a difference in him. His excite-ment seemed to be greater at times when coming from Rock's, concerning losing property. I don't know that he always was more excited when returning. Don't recollect any-thing he said Roe told him Samuel had said. Said, if he knew Samuel said something, he wouldn't give him anything. He was talking about his property. Can't tell when he came

127

from at that time. Am confident he came from Rock, but not positive. I think this conversation was in the fall before he died. He threatened to take them up for stealing. He said he intended to do it — to Rollin Dayton's wife and Mason's wife. Was very angry. Sometimes he used hard words. Acquainted with Mason Taylor since 1843. Have known his wife since her marriage in 1843 or 4. Have known Mrs. Dayton ten or fifteen years. They are respectable ladies, as far as anything I know.

Cross-Examination.

Not positive when this conversation as to Samuel occurred, I think in the fall before his death. It was either in the summer or fall before he died that he mistook the door. — Warm weather — was nearly sundown. He had been reading a newspaper. Had been there two or three hours. Always asked for a paper first. Spent most of his time there in reading. Read two thirds of his time. Conversation was on his business. Read much of the war. At times talked of what he read in his papers. Can't say whether I was there when he was sick in 1864. Think I called to see him. Don't recollect what ailed him. Can't state when I just saw him at my house

after his sickness. Called as soon as he was able to be out. Don't recollect his conversation at that time. When he mistook the doors he sat I think with his face to the stove. Took his hat off. Think he put it on before he started and opened the door. It was a felt hat. It was in the summer or fall before he died. He seemed worried about his property. He named sheets and pillow cases and had lost money. Don't recollect that he spoke of his wife's clothing. When we went to Lumans Taylors there was snow on. Think in spring – not certain of year. He said they wouldn't do the washing at home. Over a mile to Lumans Taylors. Went with him, and carried his things most of the way. Can't tell when he first said Dayton's wife stole from him. Not sure that it was earlier than the fall of 1864. Suppose his excitement was anger. His property I think excited him more than the war. Got excited on politics – not more than on the war. He was free in speaking of the political sentiments of his neighbors. Don't know but there were times that he was as much excited on that as on his property. Heard him frequently express himself on Rollin Dayton and his political sentiments. Can't tell which he spoke more of, Dayton, the war, or the political sentiments

of his neighbors. Sometimes most excited about Rollin, but was much interested in the war. Sometimes the politics of his neighbors excited him very much. For a while that was uppermost in his mind. Can't tell where he came from when he spoke of Samuel. He went frequently to Roe's to get shaved. Don't know of any other topic than Dayton, politics and the war on which he was excited. Don't know that he ever connected Mason's wife with the larceny. Said it on Rollin's wife, and Mason's wife agreeing to it. He never got excited on religion. Don't recollect that I said anything in Court below, about his charging larceny on Mrs. Dayton and Mason's wife.

Esther Wood being produced and sworn in said cause deposed as follows:

I am wife of last witness. Saw George Taylor very frequently. I never noticed any change until after his sickness in 1864, only old age. Others had spoken of it, but I never noticed it until after that. After sickness saw him two or three times a week. Saw him at our house. He lived East, Rob lived South. We were his confidants. He generally was going to Roe's when he called. He had a kind of wildness of

expression he did not used to have, a nervous wildness at times more than at others. His conversation and deportment strange. He talked about property, his main topic - he thought he was losing - he said he thought they were taking it from him. Taking his money, sheets and pillow cases his topic. He enlarged on it before his death. He got it up to 4 or 500 ℔ that he had stolen, but he enlarged on it. He said he thought Rollin Clayton got it. I don't know that he ever gave the number of sheets and cases. He said Rollins folks stole them. I don't know that he said any one else, and that they indulged them in it. He thought that Mason's folks allowed them to do so. I can't guess how many times - so many times I can't tell. A good many times during three or four months. Through summer and fall months. First spoke of it along in the last of June. - he came to our house ~~and spoke of changing~~ ~~was~~ ~~Sheets~~ & changing his mind considerably excited. I asked why he did not give as much to Mason's as to Roe's children. He said they indulged them in it. This was first time, I think, I recollect his speaking of stealing the sheets and pillow cases. I thought there was a great difference when he returned from Roe's. He seemed more

131

boisterous and nervous on his return. When he returned from Rock's he talked mostly of his property and money. I am not positive that he talked of anything except the pillow cases and sheets. That was his topic. Could not divert his mind very well - ave often tried.

Question - State whether or not, in your opinion at the time George Taylor made those statements about the stealing &c, he was laboring under a delusion?

Question objected to by defendants - objection overruled so far as to allow the witness to give an opinion of his soundness or unsoundness from the facts stated, to which ruling defendants then and there excepted.

Question - Did you at the time, from the peculiarities which you observed in the deceased, and which you have now testified to, form an opinion as to his mental condition as to whether it was sound or unsound on the subject of the stealing he talked about?

Question objected to, on the ground that it does not appear that the witness is an expert and competent to give an opinion. Objection overruled. To which ruling defendants then and there excepted.

Ans - I think I have stated, that I did not

think his mind sound. I think he had not his right mind, not as he had been before. I did not discover it until after his sickness. I will state some circumstance When he came to the door, and knocked with his cane, he would not wait for a reply, but come in boisterous and after he had sat awhile lose his place in the house and not know where he was. I am not positive that he talked about Samuel at any time. I heard my husband testify. I don't recollect the conversation he testified to, when Samuel was talked about.

Cross-Examination

Mr. Taylor was sick this last sickness in the winter, the year before he died. When I testified before, I don't ~~know~~ whether I testified about this sickness in 1864. I think I referred to it. I did not give so much testimony only the last part of his life. All I know about it sickness, is what I heard. I understood, he had taken too much morphine and that it had made him sick. I do not know what Doctor attended him. If it was in February. I can not tell how long after I saw him. I am positive he was there in June, but I don't remember after he was sick in February until in

June I am not positive as to number of times. I shall swear to any number of times. I can't tell. Two or three times. I will not say that he was there in April or May. When I testified before I think I testified to his nervous wildness and boisterousness I think I did - not positive. My recollection was then better. I think I am positive as to his appearance. In the Court below I think I was asked about the money, and I answered it. If anything was said about the money I mentioned Rollin's name. I know he said so, but whether it was stated in other Court I can't say. In June he stated about the will. The money and things were talked about at other times. The last of June he talked about will. I don't think it was in July. Mr. Frood was in the house - I think. He said he should change the will. When he came to our house he inquired for a newspaper - I don't know whether he read very long. He looked at the paper sometimes one, two and three hours. He talked about Rollin stealing and the war, but most about Rollin. He commenced this after his sickness - in June two or three hours - Have seen him come in boisterous. I did not know that he had taken too much gin. Some said gin or morphine - don't know whether he was or not under their influence. In September and August he grew worse and worse. I was afraid of

him. He seemed in the last part to grow worse. He was there much of his time excepting bad weather. He came to our house with his clothes - it was a bad day. I don't remember when it was. I think that he generally went to Kolb's when he stopped at our house going and coming.

Re-direct Examination.

We were not keeping post Office. Don't know how long he was confined to his house by that sickness. I think he got out as soon as good weather. He came to our house, I think as soon as he could get out.

Dr. F. Welch. being sworn in said cause, deposed as follows:

Resides at Ashton. In summer of 1864 and writes following resided at Payne's Point. Acquainted with George Taylor. First became acquainted the last of June or first of July 1864. Was then practicing medicine. Have been practicing ten years. Knew George Taylor from that time to the time of his death. Saw him frequently during that period - perhaps would average three or four times a week. Sometimes conversed with him - sometimes not. Hard to answer how often I heard him converse - it was very frequently - might average three or four time

185

a week. Attended him in capacity of physician. Think first was some time the first of July 1864. He was not down sick. Did not visit him. Prescribed for him three or four times from first of July about three weeks. I diagnosed his case. My diagnosis was chorea giving way to paralysis. St Vitus Dance is the same disease as chorea. The effect of the disease is on the nervous centers - the sensor ganglion. May impair - does impair the intellectual powers to a greater or less extent. Could not determine how long he had been affected. I think for some years previous. I observed peculiarities in his actions and conversations. His mind run off on certain subjects that were predominant. During my first acquaintance he related to me about certain persons stealing from him - sheets and pillow-cases I think. On some occasions spoke of stealing other things from him. Heard him speak of the stealing I think every time I had any particular conversation with him. That appeared to predominate with him. He said Rollin Dayton's folks had been stealing from him. Said twenty or thirty sheets as near as I can recollect. I think about the same number of pillow cases.

Sometimes he did not qualify or didn't state the number at all. Appeared to be rather excited and irritated when he spoke of the larceny. I attended him when he had fell and met with an injury. That was some time in January 1865; First of January or last of December. He slipped and fell on the ice at the door, and received a severe contusion amounting to a luxation of the acetabulum or a fracture of its head - the hip joint. I think I visited him about two hours after injury. Was a particularly painful injury. Old gentleman stated to me, that he was pretty severely injured and he wanted me to cure him as soon as possible - he wanted to put Rollin Dayton's folks through for stealing his sheets and pillow-cases and I think money. This was almost the first conversation when I went in. He said Rollin Dayton had stolen them or Dayton's wife. Said Mason Taylor's folks were helping them along with it. Have treated patients who were insane. Couldn't tell how many. Got one under my charge at present. Have made insanity a study in connection with my business. Is part of my business. From my judgment George Taylor was not of sound mind from the time

137

I first knew him

Cross Examination.

Have practiced ten years - commenced at Ogle Station. Have practiced there except two years during the war I was absent. Then I was at Payne's Point about Eighteen months - was in Chicago about five months. Went to Payne's Point 18th June 1864. Have a family. Lived in a house called Charley Robbins - near Capt. Stinson's - East - on the South side of road. Think I saw Mr. Taylor when I first came there. Conversed with him about the last of June. First particular conversation was when I prescribed - last of June or first of July. He first told me the time of day when he came in my house. Told me he had been doctoring with some other doctor, and wanted me to prescribe. Don't recollect that he mentioned who had treated him. Asked me to take his case in hand. Did not state his disease. He asked me to prescribe in general. Said something about his urinary organs, and involuntary flow of urine, and perhaps about the nervous motions. Think he sat down and ate dinner with us. Think he came about noon I prescribed for him on that occasion. He was at my place from one to two hours

I next saw him medically in three or four days. I think I sent to Oregon for the medicines. I don't recollect whether he got the medicine or I. Next saw him at his own house three or four days after. I appointed to call at the first occasion — found him in his own room. Can't say when I next saw him. Saw him frequently. Don't think I called on him professionally more than two or three times. My remedies controlled the tremulousness to some extent. He received little benefit. My calls might have covered a week or ten days. Did not visit him again until he received his injury. Saw him to converse with him at George Addy's store and at his house. Did not on all occasions, when I saw him, converse with him. Think I never saw him at Mr. Roe's house. Might have seen him when passing. Have testified before in this matter. Think in March 1865 in Probate Court. Think not long after his death. Might have been six weeks after his death. Don't think there is any difference in my recollection. Think it is as good now.

Question — Did you testify in the Probate Court that his predominant theme was that Collins Dayton had cheated him out of $800, or $?

I do not know whether I testified so or not.

9

Question – Did you use this language, "He only connected Rollin Dayton with these transactions?" Did you or not in your evidence in the County Court state that the predominance of his conversation was that Rollin Dayton and his wife had cheated him out of $800.?

That was my statement.

Question – Did you not at the same time and place state that he only connected Rollin Dayton with this wrong?

I think I did not.

Question – Did you or not at the same time and place state that – "I never heard him say anything about Mason and his wife?

I don't recollect whether I did or not.

Question – Did you or not use this language "He said, in part they had stolen bed-linen as I understood it – in the first statement he said they had stolen $800 or $900, he did not state what was stolen – he did not connect any other persons but Dayton."

I might or I might not.

Question – Did you or not at the same time and place testify, that when you was called to see Dr. Taylor after he was injured – the injury of which he subsequently died – that Dr. Taylor asked you if it would kill him, and "I told him I thought it would not – he

told me he wanted me to cure him up as soon as possible, for he wanted to put Dayton through, for he had swindled him out of $800 and he was going to apply to a lawyer.

I think I said all but the last - that he was going to apply to a lawyer.

Question - Did you in the County Court make use of the term sheets and pillow cases?

I think I did - I would not say positive.

I may say positive that he did before that injury spoke of Rollin Dayton and his folks stealing from him. I will not swear positively that he did. I don't know who I have conversed with about my testimony, might have been something said about it. I have not canvassed it over with any person. I didn't know at the time I was called & I rather thought I could get him through. Can't tell the first time he spoke of the injury from Dayton. When the old gentleman came to me I think he explained his urinary difficulties. During his last illness he settled up with me - perhaps ten days before his death. He asked me what his bill was. I told him $100 or $90. He replied - all right. He got me to write a due bill for it. He made his mark, and I think Spooner's wife signed it. Can't say how

long we were settling. I visited him two or three weeks from one to three times a day. I prescribed wine for him. I didn't recommend spirits in June. I don't know whether he used liquor only from the effects I saw.

Re-direct Examination.

Uncle George wanted to know what my bill might amount to up to that time. I don't know but I encouraged it after it was mentioned. Mason Taylor employed me to attend him in his last illness. Taylor ultimately died of decay. I think the injury accelerated his death. I believe I stated that the talk about pillow cases and sheets began with our first acquaintance. I think and am almost positive that he talked about the stealing before time I was first employed by him. It is still my best recollection. Am positive that he did previous to that injury, and at or before the time I was employed in June. I don't recollect that he spoke of it at my house.

Re-cross Examination.

I am positive that he did speak of it before his last illness. I misunderstood the question - supposed you referred to the first application.

Caleb B. Boyd, being sworn in said cause deposed as follows;
Acquainted with late George Taylor. Have known him since first recollection, - first in Washington Co. New York. Have known him here about thirty years. When he first came to this State, he lived with my father at Paynes Point a few months - from June to latter part of next winter. My father then moved three or four miles above here on the river. I resided there until, thirteen or fourteen years ago I went to Paynes Point. Before that was seven or eight miles away. At Paynes Point lived in the house with him one and a half or two years. From there moved to house at store less than one half mile from him; at the edge of his farm, lived there and across street two or three years. Left Paynes Point about 1854 or 55, when I removed to Lane near Rochelle twelve or thirteen miles from him. Still continued in business at Paynes Point for six or seven years. Closed business at Paynes Point about 1861. Frequently visited the Point. Sometimes several months & would not go there and at other times frequently. Saw Taylor when in business at Paynes Point almost every day. Saw

him frequently after I went to Rochelle up to time closed up at Payne's Point. After that I did not see him as often. He was a uncle of me by marriage. He visited me when he came to Rochelle. Heard of his being sick in February 1864. I Don't think I saw him during that sickness. Saw him several times in Summer of 1864. Was at our place three or four times, and think I saw him at Payne's Point some time that summer. I thought I noticed a change in him first I presume before I moved to Lane. I Don't know whether before I moved to Lane. I was there, or going past. He took me to the barn. Talked of my father's folks - thought they were mad at him - passed without stopping. Barn across the road. I told him the idea of their being mad at him I thought was ridiculous. Saw several years before his death. Noticed a more marked change - I thought I did. It was the last summer before his death. Thought of it several years - that his appearance was strange - different from what it used to be. Noticed nothing else up to summer of 1864. Think he was out to our place three or four times in summer of 1864 and saw him at Payne's Point. Always had

conversation with him when I saw him
After the sickness, can't say whether I saw
him next at Payne's Point or Rochelle.
Impression that I saw him next at Paynes
Point. I overtook him in the road once. He
was going to the store & he got into the carriage
and I took him to the store. I asked after
his health. I think he said that Rollin
Dayton was stealing from him — I think it
was a horse-collar. Don't recollect speak-
ing of anything else. Tried to persuade
him there was no such thing. I did not
have much effect on him. Only rode with
him a very short distance. Seemed much
excited. Seemed quite nervous. Saw him
but a very few moments. Don't remember
any other conversation with him then.
During summer came out to our
place half or four times. At one time
I think he had lost off one shoe. About
first thing he said was that they were
stealing at Payne's Point every time that
summer. This would be the first thing
sometimes in reply to asking him how
he was. I asked him who was stealing.
He said Rollin Dayton's folks. Asked him
what it was they had stolen. He said
sheets and pillow-cases. I think he said
twenty sheets and pillow cases.

Impression that first time I saw him in Rochelle was when he lost his shoe. Was in the summer. Have not got the dates fixed. Might have been in June. Then spoke about the stealing. Then came in the store. Had lost off one shoe. Wanted to know if I had shoes that would fit him. Head not and showed him where to get them. Did not ask how he lost his shoe. Directed him to a shop on the South street. Just at night some one brought him in the store - think it was Josiah Whitehead. Think same day, I took him home. He stayed with me all night. Most of our conversation was in regard to the stealing. Said Rollin Dayton had sworn vengeance on him for something that happened before Rollin Dayton was born. All his conversation was on the stealing. Think he mentioned the horse-collar and the sheets and pillow-cases on that occasion. Can't recollect that he brought in any one but Rollin - Think he said 2. His manner was much excited. I tried to reason him out of the idea. I couldn't pacify him. I tried to change the subject. I could not get him on any other subject very much. When at the house he paid attention to the children and was more quiet. Then I tried to persuade him

that they did not steal he and turned around and said: "Perhaps you think I lie". He would always return to the stealing. A short time after I saw him in Rochelle - I think when there was a circus there. He was there about time of circus and on day of circus. Can't tell the date of the circus. Best recollection that it was about a month after. I am not good in remembering dates. On the day of the circus, the first I saw of Taylor was on the street. I can't fix exact time. Saw him on the street in his buggy, north of my store. Seemed to be driving in rail fence fashion, on a walk, across the street and back. He was about two blocks distant. Was driving across, to the East - when nearly across, turned and crossed to the West. Did not watch him, but a moment. There residences along the street. No one that he was acquainted with that I know. On the afternoon he came into the store I asked him how he done and what they were doing out at Payne's Point. He said they are stealing like the very Devil. Asked him who was stealing - It was Rollins wife and Mason's wife. He said Mason's ~~wife~~ was backing them or understood it. I told him Mason's wife or

147

Rollin's wife or Mason were present he must know wouldn't steal from him. He said they stole twenty sheets and pillow-cases. I don't remember his reply. I endeavored to pacify him and make him think it was not so. I did not succeed very much in pacifying him. I got him a paper to read. He did not stay long. I don't remember the conversation but I tried to pacify him. I think he stayed over night. Think it was saturday and he stayed over sunday. I was at the store, my little girl came and told me Uncle George was there at the house. He said he wanted to talk with me. I started out with him. When out of the gate he commenced about the stealing. Think he said Rollin had threatened him with vengeance for something that happened before he was born. Something was said about notes. He said Rollin Dayton had stolen some notes from him. I think the notes were against Bayce and Brumfield or against me. I think he said Rollin had stolen the notes out of his chest or trunk. I told him there could be no object for Rollin to steal them. That the only trouble would be to get at the amount. He had the old story over about the sheets &c. I think he said

It was Rollin's wife and Mason's wife and Mason knew it. I afterwards saw the notes in his possession. I then talked to him and told him he was as certain that Rollin stole the notes as the sheets &c, He admitted they were not stolen. I saw him when he rode in the buggy at Kaynes Paint never saw him that summer, but what he spoke of the stealing of the sheets &c. On the sunday when I talked to him he said he would go to Mrs. Bumps. Said he had left his horse at Mrs. Bumps and would go up there. She got provoked at me, because I would not believe that they had stolen from him. I think that was the reason he would not go to my house. On the monday after, he offered to pay me $3. for stopping with me at times. He said he didnt want to be under any obligations to me. Seemed to think that I sympathized with Mason's folks. I usually took the old man's horse to one of the tavern barns or livery stable. I settled up with Mr. Taylor for the notes. Dont know the time - think on monday. I think the time he lost his shoe was before we settled. Dont know whether the circus was before. I can not fix the dates. Went to Bumps store when we settled. His manner in 1864 was entirely different from 3 years before

When he talked of the stealing he would be in a tremor - would be perfectly wild and beside himself. He was a man who used to be intelligent, read a great deal and talked well on politics.

Question by complainants - From your acquaintance with George Taylor and your observation of his conduct that you have testified to, did you at the time of these conversations in 1864, consider him of sound or of unsound mind?

Which question was objected to on the ground that the witness is not shown to be an expert and competent to give an opinion upon the subject - which objection was overruled by the Court. To which ruling the defendants then and there excepted, and the witness proceeded to answer the question as follows:

In the summer of 1864, I considered Mr. Taylor ~~---~~ of unsound mind. It is still my opinion.

Cross Examination.

I have taken considerable interest in the prosecution of this suit - have somewhat. Don't know that I have told him where he could get evidence. I am not on friendly terms with Mr. Cole.

I do not speak to Mr. Roe when I meet him. This feeling has existed a number of years. Roe's first wife was my cousin. Don't recollect that Mr. Taylor enquired for a paper. I think once or twice when there he read a paper. Don't know whether he read more than ever before, during the last year of his life. Taylor was a great reader. Generally read the newspapers. Don't recollect whether when at my house he talked much about the war. He took an interest in the war. He may have said something on political matters. He may have spoken of the political sentiments of his neighbors. I don't know that he had heard of my saying, that he was not fit to go about alone when he offered me $5. I had said that. I don't know whether I knew that he had heard of it. When he took me to the barn was a number of years ago. Not long after Taylor's death, I testified in the Probate Court. The old gentleman always disliked Rollin Dayton — always did. The first I remember of it was about building a picket fence at the house and around the garden. That was fifteen or eighteen years ago. At times ever since that he has talked against him. Dayton was his nephew. My recollection was better of dates when I testified before. It might be

when I met him on the road that he spoke of the collar. I think he said he traded collars with Rollin, and Rollin did not take the collar he traded for. I think the one stolen was a buggy collar. He was not addicted to drink - sometimes he drank some. I don't think he was under the influence of liquor when Whitehead brought him to the store. Can't state his language, but think as to Rollin swearing vengeance, that it was that he, Taylor, got more than his share of the property, that he got more than his mother as an heir. Don't know whether Rollin threatened. Rollin called him Uncle George - Heard heard Rollin call the old man "the old devil", I think. I think he was at my house about the last of June. He conversed with Mrs. Boyce. The oldest child was his favorite. He talked to the children. He then had not much control of his mind. It was not the only reason I said he ought not to be out. I think the circus was on Saturday, think he stayed until monday. Stopped at Mr. Bunyo's. Said he had been in great trouble, that he had lost some notes, and Rollin had stolen them. I told him that Rollin would have no object. Did not pacify him much. I told him, I would bet a "V" that he would find the notes. Don't know that Rollin took the notes to annoy him

He met him next morning to have an accounting on notes and account. Don't recollect whether he looked over the figures, I think on the first occasion. He spoke of the collar. I might have remembered better when I testified below. Next saw him with old John crossing the street. Don't know whether old John's fault or the old man's. The horse was a little headstrong. I presume I asked him then how he knew they had stolen. At some conversation he spoke of Mary's clothes, and he stated something about Rollin's wife and Mason's had spoken of sending Mary's clothes back East to her sister. She (Aunt Mary) may have had some fine articles. She brought considerable household goods and some very good. Was a widow. Think when we settled I asked where he found the notes. Had one note of mine and one or more against Boyce and Bump. Think he lost all of them. Can't state what month it was that he stayed over sunday. It had a storm the day of the circus. Didn't notice whether he had fastenings of his shoes. Usually wore very low shoes.

Re-direct Examination.

He spoke of Aunt Mary's clothes, not of her bedclothes. Rollin I think lived with Uncle George when he said the notes were stolen. I think he lived there then.

153

George Addy, being produced and sworn, deposed as follows:

Knew George Taylor deceased from the spring of 1859 until the time of his death. Resided at Rapps Point, part of time working, part of time doing business. Taylor was there very often, at least twice a week. I left in April 1865. came and sat to talk. came there to have me shave him. up to the time Aunt Mary died. Remember his being sick in 1864. never shaved him after that. No recollection of the time Aunt Mary died. Sometimes I went on sunday to shave him to his house, at my wife's request. She didnt like to have him come there. he was so nasty. During the spring and summer of 1864 saw him nearly every day. His house is over eighty rods from the store. I talked to him every time he came to the store. I did not notice any change in him for some time after 1859. It was after his sickness, I think in the spring of 1864. Spring before he died. There was an entire change in the man. He avoided talking on subjects that excited him, for he got wild. Before that sickness, he talked intelligently on the war &c. After, if you would cross him he would get angry and swear. He said they were stealing from him. sheets and bedclothes. The number differed at different times. I would talk

him out of it. Would say they had stolen five or six pillow cases and ten or twelve sheets, and then next day it would be reversed. He said it was Rollin and Kate and Jane; and Mason was as bad as any of them. Varied the number a dozen times. Every time he came there he would speak of the stealing, and would get excited about it - swear - that they were stealing from him and he wouldn't have anything left. Would sit a half hour and say nothing. Once sat down and cried a long time - He was crying about the stealing. I saw him once attempting to go across the road. He climbed over a rail fence when there were bars right by. I went over and helped him over. I told him there were bars there and I would open them. He said he guessed he could get over. He was very feeble. Was probably ten minutes getting over. He came to my store with money to have me count it. He came with his pockets full loose. Had it in outside pockets of his overcoat; some on the inside too I think. Dropped some. I told him to give his money to Mason or Caleb Bayce. He had over $450, as if you take a hand full and put it in a pocket without any arrangement. He had some in a calf-skin wallet. He laid it on the counter. I told him

I could steal from him and he wouldn't know it. He said, he supposed so. Can't say when it was I counted the money. Have no recollection - Some time after his sickness. Can't say when he tried to climb the fence. Harrison Stinson was there when I counted the money. I don't know of any of his statements showing a change in his feeling toward Mason. If he had any business to do he always went to Mason to do it. He wouldn't speak of Mason any way. After his sickness I never heard him say anything particular about Mason. I wouldn't like to say what he said about Mason in connection with the stealing - I can't think what he said. He said Jane and Kate and Rollin were stealing and I think at one time he said Mason was as bad as any one he supposed. He would swear about him as he would of every one else. Can't remember his words. Can't give his words. Got the idea that Mason was as bad as any one and he wouldn't go near his place. I would try to ease him off. I could not tell his feelings toward Mason before his sickness. I bought some land of him and he said he wouldn't tell me until he saw Mason. As far as I know he advised with him before his sickness. I had a conversation when I asked him why he

156 didnt go to Masons to live. He said he didnt like Masons wife. I cant tell you of the dates at all. I dont know whether it was after the sickness or not. During 1864 he told me of matrimonial speculations. Talked of marrying Mrs. Fuller. Said he would make an offer of dollars and cents to marry him. It was after he was sick, dont know how long. Tried to lead him from the stealing. Sometimes he would be led off and sometimes not. Would not have very good success. I would go off and leave him. He would keep on about the stealing. On other topics his conversation was connected - I dont know but it was. He would tell me what he had said at the neighbors, and after awhile would recur to the stealing. As far as I know Mason looked after him. Mason saw that he had all he wanted and all he needed. I think the people who lived there would take good care of him. Was in to see him when he was sick.

Question by the complainant: From your acquaintance with George Taylor and your observation of his conduct, that you have testified to - did you at the time of these conversations in 1864 consider him of sound or of unsound mind?

Which question was objected to on the ground

15th

that the witness was not shown to be an expert and competent to give an opinion on the subject - which objection was overruled by the Court - to which ruling the defendants then and there excepted - and the witness proceeded to answer the question as follows:
At the time of the summer of 1864, I considered that his mind was unsound. My opinion is the same now as then. After his sickness in 1864 he was very slovenly, pants half buttoned up - bare door pants. They would be unbuttoned as often as buttoned; seen him in the store and road that way. Our house between his house and store, two houses in neighborhood. I saw him in this fix from store door. School-house three, suppose there was school. I would not say how often - did not seem to care.

Cross-Examination.

I never saw him so excited as about the stealing. He would come into the store every day - he enquired for papers - he would read from a half to one hour. Sometimes he would talk about what he had been reading. He would get sometimes a good deal excited about the war, if any one opposed him.
I heard him wishing some of the neighborhood would be drafted. I remember something said about a conversation about the

draft with Rollin. Discussions were had in our store, but I would stop them. He would get excited on politics. Said he hoped to live to see the war ended. In 1864 he would abuse every man that did not think as he did politically. I can't know that I heard him discuss religious matters. I went there in 1859. I knew that he disliked Jane Taylor. I learned it two or three years after I came there, long before Aunt Mary died. Most excited about the stealing. He connected Mason with stealing - he said Mason was as bad as the rest. I do not know of any altercation at Mason's. I can't recollect that the old man ever told me of such an altercation. It was after the stealing that the old man connected Mason with the stealing - think it was in the spring of 1864. I have nothing by which to fix the time, except that it was soon after he was sick. I can't tell at what time after his sickness he came to the store. The old man would sell wood himself. He came after to me to make change, figure interest or run notes. I recollect his coming from his timber to the store. He was exasperated about the wood being cut different from what he intended. He used strong Anglo-Saxon terms. I talked

19

to him about the stealing and tried to convince him he was mistaken. The change was so marked that I couldn't help noticing it. It was a matter of comment at the store - the change that had come over Uncle George. Remember more than once he came there with his pants down. He wore the old style of pants - had some of modern style.

Redirect Examination:

He was in the habit of calling for a paper and reading it from my first recollection up to within six months of his death. I would ask for a paper after his sickness. He would begin at the first and read it through. He used to laugh about it - he would read advertisements and all. Used to laugh at his reading advertisements. I was not particular what paper I gave him - sometimes one he had read before and it wouldn't make any difference. We talked politics at the first of the war and soon after. After his sickness we would not talk with him on the war. Clayton and Taylor were both Republicans. It must have been the winter before he was sick that he came from the woods to the store. It was after the reputed stealing that he talked of Mason in connection with it. I only knew from

what he said that there was stealing.

Cross Examination:

I may have answered below that the reason the old man would not go to Mason's was he wanted to stay at home where he could do as he pleased. The old man was always slovenly. Her was more slovenly after his sickness. was more slovenly after aunt Mary died.

Robert Stringfellow. being sworn in said cause deposed as follows;

Live in Rochelle. Knew George Taylor. Have seen him. saw him in Rochelle in summer of 1864, about the middle of July on a circus day. Don't remember the precise day. On that day I found him lying by the sidewalk about fifteen minutes before ten. Her was by Williams hardware, store, road to J. T. Bird's blacksmith shop. Passed him and could not wait- came backs- asked him what he was doing. Said he fell off the sidewalk carrying oats to feed his horse. Helped him up to Brumps. Fed his horse and he went into Brumps. Think I saw him there before that. Couldn't say whether shortly before that. Think in the summer of 1864. No particular recollection.

60

Cross-Examination:

The old man was sitting. Had sit more than two feet between the walk and building. Had a half bushel with oats. Said he was going to Bumps. Had last his shoe and hat. Some oats in the bushel and some spilled. Said he came from the store. Store I believe is seven blocks two streets and two alleys distant. Her was about the tenth door from the store. There was an impediment in the walk, but he had passed it ten or twelve feet. A man would be in danger of getting off. On one side the walk was close against the building, and on the west side two feet from the building. The walk was about twenty inches from the ground. Building about forty eight feet long. Her was going west. Walk was four feet wide - don't know how many plank in it. It was one continuous walk. Half bushel was close by. Her was perfectly easy - resting himself. It was a heavy rubber shoe. Had a stumbling time getting it on. Don't know how it got off. I went to Bumps with him. Bumps lived near the Presbyterian Church. Fed his horse and he went in.

Harrison Stinson being sworn in said cause

said:
Knew George Taylor. Lived about twelve rods from him five or six years before his death. Saw him when around most every day. Was in my house frequently. I often conversed with him. I think there was a good deal of change in him ever after he got hurt with a horse six or seven years before he died. First knew him in 1854. About five or six or more years before he died he was hurt. He was leading a horse and was jerked, injuring his spine the doctors said. He failed after that, both mind and body. After his wife died I thought there was a change in him. I think she died in February two years before he did. He had an illness in the spring of 1864. I could see, he went more slovenly after than before his wife died. I thought he failed every day after his sickness. When he came to my house, he would sit and read and sometimes go to sleep. He would get quite excited about losing his property, about Rollins and Kate stealing his bedclothes. Think he would mention Jane. Mentioned probably twenty sheets and pillow cases. He sometimes used profane language, which he did not use to do before. He appeared to have a great enmity to Rollins. Spoke of

163

Rollin, Kate and Jane. I never heard him speak of Mason in that connection in my life. He would swear they were stealing his sheets and pillow cases. Sometimes he would come and read and not talk at all to any one. I might have heard him speak of the stealing a dozen times. Don't swear to the number. He was often at my house when I was out. He was great on the war. I think he talked of that after his sickness in 1864, Am pretty certain he did talk of the war after. I had one paper he wouldn't read - called for the other paper, one day acted like a crazy person - can't say how many times. One day particular when he came to my house he looked like a crazy person. He didn't look like himself. His eyes didn't look natural had a peculiar look. It was a wild look. I took him not to be sane. There were not a great many times he was as bad as then He would get excited on the copperheads. He called me one. He was excited when Rollin went away. He came and asked me if I helped to load the goods. I said I did. Said Rollin had stolen a chest. He afterward found that he had given the chest to his daughter. He didn't put on his clothes as he used to; many times were unbuttoned, he would not discover it. Have seen him

1864

wear both kinds of pants. I saw him with his horse harnessed as he thought. He drove up and I took the harness off. Couldn't tell how he got it on - Some time in May 1864. It was a collar-and-hames harness I think. I rode up to the store with him. I think the harness was wrong side before, and the breeching thrown over. One line was wrapped around the stirrup leather. He could see pretty well - would read a paper without glasses sometimes. Used glasses usually Can't tell when Rollin left. I think in 1863. Left in the spring. I think Dayton was there when he was sick. It must have been in 1864 when he left. I never heard of the stealing until about the time Rollin left. I don't think I ever heard Mason's name mentioned in connection with the stealing. I believe I heard him say he had or would make a bastard of Mason. Don't know what he had been talking about. I just came in. I think it was in the spring of 1864. I have stated all I know about it.

Question by complainant: From your acquaintance with George Taylor, and your observation of his conduct that you have testified to, did you at the time of these conversations in 1864 consider him of sound or of unsound mind?

1655

Which question was objected to on the ground that the witness was not shown to be an expert and competent to give an opinion upon the subject - Which objection was overruled by the Court - to which ruling the said defendants then and there excepted and the witness proceeded to answer the question as follows;

I considered him of unsound mind. I have no reason to change my opinion about it at all.

Cross Examination.

When I first discovered Mr. Taylor disliked Rollin Dayton was after Rollin came there. I Dont know how long after. When I first knew him, he thought a good deal of Jane. Cant tell how long after that he expressed a dislike for her. When he came to my house, if not excited, he generally got a paper to read. Perhaps I stated below that he talked politics more the last year. Sometimes he wanted the New Hampshire papers to read, and would read until he fell asleep. Sometimes we talked politics. He said I was a copperhead and he was something else. He said he hoped all the niggers would be freed in the South, if it took all the white men in the North. I took one paper he wouldnt read. He would get excited on the war. Generally he fell

asleep after reading. I might have heard him talk of what he read. Don't know that he got posted on the news except from papers. Got excited on politics if any one disagreed with him. Has asked me about the chest - said he brought it from New York - gave $2.50 for it. I told him afterward that he was mistaken. Has didn't seem to want to talk of it - didn't deny it. During the spring of 1864, I thought he talked more of other things than the war. Did not often talk of religious matters. Might have heard him talk of religion to the women. I think he declined more than most men of his age. He was seventy or seventy two years old when he died. When he came to my house looking wild, I can't say but he was under the influence of morphine or liquor. Met him once in the street when I thought he was drunk, can't say that he was. Smelt no liquor. Had not the same appearance as he had that time at the house. Don't know whether I ever saw him under the influence of morphine. Could not state when it was he appeared excited. Never heard him allege the larceny until about the time Rollin left. I have seen him in my house with his pants unbuttoned - might have been once or six

Times. Don't know about difficulty of buttoning except that he was nervous. As to the harness, the collar was on and the hames. The trouble was in the backband It was between the 18th and 20th of May 1864. I saw him next morning after he was taken sick in 1864. He was sitting on the bed in his bedroom. Saw him every day or so. Don't know as he told me, that he took too much morphine. Heard it in other ways

Re-direct Examination:

Uncle George called me a copperhead.

Phineas Chaney, being sworn in said cause deposed as follows:

Was acquainted with the late George Taylor. First became acquainted in 1838. Lived until the time of his death within two or three miles. Saw him frequently - more or less every year. I saw him frequently at the store and post-office. During the last years I could not number the times I saw him - sometimes once a week. I noticed a change in him within a year of his death. One thing attracted my attention, I had borrowed a jamming mill of him - had it over a year - talked of buying it of him when I got it.

In summer of 1864 - early part of the summer, I spoke to him about it, and he denied my borrowing - said he never had such a mill - insisted I was mistaken. He after told me of some trouble he had - Said that one Dayton had robbed him, that he had been sick and when Dayton ought to have taken care of him, he had robbed him of bedclothing, and he became much excited, choked up, and he seemed overcome. He spoke of the number and changed the number at different times - at one time had it a large number for a private house, perhaps two dozen pieces. In summer of 1864, I saw him, perhaps one dozen times. It was my opinion that his mind was failing, and I spoke of it to George Addy. I noticed this change on all these occasions. Don't know that I noticed any change in him ~~this~~ as to his dress - he was not a very tidy man. He was a very particular man to deal. Looked after his own. Looked after his own. From his denying that he had the mill, I thought he was not sane.

Question by complainant - From your acquaintance with George Taylor, and your observation of his conduct that you have testified to, did you at the time of

these conversations in 1864 consider him of sound or of unsound mind?

Which question was objected to by the said defendants on the ground that the witness was not shown to be an expert and competent to give an opinion upon the subject - which objection was overruled by the Court, to which ruling the defendants then and there excepted and the witness proceeded to answer the question as follows

I concluded he was unsound in his mind. It is my opinion that he was.

Cross Examination.

I am not certain when I got the mill. It was in the fall of 1862 or 63 - may have been a year and a half before he died. I got the mill from the barn. I went to Mason's and he sent me to his father. He told me to go to the barn and get it. He said I might have it for $5. I tried it and offered him $2. He said that was too little. It was about a year after I got the mill I offered him $2. I think John Bull assisted me in getting the mill, who I think lived there. I am not positive who it was - it might have been Rollin Clayton. It was near a year after I told him I would give $2. that he denied having the

mill. I think it was in the spring of 1864 that he denied it. I think it was at the post-office - might have been on the road I spoke to him about the mill - I was in the store. I don't know how I approached him about the mill. I think Dayton had left the place then. He said "I never lent you a fanning mill". I told him when I got it. He had no recollection of it. I think he told me that day of the bed-clothes. He also spoke of his first wife's clothes being taken I don't remember that we talked about politics that day. I have been a good deal familiar with old people. He may not have failed more than other old people, but failed more than any old people I have known. He always knew me when I met him. When I say he was not sound, I mean he was not a perfect man. He was failing in a measure. I returned the mill - I think in March or April after the old man's death. I think Roe helped me put the mill in the barn - it might have been Lyman Taylor I was in the same family with my grand-parents until seventeen or eighteen and then took care of my mother - she died at sixty-six - and also of my wife's mother. The first sign of imbecility I noticed is forgetfulness and childishness. I had a conversation I

= 1871

think in 1864 about his disease. He told me who attended him. He said he could not control his urine. He seemed to know what he talked about. He said some old lady had recommended sour cider, when I was helping him hitch up at the barn. He told me where he was going. I did not discover anything but what he talked rationally. I saw him at a funeral (I think in January 1864) of George Addy's child. I thought he was rather wild - he was very low spirited. That was just before he was sick. He said he suffered a great deal with his disease. I was intimate with the old gentleman. I think I never heard him speak against Rollin until that time - he may have done so. He was very close in deal. I think he was very honest. He wanted his due, and was ready to award it to others. He bordered on avaricious. He was not apt to talk of others. He seemed to have a craving for all he could get.

Benjamin Boyce, being sworn in said cause deposed as follows:

Acquainted with George Taylor. Knew him forty years. Knew him first in New York. He married sisters. He came here thirty years

ago this summer. Knew him ever since. Lived eight miles from him. We visited back and forth several times a year - probably five or six times. When in the prime of life he was a good moral man - was a man of truth - a well read man. His character was good for honesty and truth.

Question - Did you notice any change in him? Question objected to. Objection over-ruled and witness answered as follows: I think I did, in the latter part of his life I don't know what the change was, I thought he was singular the last year. What I thought singular was the charges he made about theft. I called to see him in 1864. We sat down and I talked with him. He said Kate had stolen from him sheets and pillow cases and Jane helped. The women were both there. I don't know as there was much more said. He seemed very much put out, and was very sanguine that they had stolen. It seems to me that I waited for him. I don't know where he came from. I don't remember that I learned from him where he had been. I saw him frequently during the spring and summer of 1864. He was at my place, would come and stay a day or two and go home. I don't

~~162~~
173

remember what his demeanor was. I don't remember that he had any particular topic of conversation. At my house he told me once that Rollin Dayton had stolen money from him and had stolen a horse collar. He said he had his money in a stand drawer and when he counted it $1. was gone and he charged him with it at the table, this was in the summer of 1864. may have been in the fall before. He said he knew he stole it because there was a dollar gone. He said he would get him off the place, for a man who would steal a dollar would steal more. This was at my house. Not sure whether before or after the conversation at Payne's Paint, but think after in summer of 1864. He spoke of the stealing more than once. I tried to reason him out of it, but could not. His manner was much excited. He said he had notified him to leave. He would get in a passion about it. He swore some about it, that did not strike me as unusual in him. He was in the habit of swearing. He generally used very hard language, before his sickness. Always considered him honest and of truth and veracity before his sickness. He was not in the habit of making charges against his neighbors unless true. I had always been intimate with the old man and interested in his comfort. I think Mason always

tried to make the old man comfortable as far as he could. [I had a conversation with Mason that the old man ought to be under his eye.]

The last sentence, in brackets, was excepted to by the defendants, and ruled out by the Court.

At the time of these conversations, I thought he acted very strange, and I said he wasn't capable of taking care of himself. I didn't think I think this was in the summer of 1864.

Question by complainant: From your acquaintance and with George Taylor and your observations of his conduct that you have testified to - did you, at the time of these conversations in 1864, consider him of sound or of unsound mind?

Which question was objected to on the ground that the witness is not shown to be an expert and competent to give an opinion upon the subject; which objection was overruled by the Court, to which ruling the defendants then and there excepted and the witness proceeded to answer the question as follows:

I thought he was not sane on some points. The points were, in accusing his friends of stealing. I have never changed my opinion. I told Mr. Roe he was not capable of taking care of himself. Think it was in 1864. Don't remember - can't fix the time. But Roe

175 in the road I think. I don't know how the crops were.

Cross Examination:

Taylor was tight and close as to money - held on to it as long as he could. In New York he was a farmer. He taught school some, before I was much acquainted with him. After his sickness he came to my house when the roads were good, I think before June. He stayed over night. He read the papers and would talk of what he read, He was well posted on the war, I don't remember whether he had as much interest the last of the war as the first. He always read the papers if there was any new one. When talking on the war I don't know but he kept up a connected conversation. He was a republican He took a deep interest in politics. I think he said he traded with Rollin for the horse-collar and then took it and used it and thought he would never find it. Said Rollin had put an old collar where he would get it, and he thought he wouldn't know the difference. I think I have heard that he had an old grudge against Rollin. I thought he got rather friendly when he let him come on his place. I don't remember any particular topic of his conversation. He said he knew just how much money there was in the

stand-drawer, and one dollar was gone, and Rollin thought he wouldn't know it. That was the only reason he gave. No one lived there or was in the house but Rollin and himself. He said, he had charged Rollin with it at the table, and they had a quarrel about it. I think he told me about the dollar and collar two or three times when at my house. I could not reason him out of it — the larceny. He never said anything to me against Mason's wife, because she was my adopted daughter. About the first of March he told me, he had heard that Caleb, my son, had said "He was ashamed to have him come to his house". I asked him if he didn't think Caleb a man of sense. He said he used to think so. He was afflicted with St-Vitus dance about ten years. He was married to Aunt Mary about twenty years. I don't remember whether she brought a large quantity of household and kitchen traps. I don't know whether she did or not. The house was furnished as well as common. Aunt Mary died about five years ago, two years before the old man. I thought the old gentleman was unsound because he charged the stealing - that was the foundation of my belief. He remembered what he read. He talked rationally when he talked. I don't remember

177

particularly whether he commented on the events of the neighborhood. I think it was near Mr. Taylor's that I told Roe the old man was not capable of taking care of himself. It was in the summer of 1864 or fall before. I think I told Mr. Roe that Mason aught to take care of him.

Question - Did you or not tell Mr. Roe, that it was a shame, the way Mason and Jacob treated the old man?

I did not. I recollect being at Mr Roe's when he was working on a model. I was going to Mr. Allen's. It might have been at that time I told him the old man was not capable of taking care of himself.

Question: Did you say to Mr. Roe that the old man was failing, that it was a shame he was left there alone, that you had been talking to Mason and his wife and Mason laughed at you, and it was a shame, the way Mason treated him?

I dont recollect anything of it. I don't remember saying so at any time. I told Bolivar that Mason aught to take care of the old man. Roe was then a widower with four or five children, and did the house-work himself. I think Taylor was sick then - it was in January or February 1864. I mentioned to Mason and Jane, that he was incapable and they aught to take care of him. I did not tell Mason that

he was negligent. I have not been with or lived with very aged people. Never had any father or mother who were old. I thought Taylor failed very fast the last few years. I thought probably Taylor was about right about the horse-collar. I thought he had good reason to believe it. I told him as to the money, that I had lost money, but didnt dare charge it to any one. He said Rollin thought he would take a dollar only and he wouldnt notice it. There was nothing in the conversation about the dollar and collar that was irrational.

Re-direct Examination

I thought probably Rollin did take the old mans collar, liked it the best, perhaps it didnt hurt his horse. I always disputed him about the stealing of the bedclothes. Tried to reason him out of the stealing the sheets and pillow cases. Dont recollect any conversation with him on the war in 1864. Dont remember his reading the papers then, but presume he did - he had been in the habit of doing it. When I told Mason he was incapable I was afraid he would suffer there and die, and no one take care of him. He was so feeble and so - he had property enough, but I thought he ought to be taken care of. He was quarreling with Clayton and wouldnt have him stay

any longer. I do not remember that Mason or his wife made fun of it when I told them I think Taylor never said anything against Mason's wife. He said Jane helped Kate steal the bedclothes.

Re-Cross Examination.

We were talking and he commenced about the stealing of the bedclothes - that Kate had stolen and Jane helped her. I went out in a few minutes. I told him I guessed he was mistaken. I only called a few minutes and went on home.

Question: Did the old gentleman ever tell you of any abusive language by Mason to the old gentleman?

I don't recollect his telling me. I heard of it otherwise. During 1864 he was at my house three or four times.

Thomas Stinson: being produced and sworn deposed as follows:

Was acquainted with Taylor since 1845. Lived within a mile or a little over. I frequently saw him - sometimes once a month sometimes oftener. Was on intimate terms with him. I thought I noticed a change in him for the last two years of his life. Don't remember noticing anything particular at first. Can't set any time. Remember when he was sick in 1864.

Didnt see him often after, perhaps six times. Didnt converse with him much. Always appeared strange after: didnt talk as he used to. Talked rather wild about the war. Recollect his speaking of the horse collar. Dont recollect of his speaking of anything else. His manner was rather peculiar when he talked of these things. Cant say in what the peculiarity consisted. Got excited in talking of it, and the more he talked the more excited he got. I never tried to reason him out of it.

Question by complainants: From your acquaintance with George Taylor and your observation of his conduct that you have testified to - did you at the time of these conversations in 1864 consider him of sound or of unsound mind?

Which question was objected to on the ground that the witness was not shown to be an expert and competent to give an opinion upon the subject - which objection was overruled by the Court, to which ruling defendants then and there excepted and the witness proceeded to answer the question as follows:

In 1864. I thought his mind was rather unsound. It is still my opinion.

Cross Examination

7
181

When I say he was unsound, I mean that he was not a perfect man as he used to be. Think he failed faster than old men generally do. First thing he would say, he told me they were robbing him. Don't recollect what else he talked of. He asked after my family. On other subjects he conversed rationally. He said the collar was in the barn and Rollin took it. I didn't think he was as sound as he once was - that he was not as intelligent as he once was. I wouldn't wish to be understood that he was sane. Think he was bordering on insanity

Jersey Taylor, being sworn in said cause deposed as follows:

Knew George Taylor - knew him sixteen or eighteen years - lived part of the time within a mile, a little over a year, the rest of the time about a mile and a half. Lived with him when he died and nearly a year before. During the time I knew him I saw him perhaps once a week. He came to his house to live the last week in March 1864. Rollin Clayton was there before and we came in as soon as he left. Taylor was sick just before we came

there, and his health was then poor. He commenced going about at the commencement of warm weather. He stayed a year and he died before the year was out. He boarded with us. My husband did not work the farm. Mr. Mason Taylor requested I should go there and the old gentleman also. I am not related to him at all, or my husband at all. Think I noticed a change in him, some before we went to live there. I noticed a strangeness in his looks and appearance when Dayton lived there. It was before he was sick a year before his death that I noticed it. He would stop and look around rather sharp - with a kind of glaring. This was in the summer of 1862. Taylor came with wood to get washing at my house. It was after that I noticed it. Think it was slippery for he fell down coming. Think it was before that I saw him at the store and noticed a strangeness of appearance, noticed something peculiar after I went to his house. He left his money on the floor of the room where he sat - left it for weeks together. Some was bank money and some in a wallet - Some bills and some postal currency. Saw bills laying there often - one dollar bill sometimes and sometimes two dollars

183

Husband spoke to Taylor about his leaving his money. He said, "Never mind Jersey will take care of it" After some Time he picked it up. I have seen money on the floor when he was not there. The doors were not locked. Left it there several times a day. Sometimes he kept his money in a wallet, sometimes in a trunk made of wood. The money used to lay in piles in his trunk. I think he had as much as $500. at one time. When he would change money he would put it all in his pocket. Washington Jones came to pay me money, and I wanted $3. He changed it, and put it all in his pocket. I talked to him about it, and he gave it to me. I don't know whether Jones gave him the money or me. After I talked to him, he gave it back. He put it in his pocket and said he had it got my money. I looked at his money and told him which I wanted and he gave it to me. My son-in-law handed him money to change and came in and said he had put it all in his pocket. I went out and talked to him, and he gave me the money I told him which I wanted. I think he was not capable of counting money. That was not long after. I went there, I guess the money was not lying on

the floor there. It was in warm weather he left his money lying around. He would go to bed, and leave his light burning and let the candle burn out. Mr. Taylor had to watch him for fear of setting the house afire. He would make a fire and leave his stove door open. He came to me and said the house was afire. I went up stairs and then to his room and found smoke and the door open. This happened as often as three times - once my daughter was with him. This was before he was done making fire, after we first went there. Several different things attracted my attention. When I talked to him sometimes he wouldn't say anything and sometimes keep looking at me. Couldn't make him understand. He told about folks stealing from him - that Dayton would steal from him - Dayton and his wife - nobody else. He said they stole his meal chest, I think a collar, his clothes, in a chest up stairs, sheets and pillow-cases and some of his money. That was when we first went there. He said Dayton stole some of his money. He would seem much enraged when talking of the money - I think $200 or $300, but can't say for a surety. It was more than $100. He would have an oath

1885

with it. He spoke of it every time he saw him, his wife, or children, or heard us speak of them. He spoke of it a great many times. We kept this concealed from him. He would keep us up at night if anything was said of Taylor's folks. I never heard him say my one else ever stole anything from him. He said Mrs. Mason Taylor was knowing to it, and he knew it. Have no recollection of his saying anything else of it. It was his theme for months after we went there - It was a long time - I think all summer. He would carry his money in his overcoat pocket - his pocket behind, in a large pocket-book. I never saw him carry it in any other way than in the pocket book. He would throw the coat on the floor with book in it. I think he never named the number of sheets or pillow-cases stolen. He never named any number to me. He had not many then. I had access to his clothing. He had three pair of pillow-cases and three pair of sheets of cotton, three flannel sheets or blankets. I am accurate as to the numbers. I don't think he ever counted them while I was there. I think no more than three pairs. He brought in his clevis and axe, hammer and nails, and put them in the wood-box. Said he brought them in, so Rollin would not steal them from him. Rollin lived about as

far as from here to the store from there - as far again. I talked to Taylor about his making his will I think in July. It was not the last of July. I think about the middle in 1864. He said he was going to Oregon to get his will made. I asked him if it wasn't right as he and Aunt Mary made it. He said he didn't know but he wouldn't have any peace with Bolivar until he changed it. Taylor and I said, "The will was made by you and your wife, and let it be" He said he would have no peace with Bolivar until he changed it. He said he was going the next morning and did go. Taylor (my husband) had gone to the farm before he started. I thought it was that morning he put his harness on hind-side-before as I call it. I don't know whether it was that morning or the morning before. Taylor always asked him if he wanted his horse hitched up. Part of the time when he was not able to walk to Bolivar's himself, Bolivar Roe came there to shave him. When he was able he went there. I noticed a great difference when Roe had been with him. Once he took his overcoat and started to Roe's - said Roe said, when he got a housekeeper he would take care of him. He came back at two or three o'clock

had had no dinner. I said, "You are
1887 going to Bolivar's to live, are you?" He said
Bolivar said, he had as many boarders
as he wanted, and was very much annoyed
all the afternoon. He looked wild when he
had been to Roe's. When he would go to Roe's
he would be good-natured, and when he came
back he would keep me up - would talk
about Dayton's, and that Bolivar said he
might come to live with him, and then
wouldn't let him. He talked of Bolivar and
Dayton - no one else. He talked about selling out
his property. His mind seemed to run more on
subjects that troubled him. Mason used to
see us often before Taylor was sick and asked
after his father. I told him what trouble we
had with him, talking about Dayton and
Bolivar. When he was sick he came every
day and went to get medicine. Taylor
froze his face when Mason went in the
night to get some wine for him. Think he
went to Whiterock or Lynnville. This was at his
last sickness. He would sometimes come to
the table to eat and wouldn't eat - he said he
wasn't hungry. Have heard him say Mason
was the idol of the family when his mother
was alive. That was long ago. It was always
Mason for everything. When sick he wouldn't
have Bolivar, but said he would send for

Mason. That was after the will was made. He asked him why he didnt have Bolivar, as he had made his will. He said he wouldnt have Bolivar, but if we wouldnt send for Mason he would. This was his last sickness. In 1864 I thought he was strange - was almost frightened sometimes.

Question by complainant: From your acquaintance with George Taylor and your observation of his conduct that you have testified to, did you, at the time of these conversations in 1864, consider him of sound or of unsound mind?

Which question was objected to on the ground that witness is not shown to be an expert and competent to give an opinion upon the subject - which objection was overruled by the court to which ruling the defendants then and there excepted, and the witness proceeded to answer the question as follows:

I think he was of unsound mind - very much so. I formed my opinion soon after I went there. I told my husband he must be with me nights, and he was not gone much nights after we went there

Cross-Examination.

Resided near Mr. Taylor, except four years I was at Sycamore. Went to Taylor's to live

1879

in March or April. George Taylor got up in the winter about six o-clock, and the same in summer. He got up and ate with the family. We kept boarders one winter when he got hurt- had Mr. Koldish and wife and another gentleman and wife. Taylor was alive then. He had a wash-dish and stand in his room. Part of the time he was particular to wash himself. When we first came there he was careless of himself. The boarders came in the time to cut hoop poles- until that time myself and husband and daughter with Taylor composed the family. When he came to my house with Deacon Wood, I think he first said he had some clothes he want washed- said he fell. It was over a mile to his house. He didn't give a reason for bringing his clothes there. After breakfast the old man would go to his room or sit on the lounge. He read much in the afternoon. Read his Bible a good deal and another book I think a history. He read any paper lying about- he read his own paper, the Tribune. He did not always answer when I spoke to him about what I read. I know he always heard and understood me when I spoke to him. He took the "North Western" and Sunday School papers. He read them- read religious matters. Talked a good deal about the war

at times. Once in a while would talk about politics - think he spoke of the draft. He occupied the West room in front - an outside door led into his room. He talked about Rollin for a long time - it did not gradually grow less. Before July I saw money lying on the floor - more than one week I saw it, it was not taken up for weeks. My little neice lived with me then. I saw it lying more than a fortnight. I don't know whether it was the same money. I saw a $1 and $2 bill and postal currency. I picked it up and laid it right down again. It laid near his lounge, and towards the stove and door. I swept around it, because I thought some one would say I kept it. I knew he would not say so. Taylor told him to pick it up, and it was picked up by Mr. Taylor or Uncle George. He generally kept his money in a trunk. At two times the old man put all in his pocket. Washington Jones paid me $15, I wanted a $3 bill and I got Taylor to change a bill for me - I took his money and took what I wanted. I can't tell how much I gave him - he put it in his pocket, after talking to him he gave me the money. This was in the spring of 1864. I took a $3 bill. It was a greenback or U. S. note. I took the same amount I handed him. After I explained the thing, he understood

157
191

that it was mine. There was no trouble about the fastening of the door of the stove. I never heard him complain of the manner of the farming. I do not know of his finding fault with Pearson about his farming. Have heard him talk about the collar - don't remember particulars. He told me Rollin had stolen his meal chest and wanted me to go and see if it was his. I did, and found it not his and told him so. He didn't believe it. After awhile he found the chest was at Balivas Rois - he had given it to Eleanor. Some one told me and then I told him. I should think he said, he didn't believe it. He did not give any reason why the bed clothes were stolen. His clothes for common were in their bureau - the others were up stairs in a chest. He went up to see the clothes. I think twice, and came back saying that some were gone. I wish Mr. Rol no hurt or harm. We are on friendly terms - members of the church together. He rides to church with us - we have never had any difference at all. He occupied Taylor's house. He had $2.50 a week for common and 3 to have extra pay for extra work. Both Taylor and my husband occupied the barn and Uncle George took care of old John when able. As to the fruit, apples and currants, if he wanted half he was to have it and not

the balance. Her was to have his rooms. The bargain was made with Uncle George and Mason. My husband went there to see about it. Her used to call Mr. Taylor in his room to do business, but don't know what it was. Don't remember that they had any computation to see if money was stolen. He said there was a number of sheets and pillow cases stolen. I am willing to swear that I did not say, he told me one half or two thirds were stolen. I have been examined before in this case, I think after we left there. It was that season that the old man died - it was after we had moved home in April - it was here in Oregon before Judge Pogue. I think it was after April when we moved home. Was examined but once. My recollection was as good then as now. I think I did not recollect all that I do now, then.

Question - Did you or not say, that you never noticed any excitement in Mr. Taylor after Roe had been there?

I don't think I did. I don't know why I shouldn't swear positive I did not. I don't know but the hammer, clevis &c were in the house when I went there - think they were. He kept his axe standing or lying by the wood-box, the hammer and nails lying near. Don't know as he used any nails.

193

Mrs Taylor would nail up the fence do
with them. Lunian Taylor was my husba
-d. Mr. George Taylor, would get a little
excited on the war. I did not have much
conversation. I thought he got beside himse
Question - Did you say in court below,
that he talked rationally on the war, he
would get excited, and say. if he was young
he would go without being drafted."
I couldn't say whether I did or not - I
~~I could Remember that as well as now~~ dont recollect it now, Sometimes he talked
of politics, but not to me. While there I
purchased several things of the old man,
I bought a couple of dresses
Question by defendants -
Did you have any business transaction
with George Taylor, or make any purchases
from him during the time you lived
in his house in the summer of 1864, and
about the time the matters occurred in
regard to him to which you have referred
in your direct examination? If so state
what such transactions were and whether
he understood the nature of the same and
how he conducted himself in regard
thereto?
To which question complainant objected
The Court: "I will rule out the whole
matter about the trades." To which ruling

the defendants then and there excepted.
Question: Did you ever tell George Taylor that Caleb Boyce said he was not fit to go about alone wasn't decent?
I told Uncle George something similar to that.
Question: Did you or not tell Mr. Taylor, that Mrs. Taylor wanted to send the best of Aunt Mary's clothes back East to her sister? I did not. I told him some of the clothes ought to be sent back to her sister or friends. There was a contention about it among others - Uncle George told Taylor, some one told him, I said so, and I told him I did not. This conversation was not right off when I went there, but between that time and the Fourth. I went up stairs to look in the chest, I aired them after. I don't know as there were any sheets and pillow cases there. I included all the sheets and pillow cases in my testimony. Was some of Aunt Mary's clothing there. When he was unwell I locked the front door, that went out of his room. When he was well it was not locked except at night. Can't tell the day of the week he went to make his will. The night before he went he was at Bolivar's. I don't think he had been at Mason's for some

1905

him. The night before he went to get his will made he said, he would have no peace at all with Bolivar until he had been and altered his will or made a new one. He was up late that night. Mr. Taylor harnessed his horse that morning. I think he knew that he was going. I did not testify that Taylor had gone to the field, or that he put the harness on wrong that morning. I am positive I did not swear that Taylor had gone to the fields.

Question: In the County Court did you state, that you never had noticed any difference in his appearance when he came from Roe's?

I did not, I think I am positive I did not. He never came home excited from Stinson's and other places. When he would see Rollin Dayton he would get excited, and talk about it. He also got excited, talking about Mr. Roe, because he would'n let him live with him. He would talk about Bolivar when he had been there, as though something had been said to him to make him uneasy. He seemed considerably enraged and talked unpleasantly against Bolivar. I think I never heard him say anything against

Mason – he always said Mason was a good boy. He told us something about the will. He always spoke well of Mason. – said he and Samuel were good boys. During his last sickness he said repeatedly he didn't want Bolivar, but he would send for Mason.

Question: Did you, in your examination in the County Court, state that Mr. Taylor the testator said, the night before he went to Oregon to get his will made, that he was going to Oregon to get his will changed, that he would have no peace with Roe until he got that done, or language of that purport or tenor?

I did. I couldn't say that I stated that. I couldn't tell for my life whether I ever said so or not. If I said anything about it. I said the same I do now. While he was sick, he had spirits. He got some beer at one time. There was morphine in the house, but I don't think he ever touched a bit. He had no gin or brandy after we went there. During the summer he went to Sam's on a visit two or three weeks. Can't tell the time – it was in the summer, in warm weather. It was three or four weeks after Bolivar was married he went there to live. I don't know whether he had

197

been to Sam's then or not. I can't begin to tell how often he went to Sam that summer -to Boyds - or to Oregon. He used to go off when pleasant in his buggy

Re-direct Examination

When he came from Oregon, he told about his will and told it different from what it was. He said he had willed $100. apiece to Eleanor's children and the balance equally to his children and grand-children. I told Uncle George, Caleb Boyds had said, he was not fit to be out among folks, or not decent. I don't know the time when I told him. I think it was about the time he went to Sam to the circus. Caleb had told me of those matters. He had talked it in the store- the appearance he made when he came in. Was accustomed to air his things in the chest- I think I did it two or three times- I think the first time was 1864, the Fourth of July, at the time of the raining damp weather

Samuel Taylor, being sworn in said cause deposed as follows!

Knew George Taylor. Merely saw him a few times when I first came to the country. Some twenty two years ago I moved here and knew him until his death. I lived where Roe does

now one or two years, and since that lived within one mile except four years when in Sycamore. Can't say how often I saw him - frequently worked for him. Taylor was a very kind neighbor whose wood was to be split upon years ago. He began to fail at first with a trembling or palsy. Can't tell how many years ago, nine or ten years. I never was a very close observer of people, I did not observe anything essential except that he was failing - had a manner of standing and gazing at people when they spoke to him. Noticed it soon after Rollin moved on his place. He was sick about one year before his death. After that we moved there March 9th 1864. Remained there over a year. What I considered his imagination attracted my attention - that some persons were getting up some evil against him. On the 9th of July 1864 there was to be some show at Rochelle, Mr. and Mrs. Taylor and Mrs. Mason Taylor wanted my wife to go there with them. I told her not to go with them, they urged her and she went. He said my wife was going with Rollin and his wife, and they would plot some evil against him, and he would go himself. I hitched up his horse and he started to Rochelle before the others. First noticed his manner of dressing and appearance.

would frequently go with his pants unbut-toned. He wore broad-fall pants. Noticed it in a week after I went there. He was quite feeble then. Can't tell how often I saw him with his pants so - was frequently so. Had no control over his system as to making water. Frequently would dirty his pants, and need to be stripped and washed. This happened a number of times, and continued all the time more or less until his death. When he returned from Samuels he was in that predicament. He didn't always say anything about it until I mentioned it to him. I most always went to his room and exam-ined him before I asked him to his meals. I buttoned up his pants, for he was very feeble, and trembled very much. He spoke in regard to his meal-chest being taken and his sheets and cases - that I thought was imagin-ation. This was soon after I went there. He talked about them until the last few weeks of sickness. Then well he often spoke of it - almost an every-day occurrence. Sometimes he would come out with his cane and shake it, and sometimes his fist - said they would suffer for it - taking his things - Rollin Clayton and his wife. He did not connect others with them. He said Mason and Jane upheld them or was knowing to it. He spoke about

his will, one time said Bolivar said he ought to make his will. I think he said on another occasion, he would change his will. Said Bolivar said he ought to make his will, and asked me what I thought about it. This was I think last of June. I remarked to him, if he considered he had'nt given Eleanor what he thought he ought to, he could now give some to her children. I think he said, he should give Eleanor's children more than the rest. I think $100. each more than the rest. That is all I remember at that time. I had another conversation in July I think, after he had been at Rochelle, it was a number of days after. He said, he should change his will. That was in the house. Can't make any particular statement about the conversation. Can't state the time of day it occurred, whether day, morning or evening - can't fix it. I remember one thing was said - that if he willed his property or much of it to Mason. Rollin and his wife Kate would share largely in the benefits of it. Had no other conversation in regard to his will. I remember now that he talked of it in the evening. I think that was the last conversation. Don't remember anything more he said, or that he assigned any reason for changing his will. He started after that to change his

7
201

will. I can't tell how long after. After he changed the will, he held up a paper and said that was his will. I tried to inquire about the provisions of the will. As far as I could understand, he said he had willed Eleanor's children $100. more than the rest - that he had willed Sam and Mason small amounts, and the balance to be divided among his grand-children. Can't tell whether that was the day he made his will - it was before he went to Samuel's. It was in his room, I think.
Remember a conversation when he came home from Mason's - was on sunday. Think he said, he had mentioned to them. that they knew or upheld Rollin and Katy in taking sheets and cases. He said something about Mason's stating that he ought to have a guardian. He said if Mason thought to get his property away in that way, he would let them know he knew enough to take care of himself. This was before he came to get his will changed - was eight or ten days. Don't recollect any other time when he went there. [illegible]. He frequently went to Mason's. I made arrangements to go to George Taylor's. I had a talk with Mason, I think Mason had spoken to me first. I made the bargain with George Taylor, after I talked to Mason as to how I should manage

I made my proposals to Mason. I went there and spent most half a day, trying to make arrangements and failed. Couldn't get out of him any particular proposals. I told Mason, and he told me how I should do, that his father expected me to come there. I thought best to make proposals to the old man. I went to George Taylor another time, and asked him if he expected me to come there. I made my proposals and he accepted them. There was an understanding as to terms between Mason and I. He was very slack in regard to his money. I have seen money on the floor. He would stand on his knees, and pick his money out of the drawer and lay it on the floor, and then pick it back - did not appear to count. He most generally carried his wallet in his coat pocket behind. Can't say whether he was in the habit of picking his money all up. Think I saw money on the floor two or three times. He was quite feeble when we went there and for two or three months. It was after he began to get better. Can't tell how long he left his money on the floor. Think at one time, there was money on the floor when Uncle George was gone. Mrs. Taylor spoke to me and I went to see.

Question by complainant: From your acquaintance with George Taylor and your

observation of his conduct, that you have testified to, did you, at the time of these conversations in 1864, consider him of sound or of unsound mind?

Which question was objected to on the ground that the witness was not shown to be an expert and competent to give an opinion upon the subject - which objection was overruled by the Court, to which ruling the defendants then and there excepted, and the witness proceeded to answer the question as follows:

At the time of these conversations in 1864, I considered him of unsound mind. Formed that opinion some time after I went there. I didn't notice anything for some time. I didn't think anything particular at the time - not before June. It is my impression and opinion still that he was unsound.

Cross-Examination.

I observed a difference when spoken to, that he would look at a person and not answer. I am not positive that he heard me, when I spoke to him, his hearing was not good. I considered that there was no one plotting against him. He had imaginings - thought things were true that I didn't think so. Was in the habit of going in and seeing to his clothes before meals - it was a general

thing in the morning. He was troubled with his urine - no control over it - all the time I was there. Had no control of his water at any time. It was not always he could not control his water. He sometimes used a vessel - he generally used a dish, and turned it in the vessel. Had frequent occasion to use the dish. I couldnt tell how often he besmeared his pants. It was about one hundred miles to Samuels. He went with Samuel in George Taylors horse and buggy, and came back with Samuel, with one horse hitched behind. Know I heard, Mason had gone to Samuels with Hewlett. That was before the old man went - he only went once that summer. It was difficult for the old man to button his pants, because of his palsy or trembling. I was sawing off a barrell to put under the shelf to put flour in, when the old man told me he had a nice meal chest up stairs and I might use it. He said he brought it from New York. I looked and found no chest there. He went and looked - wanted to know if Dayton couldnt find anything to steal but that chest. He afterwards found, the chest had been given to his daughter. I remember of his speaking to me of Rollins stealing. I sat down and counted up the sums he had received and who from. I dont

205

know what they amounted to—some hundreds. He gave me the amounts he had paid out. Can't tell how many amounts he gave me. I made the balance and there was a difference of between $2000 and $3000. missing. Nothing particular had been said that caused me to say, that if he hadn't done enough for Eleanor, he could give it to her children—only that he said he would change his will. I don't know how the old will was. I don't remember that the old man said he had given anything to Mason. I was a witness in the Probate Court.
Question: Did you not state that the old man said he wouldn't give Mason one cent, for Kate would get some of it?
Those are about the words I used. That was soon after he had been to Rochelle. He asked me to read the will when he brought it home.
The time when I said, if he had not given enough to Eleanor &c, was some time in June. A few days after, there was a conversation in the evening. It was then, he said if he willed any of his property to Mason, Kate would get a share. That was not the same time when he had been to Mason's. I did not mention at that time; but at another time he said Mason and Hewlett were going to Samuels and might have let him go. As near as I could understand his meaning was that they might have let

him go with them: This was before the sunday-evening conversation. They went down in June, and I think he said this before they went to Samuels. From that time one sabbath passed by before he came to Oregon - it was eight or ten days after - it was not the next day. Another sabbath passed by. Cant tell how long this was after July 9th, that he came home from Mason's on sunday - it was nearly two weeks. I am not exactly positive that a sabbath passed, before he had his will made. My memory was the freshest as to what he said about, if he gave property to Mason or, when I testified in the County Court. I dont remember the language I used below. Rollin Clayton was there when I went to see about getting the place. He didnt give much of any explanation why he wouldnt promise the farm to me. Cant tell when I next saw him as to the house, think two weeks after, and I then made a baigain with him. He was to occupy the parlor-room, bedroom and closet in that part of the house. I was to have the rest of the house. I was to have $2.50 a week in money and there were some other things. I asked that much and he agreed to give it. He was to have a place in the barn to keep his horse, grain and hay. He said he would be able to attend the horse and bring in his firewood

-All I did more I was to have pay for. I was to have the fruit - if he saw fit to dispose of half of it, he was to do so, I to have use of pasture. I made this bargain with the old gentleman. Rollin was there then, and I was to come in the day Rollin moved out. We were but a short time in closing the bargain - might have been one hour, might have been two. I saw the money on the floor two or three times, saw some near the bed room door and near the lounge. I don't know the denomination of the pieces - saw it at different times. He was not confined to his bed at any time we were there. I think the money lay there in June - Spoke to him about it, don't recollect what I said. I believe he said Jersey would take care of it. When he took his money out of the trunk, he didn't appear to be counting it. After he got them out he would pick them back. I think they were both bank bills and postal currency. It was probably a week or more between the times I saw the money. He made his fire when he was able to get about, and when he was not I made the fires. After breakfast he generally read the Bible and the newspapers and an old ancient history. He read considerable. I was at home evenings, and frequently was in his room, and he often talked to me of the events of the

war. He conversed about different things — frequently on religion, the war, sometimes the draft and copperheads. After George Addy wife died he talked about it, that he was surprised to find she was dead as he never heard of it

Elias S. Potter, being sworn in said cause, deposed as follows:

Was acquainted with George Taylor - became acquainted in fall of 1844. In 1844 was a physician - have been a physician ever since. I think from the spring of 1845, it might be 1846, I considered myself George Taylor's family physician. When not at home some other one might have been called. After he married his second wife, she not having good health, I saw the family frequently. First wife died in spring of 1845 or 1846. About five years after, he married his second wife. After that some years I was at his house twenty times professionally, some years five or six. Frequently called when not professionally engaged. I treated his second wife. Her first difficulties were malarious - had bilious fever. After a year or two I found difficulty in her eyes which resulted in a total loss of sight. She was blind two or three years before she died. I treated George Taylor from

219

the summer of 1845 to the last few months of his life. I prescribed for him frequently. It was some years before he had any serious attack. There was a change in his mental condition. I first treated him for chorea, a disease associated with epilepsy, paralysis and water on the brain. Chorea of the face is functional or central. Functional is a deranged condition of the viscera, central is where the brain may be involved. Chorea of the face indicates cranial or cerebral difficulties. In chorea of the face, our attention is called to something involving the brain. In Taylor's case I hoped it was functional. If he fails to cure by driving off functional diseases he is forced to conclude that it is central. Our best authors associate chorea with rheumatism. There was a time when I said to the friends that Mr. Taylor had ought to be taken care of by his friends. That was after he received a fall. Didn't consider him fit to take care of himself physically or financially. I was called to see him and found him in a comatose condition - insensible state. That was three or four years before he died. Mason told me, the old man got hurt by a horse in the field. I found no signs of any serious injury, but only a shock he had received. He couldn't rouse him - he couldn't speak. I visited him the next day, he could

talk, but didn't know me. He got up and went about, but I thought he never recovered himself physically or mentally. Some years after I noticed he had paralysis, general paralysis in connection with chorea. This paralysis is a sort of palsy. Might appear like premature old age. I always associate it with a diseased condition of the brain - after he had paraplegia - paralysis of the lower extremities and pelvis. There are the cervical vertebrae or joints of the neck, the dorsal, twelve joints of the back, and the lumbar below that. The medulla oblongata is the tail of the brain. The bladder may be paralyzed so as not to empty itself, and I considered his bladder was paralyzed. It may only affect the rectum. It troubled him for years. First it was incontinence and after with suppression and retention. His kidneys did not act, and I considered he was poisoned with urea for years, with uric acid. His kidneys seemed paralyzed. The kidneys are merely strainers, and take out the used up parts of the system. The urine being in the blood affects the brain. That condition kept increasing. It destroys life. I don't know how long after the fall, but he was very sick. Sometimes he knew who was passing, sometimes not. It may have been in 1859, 60 or 62. He came very near dying

2 11 The whole house smelt so of urine you could hardly stand it. I drew of his urine every morning. He eliminated much of the urine by sweating. I think he kept failing physically and mentally every day. it was slow, but to me, perceptible. I had abandoned curing the chorea. I remember his sickness a year before his death. It was of the same character as before, but not so severe: I was his physician. I was at Dixon and saw him seven times during that sickness. A man having chorea becomes a confirmed imbecile if he lives long enough. Chorea on elderly people is very rare. The usual age is seven to fifteen and two thirds are girls, and there is often functional. In elderly people my experience is the disease is central. or from diseased brain. Chorea may be brought on by eating too much. There are well developed cases of that kind. Flint says chorea of the face is more apt to be central than functional. Chorea is primary or chronic. Taylor's was chronic. If acute it destroys life at once. when chronic it must destroy the mind. His was central and chronic chorea of the face. Have a patient now with chorea of one muscle and it is affecting her mind. Can't tell how long it would take to

destroy the mind. Dr George Taylor the last time I saw him in June 1864 - may have been later than that - I felt sanguine that the old gentleman was failing mentally and physically. I was always astonished that they let the old man have a horse to drive around. I thought he needed more protection than he got. He made me think of some old dogs I have seen. I felt sorry for him. He lived there with a tenant and was not pleased with himself or any one about him. For the last few years I did not rely on what he said. Labored under some vague, unhealthy impressions. He thought people were stealing from him. I remember of his speaking of Mason Taylor and his wife and Payton and his wife. He wanted me then to count his money and I did. He wanted to see if some wasn't stolen. He told me to take my pay out of it and I did. He did not damn Mason, but did damn his wife pretty steep. I don't know whether Paytons was living there then. In relation to the stealing I thought he made a confidant of me. He always paid a bill as soon as made. I would say, "what do they steal." They won't steal old John will they." Old John was an old bobtailed horse. He said "no, but they steal everything else."

I couldnt swear that he told me anyone stole from him before that and mentioned names. He told me a young man stole $5 from him. In the last year he became very slovenly and filthy. The last time I saw him he sat in his room - they had company in the other room. He sat with his penis out on the chair. Occasionally some one would come in. I asked him if his mind troubled him. He said, no, damn it, he thought he would have it ready. His carelessness increased upon him. He had as soon be naked when a lady came in as not - said he didnt care a damn. He made water in a cup, and I took it from him, and told him he would be drinking out of it. He said he didnt care a damn. He tried to throw it out of the window and threw it against the window. I told Mason he ought to have a guardian for the old man - it was about the time of his severe sickness in 1862. I have treated insane persons. Have been here twenty-three years and I think there has never been a time that I have not had insane patients. Have had three or four deaths from mania. Have two or three persons now under my treatment for mental alienation. I considered his idea that persons were stealing from him as a delusion. I knew Mason and his

wife were not stealing from him. I never allowed the old gentleman to talk to me about Mason and his wife. I don't remember that in this last conversation he accused Mason of stealing from him - did say Mason's wife was stealing - said more particularly Mason and his wife were setting them up to steal. Aitkens classifies insanity in three classes - in 1st imbecility illusions &c 2nd religious and hypochondria 3d mania proper. I considered Mr. Taylor deluded, I considered him a monomaniac I have one man at Payne's Point now who expects to die within thirty days. Another expects to die in the poor house. The most common form of insanity in Illinois is where the man talks rationally on other subjects. Persons laboring under general insanity often talk rationally

Cross Examination.

Stille says, a man believing himself God Almighty is a delusion. Delusions are more apt to originate from outside pressure than disease within. A man may be deluded by believing anything not true. Wharton says a delusion is where a man believes everything he has got is being taken from him. If Wallin did steal the collar, it was no delusion. It would not be a delusion to suppose it stolen, if he put a com-

of money in the drawer and when he took it out there was one dollar ~~gone~~ less. It is not always a deluded man that fancies he is coming to want if he has reason for it- as of stealing the bedclothes. I think I heard the old man say that Mason and his wife stole from him. He was hurt in the field and taken to Mason's house. I think it was in 1859 or 1860, may be earlier. He said a young man stole $5 from him. That was before he was sick at Mason's- before 1860. I told him that man wouldn't steal. I saw him in 1864 and he paid me. Told me to take all I owed me. He was raving about the war that day. talked half an hour, and talked rationally. I don't know what else we talked about. He could hardly button his pants. I think they buttoned up in front. I helped him in the bed-room. I think he used about a quart of gin in two weeks. I never saw him intoxicated. I don't know whether he used morphine. I got the impression that he used morphine. He let me have some once, and said, give him credit for it; and I this concluded he didn't use it. I don't remember his telling me that he was sick from taking morphine. I believed him to be universally paralyzed, and his kidneys were affected by it. He had a staggering, bracing walk indicating paralysis. During the sickness

in 1864. Doctor Brunker attended him except on sunday, when I came from Dixon. I saw him seven times.

Question: Did you testify below that the old man talked against Mason?

He did not talk against Mason as against his wife and Clayton and his wife. His mind did not fail as fast after his last sickness as after his injury and severe sickness. I may have said below that his mind was comparatively healthy after his last illness in 1864, must have had in view his condition for a great length of time. I don't think the old man was half as much impaired physically or mentally as nine out of ten persons would be laboring under the same amount of disease. In summer of 1845 or 6, he applied to me to know if I could cure him of the chorea. Chorea has as many forms as there are patients - he had it very lightly. When we have chorea we look for paralysis, especially if it don't yield to functional treatment. Show lesions about the brain and spine. It would not follow that the bladder would be affected from chorea. I prescribed for the bladder disease two or three years after I treated for the chorea. I don't think I have taken considerable interest in this suit, I feel this interest, that for a long time I did not consider George Taylor

case. When I heard how the will was, I said I was glad of it. Mason might have taken care of him. When the old man got hurt I saw him at Mason's house.

Re-direct Examination.

A delusion may ~~exist~~ consist in believing an unreasonable thing or in absurdly believing a reasonable thing - in believing without sufficient evidence. He told me of the young man stealing $5. from him about the time he got hurt. At the time I thought him vindictive, but before long I concluded he was laboring under a delusion on the subject of stealing. By saying he was not as much impaired as nine out of ten would be under the same disease I meant that if he had not been of an iron constitution and will he would have arrived at that stage much sooner, and if he had lived longer the condition of his mind would be dementia. He was then the victim of monomania. Have no pecuniary interest in this suit - was satisfied for years that he had been insane. I took some money and told him it made us even, but it was not all my bill. When he was severely ill my bill was $60. He came to my house, told me he was going to give me $25 - and told me to write a receipt. Said he, "Now, damn you, write it in full." I said I would not do it, but would give him credit for $25 on my books. He said that was

all he would pay me. I told Mason and Samuel I would wait until he died and a few days ago Mason paid me

Re-cross Examination.

The old gentleman was a monomaniac with imbecility; but all authors would say he was laboring under senile dementia, premature old age, or simply old age. That I think was his case. It fits his case better than any other term - either imbecility or monomania.

Frederick Storing, being duly sworn, deposed as follows:

Knew George Taylor. First knew him in 1861 and knew him up to his death, four years. Three years lived within a mile of him. The last year of his life, I lived seven or eight miles from him. I saw him half a dozen times during that summer. I borrowed some money of him several times. In 1864 the 3d day of July I borrowed $2 of him. I got it for a few days and in a week or ten days. I called to pay. When I went in he was sitting on the floor separating his papers and money. He said he didn't know me. I told him he did, and he said he believed he did. Said he didn't know as I had got any money of him. He took the money, and laid it with the rest. Had seen

me several times that summer.

Cross-Examination.

That season had borrowed money of him three times - First was $140 - went and offered to pay it and he said he didnt want it - if he got it some one would steal it. Two other times I borrowed $20. of him. Gave him my note the first two times. It was in the afternoon I went to pay it. I said "Good afternoon. He said, "I dont know that I know you" I told him my name and then he said he thought he knew me - said he recollected a man of that name. I had the money seven or ten days. He said, he didnt know as he had lent me any money, but I knew best.

Samuel Taylor, being sworn in said cause deposed as follows:

Am a son of George Taylor deceased and brother of Mason. Left home in 1854 and removed to Mercer County - 112 or 115 miles away, by the road. After that I generally saw father once a year, some years did not come up, and sometimes came two or three times a year. Father came to my place four or five times after I moved away. In July 1864 I knew that Mason had a farm and something about his stock. It was a matter that interested me. I think he has about fifty acres of timber and between

One hundred and sixty and forty acres of prairie besides a forty of his wife's. I think the land was worth $5.000. His stock might be worth $1.000. I was worth at that time about $10.000, and personal property to the amount of $1.500. Think the prairie of Bolivar was as good acre for acre as Mason's. I had worked at home seven years, when we divided off, we made quit-claim deeds back and forth. I considered what I received only equivalent to the work and labor I did. I think Mason worked there about a couple of years and had his One hundred and eighty acres. I thought he ought to have earned that much. Mason went away before I did, he worked about two years after of age. I noticed father was failing some for a number of years. I think in 1863 he came to my house, and talked about Rollin stealing a horse-collar, a dollar &c. I tried to reason him out of it, only enraged him and afterwards avoided it. Finally succeeded in drawing him off. He spoke of the stealing several times. In September 1864 I was up here, and thought he was worse and more feeble than before. He said Rollin and his wife stole sheets and pillow cases from him, and believed Mason's wife knew about it. He would swear and swing his cane. I tried to get him

off the subject. It generally took a good while to do so. He returned with me, at that time I think his money was in his pocket book. He gave it to me, and, when we got to Rock Island, I got a $500. bond

Question by complainant: From his acts and condition when at your house in 1863, state what was your opinion of his mental condition Objected to by defendants. Objection overruled, and defendants then and there excepted.

In 1863 I considered my father of unsound mind I am still of that opinion. After he got home with me he read a great deal, but I didn't think he realized what he read. He sometimes talked of war and politics. Would talk of the stealing - was not an every-day occurrence, but occurred often. He use to try to reason him out of it. He told me he had made a will and gave it to me to keep. He talked of cutting Mason off - he said if he gave it to Mason it would benefit Dayton's. He said Mason said he ought to have some one appointed over him to attend to his business. He said Jane was knowing to the stealing he thought. He told me he had made a will, and had willed Mason $50, that if he had given him more it would benefit Dayton, and Mason had said he would have some one appointed over him, at the same time. He said Dayton had stolen from him, and Jane was knowing to it.

He didn't like what Mason said. He said he had some words with Mason about Daytons' stealing and that Mason upheld them. When I was there Mason always treated him well so far as I knew I never knew anything to the contrary.

Cross Examination.

Mason had between One hundred and thirty and one hundred and forty acres of prairie. His wife has forty acres adjoining. I think it worth from $25 to $30. per acre. I am not posted on timber here, I suppose it is worth $35 or $40 It was good timber for this country. Roe has eighty-seven acres of prairie and twelve or fifteen acres of timber - which used to be small and poor. One acre of Roe's is worth as much as one of Mason's. Mason has the best buildings Roe has no barn - a log stable. When I used to be there, I think Roe had four or five horses and colts, in 1864. I know he is some in debt, but don't know how much. I don't know whether Mason has any assets as bonds, notes &c I have a small mortgage on forty acres of Roe's of $200, this is all I know of Roe's debts. We all worked together. Mason worked until I think he was twenty-four; I remained a year or two longer. The land he owns now was entered in my name, I think the timber was in father's name. Don't believe there was any in Mason's

223

name. Don't know whether more than eighty acres in my name. The timber was deeded to him and me, about fifty acres each. Mason had the one hundred and thirty acres. I had three forties. The old man kept one hundred and thirty-odd acres timber and prairie. That was about 1848, not certain. Eleanor was about twenty-six when married. Lived at the Adkinsons to that time, and worked all the time. She had some cows in her setting out and some dishes &c. I don't know the value of the traps. They bought her some dishes - couldn't say there was anything else bought. She had two or three cows. She had $300. from her grandfather. We all got that much. The old gentleman told me about the collar. I didn't wonder at that but getting so excited. Her said he put $21. in the drawer and $1. was gone. Rollin lived in the house at the time. In 1864. he talked of the sheets and pillow cases. don't recollect that he told where they were put. Did not tell how he knew. Her was gone from home to my house in fall of 1864, four or five weeks. He read a good deal and walked out. Got much engaged on the war and would talk some time on it. I took the county paper and Chicago Tribune. He did not say much to me about what he read and I remarked that as singular. When I came up in September 1864, he told me of the will.

He returned in October 1864 I He was at his home when he told me of it. He did not tell me the provisions, but that he had willed $3 to Mason and $100. to me and the balance to my children and Roe's. He told me he had made me and Mr. Roe executors. I don't think he said anything then of Mason leaving him and going to my house. On some occasion he did grumble to me about it. He gave as a reason of cutting Mason off, that he had tried to get a guardian appointed over him. I don't recollect his saying that Mason had sworn at him. Father never used to like Rollin very well, but didn't know as he hated him, until they fell out that time. He found fault with him at times, but never had serious difficulty as I know, until the horse-collar trouble. I knew of his being mad because Rollin killed a horse, I was madder than he was. He was beat to death with a club or fence-stake. That was sixteen or seventeen years ago. The old horse got in their field. I don't know that Rollin killed him, but thought he did. I don't know that father disliked Mason's wife until Rollin came there.

Re-direct Examination

After the horse was killed father got Dayton to come there and live. Eleanor had mother's silver spoons, the gold beads and looking glass. I think she had the things that had been mothers. My father as far as I knew employed

Mr. Mix as his lawyer for a number of years before his death.

Re-cross Examination.

Don't know who got Rollin in there to take charge of the old man. His wife influenced him in most everything. Don't know but it was her - judge so.

Ellen Mc Mullen, being sworn in said cause deposed as follows:

Was acquainted with George Taylor from fall of 1862 until his death. Resided in the same family with him. I think in February 1863. Was there nearly two weeks in capacity of taking care of George Taylor's wife when she died. Knew resources of family as to bedclothing George Taylor's folks I would not be willing to swear had more than four pair of sheets and the same number of pillow cases. I think one sheet was torn up to use around Mrs. Taylor when she died.

Cross-Examination.

At that time I was there not quite two weeks. Took charge of nothing, but taking care of her until she died. Boarded in the house with him the summer afterward. Helped wash and put away the clothing after his death, and had access to all parts of the house. There was an old sheet up stairs that I saw

examined. I was called to go to different places for things. There was but one bed in use below, and one up stairs not used. One more was used after his death. Mr. Haylor folks had some beds. I think there were not three beds in use, am quite sure they had but two beds. There were five beds in use in the house.

Edward F. Dutches, being sworn in said cause deposed as follows:
Knew George Taylor late of Payne's Point. Saw him I think in the summer of 1864. Knew him since November 1846. On two occasions in Oregon and once in Lane, I thought there was something singular about him in 1864. He appeared to be imbecile and had lost his recollection, did not appear as he used to. I said but little to him at Rochelle, but had quite a talk to him here in Oregon. There was not any connection in his conversation of any account. He came out of Stohe's, went towards Mr. Schultz's, and made water. I was between Stohe's and Schultz's fronting North. It was a public place, as much so as any in town. I think he made an exposure of his person. I tried to have him turn around to the fence, but he would'nt do it. He conduct find his buggy. After he got through we went along

and I found his buggy. It was in 1864, after he had been sick, can't tell the time of year. Head talked with him before the same day. I heard a little after that he had made a will. I saw him at a time when he made some purchases of Mr. Jewett when he lost his money. Some was lying on the seat of the buggy, some on the bottom and some on the ground. I think Bunker helped pick up the money. I think it was in front of where the post office is now. Can't state the time of year, it was warm weather. I saw him at Lane at Hathaway's store. He sat back near the desk. He didn't recognize me until I told him who I was. I was not at Rochelle at the circus. I can't fix the time I saw Taylor there. Boyce came along and told him they would go to the house, and they left. I think one time when I saw Taylor in Oregon was after I saw him at Rochelle. The time that was after was when he lost the money. Don't know how long after the will was made that I heard of it.

Cross Examination

I had but little conversation with him at Rochelle, two or three minutes. In Oregon we started to go and find the buggy and he stopped. Can't say whether it was a sudden call. The hill was out of the place for it, the

horse had been standing there. I saw him in Jewetts buying gin and "Constitution Water" and one or two other matters. He had a nervous motion, but was not excited. His mind appeared weak and feeble. I was afraid some one would steal his money. I think from his condition he might reasonably apprehend that he might lose money. There were two or three men of doubtful reputation about, and one there was no doubt about at all.

Adelia Bull. being sworn in said cause deposed as follows:

My maiden name was Foster. Knew George Taylor. Myself and husband lived in his house and boarded him six years ago. Lived there three years in 185-8-5-9 and 60 and Taylor and his wife boarded with us. Knew the amount of bedclothing they had. Didn't have a great many sheets and pillow-cases more than they needed to use. They might have about four pair of sheets and cases the same. There were no new sheets made while I was there, but she made one or two pillow-cases, because they needed them. I included them in the estimate. Mrs. Taylor was blind

Cross Examination.

That was the exact number- did their

washing. As near as I know they didnt have a great many sheets &c. I testified before I did not state before that I could not tell the number. I guess I gave the number when I testified before.

Question: Did you or not state on your examination in the County Court in the matter of the proof of George Taylor's will, that you could not tell how many sheets and pillow cases there were in said George Taylor's house when you lived there?

I dont think I stated any such thing. I did not state any such thing. I guess I told you the number.

Wm W. Bennett, being duly sworn, deposed as follows:

Live in this town. Lived here twenty seven years. Knew George Taylor, knew him twenty years. Saw him occasionally when he came to town - several times each year. Was a witness to a will in Smiths office signed by George Taylor. Smith came to the store and asked me to go over and witness the will. I then went to the office - didnt remain more than ten minutes. Went over and right back again. I think he had been in the store that day, but couldnt be positive. Dont know as I can tell how often I saw him that year. Think I had seen him more than once before in Oregon. Had no conversation with him except in a business way.

I had not formed any opinion at that time whether or not he was of sound mind. I saw him in the store on one occasion, when I thought he appeared childish. Manifested it by his conversation and actions. another party was talking with him. He had been sick and Bunker was there with him talking. Had talk about his sickness and Doctor tried to get him to write his name, and he did, but could not write it so I could read it. He seemed infirm. I thought the Doctor made him exhibit an infirmity - what we call childishness in old people. He seemed to be being showed off and willingness to be so shown off. Did not think the Doctor was very sober. His hand trembled so he could not write his name. I saw nothing indicating mental unsoundness, but his willingness to be shown of by writing his name. I didn't think the Doctor was very sober, and carried the thing farther than he would perhaps. He might have been in the store fifteen minutes, might have made one attempt or more to write his name. No occasion for his writing his name, not writing a receipt. Can't be positive, but I think it was after I witnessed the will. Don't know the date of will. It was in the summer time. Don't remember seeing him and the Doctor in my store, on more than one occasion. It was first time I saw him after sickness.

~~7~~

231

Cross-Examination.

I was in Smith's office ten or fifteen minutes. The will was all prepared to sign. I witnessed the will and went back. Didn't hear Mr. Taylor say anything about the will. Taylor was in the habit of buying articles from me,

And that the said defendants further gave in evidence to the jury the following rebutting evidence to wit:

Bolivar Roe, being recalled, deposed as follows:

Have heard the testimony of Mr and Mrs. Taylor that money lay on the floor. It was placed there to see if they would take it. George Taylor told me he would put it there to try the honesty of both those women Dayton's wife and Lyman Taylor's wife. He told me he would do it when Dayton's wife was there, and when he lost a dollar, he said he would make money, and hunt it where she could get it easier, this related to Dayton's wife. He never told me he had done it. It was as soon as May 1st 1864 that he said he would try Jersey Taylor. He said he believed Taylor strictly honest, but he believed his wife would steal, and he would make some and hunt it where she could get it. He had no more talk with me about the money on the floor. Know of his sickness

in January and February 1864, I was there quite often. [He told me what he claimed was the cause] - The last sentence, in brackets, was objected to by complainant and ruled out by the Court.

Question: Did you ever attempt in any way to dictate or influence the making of George Taylor's will?

Which question was objected to by complainant and objection sustained by the Court.

Between the time Lumsan Taylor went there and his death, I think I had no conversation with him about his will, and have detailed all that was said. From February 1864 to the time of his death I think I had a conversation with the old man about going to Mason's to live, and I think only on that subject. There was nothing in the conversation in which I said anything about what ought to be his feelings towards his children or his duty. He expressed what was the feeling of the children towards him. I recollect two such conversations I did say something. The first conversation was in Dayton's time, the next in Taylor's, at my place. I think in May 1864. Can't tell how it commenced. I told him if I was in his place I would go and live with Mason. He says, "I would, if he would invite me as a son ought to, but I am not going to push myself on to them"

- that he would die in the road first. I said I didn't think he need care whether Jane liked it or not, that I believed Mason would treat him kindly if he did go. That was all the conversation I think. I know the old gentleman could count money.

Question. Do you know whether the old gentleman was in the habit of using spirits of any kind?

I know that he did keep spirituous liquor and used it. I don't know to what extent. He told me he kept it in the house and never traveled without it. He offered to treat me a great many times. Sometimes he kept it in a jug at home, and often in a bottle in his pocket. Jug often sat on the table. There were spirits there when Taylor folks were there. I have seen him when I thought him under the influence of spirituous liquors - saw him so on three occasions I think. Mason's eldest son's name is Nathan - Nathan and George. Have heard the old man express himself of him.

Cross Examination.

He told me twice that he would mark money and put it where they could get it handier than out of the drawer. First was in Dayton's time, while Dayton lived with him. I don't recollect the particulars. It was after he told me that Dayton had stolen the collar and the dollar was stolen

Dayton went there one fall, and stayed the next winter summer and winter to March of second year. Think it was inside the first year but have no data to fix it. He said he would mark some money and put it where they could get it easier than out of the drawer. Don't recollect anything else particularly at that time. This was at my house, can't tell the time of day. Think it was in the main room - the kitchen part. Don't know that any one else was present. Think Dayton went there in 1862. Don't remember time of year of conversation. Think after my wife's death. The second conversation was in Taylor's time I think in May 1864. He said, he thought Lyman was strictly honest; he may have asked me if I thought them honest. I told him I thought Lyman was strictly honest. I told him I thought the lady was not strictly honest. He said, he believed she was a thief; he may have said he believed she would steal. I think he gave a reason for it - he had one day stepped into Mason's, and they were not at home and this woman was there in the buttery, and he thought he saw her put something in her pocket. Don't know as he said any more about their honesty. He said he would mark money, and put it where she could get it. I think he used the expression, "easier than in the drawer," the same as in the other. I think that is the substance of it. I believe I don't recollect anything else about it. That conversation was at my house

I think in the day time, in the kitchen part of this house. It must have been after breakfast He came at all hours to get shaved. Can't tell whether he had been to a meal at my house. Some of my children were at my father's, and my boy John was living with me. He will be fourteen next January. I think the old man commenced the conversation by asking me if I thought Taylors honest. It was the first time I had any suspicion that he thought Taylors not honest. When he suggested making the money, I may have made some reply to it, but dont know that I did. The first time I saw him drunk was when coming home from New York in my field. It may have been eight years ago or longer, I dont think it was ten years. He came to Lane on the cars - rode over with some one, he told who, but I forget who. He came into my field. He did not stagger, went as straight as common, Felt good, wanted me to drink. It was in harvest Time. No one else in the field. had walked perhaps a mile. He had the liquor in a long-necked, heavy bottle, not a flask. Told me where he got it and what he paid for it. I didnt take any. I told my wife he had a bottle and I thought had been drinking pretty well - didnt tell any one else. Walked away from me and went home. Think we both went

home to my house, don't think he stopped there long. It was on his way home. I next saw him under the influence of liquor in 1861. He was at home in bed, it affected his breathing he was sick, it was after the fall. It might have been 1861 or 1862, not while he was sick from the fall. Potter was attending him. Couldn't tell how long he had been sick. the Doctor I think was not there. The third time was after a fall in December 1864. He was in bed, and under the influence of liquor enough to affect his breathing. Don't know that there were any other indications, Can't tell how long after the fall, but when he was confined to bed by the fall. When he traveled he said he always carried liquor with him, told me that when he came from New York, Don't know by personal knowledge that he carried it at any other time. Never saw him carry it at any other time. I know it by hearsay His grandson said he carried it when he went to Samuels, and used it frequently. Had no other information on the subject. Think I had but two conversations with him about the marking of the money.

Redirect Examination.

I said Taylor got hurt with a horse, I think it was in the summer of 1853, fourteen years ago or thereabouts,

William Dorts being sworn in said cause deposed as follows:
Knew Rollin Clayton. He lived at one time two and a half miles from me, at another three miles from me.
Question asked as to his character. Objected to by complainant and objection sustained.

John Ely, being duly sworn in said cause deposed as follows:
Knew George Taylor: have known him over fifty years, in New York, and since I came here, have lived within one and a half miles of him. I have seen Taylor use ardent spirits two or three times, once was there by his house. He had a bottle of gin, and said I think he was going to Wisconsin. That was four or five years ago. I drank some then. Another time about six years ago he came from Mr. Cook's, and had been drinking. I saw him again in Lane, when I thought he had been drinking, when there was a show there. It was in the afternoon when I saw him. Don't recollect when I saw him next under the influence of liquor. Can't tell if I ever saw him drink any other times. He told me, when he went anywhere he always took it with him. I saw him in Lane in 1864.

Cross Examination.

I did not speak to him at Rochelle. Thought he was tight because he didn't walk straight and had one shoe off. Only just passed him along the road. Paid but little attention any way. Don't think he was under the influence of liquor when I saw him at his house. When I met him in the road I did not drink. I don't think he was under the influence of liquor then - nor at any time but at Rochelle

G. A. Bunker, being recalled, deposed as follows:

Question. Was the chorea of which Doctor Potter spoke necessarily connected with the disease of Taylor's bladder?

It was not. The chorea was confined to his face and finally affected his hands. What is meant by central is, where it originates in a lesion of the brain or spinal chord, sympathetic when it arises from a disease somewhere else. I never examined him to ascertain whether central or sympathetic. I don't think the chorea and disease of the bladder were at all connected. The disease of the bladder might and I think did come from weakness, and finally the muscles of the bladder became paralyzed. Chorea when sympathetic generally comes from disease of the stomach. The insane delusion is a proposition so absurd or preposterous

that it would not be believed by any person of sane mind.

Cross Examination.

The subject matter of an insane delusion is generally something ~~in itself~~ absurd and impossible. That is the rule the authors lay down. That is the gist of the authorities. It must be so preposterous, that it would not be believed by a sane man. I think I remember a case where a man got the idea, that his brother attempted to poison him. That might be a delusion. It appears that that would not be impossible. I think an absurd belief in something, which under the circumstances is impossible would be a good definition. The delusion may be in the absurdity of the thing believed. The word sympathetic is the same as functional. I don't know whether this case was sympathetic or central. Central chorea may affect any muscles of the body. I think it would be strange to find central chorea affecting the kidneys or urinary organs, for it only affects the muscles of voluntary motion. I should never expect it to affect the muscles of the bladder. I never knew of a case of chorea, where it affected the action of the generative organs. Central chorea results from a lesion of the brain, and does result in the way you have spoken about

I don't think chorea could affect any involuntary muscles - any of the muscles of the urinary organs, it seems improbable to me. I won't say that it might not be so. The flow of urine is controlled rather by involuntary than voluntary muscles. Persons have some control over them, but not so much as over voluntary muscles. Might get filled and run over, but if chorea is liable to affect the operations of the mind. It rather tends to produce imbecility than insanity. I think it might result in unsoundness of mind.

Re-direct Examination.

I mean that chorea would cause imbecility i.e. mere weakness and not a real insanity. If a man believed a delusion, he could not be reasoned out of it, and it would not be a delusion if a man could be convinced it was not true. A delusion is not based on evidence, and does not yield to it. If the chorea was functional, sympathetic, or central it would not affect his bladder

Re-cross Examination.

It is possible a man might be reasoned out of it for a time and then believe it again.

H. A. Mix, being sworn in said cause, deposed as follows;

241

I am a physician, graduated in the spring of 1864. Have read works on mental alienation. An illusion is something pertaining to sight, and can be dispelled. If it still haunts him it becomes a hallucination, until when he believes it, it is a delusion. If a man is affected by a delusion it makes him more obstinate to reason with him generally, but may confess his error for the moment. He would not permanently abandon it. If the delusion consisted in believing notes to be stolen and when he found them he confessed his error, it would not be an insane delusion. I would not consider him insane. If he was insane, and the notes were returned, it would not convince him. No doctor understands chorea, I have read on it. I saw George Taylor when he was sick I think with retention of urine. I went and found Bunker there - who had used the catheter. Some believe it, and this is the spiritual theory, that chorea is a disease of the mind. Doctors usually class it as sympathetic or central. If central it should affect the urinary organs as far as the voluntary muscles are concerned - it might do so, but not probable. Saw him a year or two before that sitting in town. I never spoke to him. He seemed a stupid old fellow. He might have

been under the influence of opiates or something else.

Cross Examination.

Heard Dr Bunker testify. Heard your definition think it good. A delusion is governed more by the evidence than anything else. Do diagnose a case by finding what evidence he has for his belief and if he has much evidence we say he is not insane. George Taylor's urinary disease was not chorea but paralysis. Chorea would not result in paralysis of the bladder more than bilious fever would. I dont see the connection between chorea and paralysis. I dont see how that loss of power - the paralysis - could result from chorea more than from any disease. His difficulty then was retention from paralysis of the bladder. Chorea was not connected with it. Dr. Potter did not then connect chorea with his difficulty with his urinary organs.

Re-direct Examination.

I dont see how chorea could result in paralysis of the bladder. They are distinct diseases and result from different causes.

Joseph Sears, Esq. being sworn in said cause deposed as follows:

I tried this proceeding in the County Court

223

I examined Dr. Welch. I can't give all his testimony from recollection. I took full minutes of it either myself or Mr. Hathaway I took the minutes of his testimony.
Question: Did he or not state that he only connected Rollin Dayton and his wife with the stealing?
He distinctly connected another person, his wife in the stealing.
Question: Did he implicate Mason and his wife?
I do not find any such statement in my minutes. He makes use of the term bed-linen in one place. I think the words sheets and pillow-cases do not occur. There is a break in my minutes in turning the leaf, and you have a sentence I have not. Mrs Jersey Taylor testified below. I can not find that she said, he talked rationally about the war, would get excited and say if he was young, he would go without being drafted. She did not talk below what Bolivar said.

E.M. Light, being recalled, deposed as follows:
Have not been much in court. Have been examined before. That disease might have some connection with the disease of his bladder and kidneys. His trembling

was a shaking palsy. It would not affect the mind except as it affected the body. It would have no effect on the sanity of the patient. An insane delusion would be an erroneous conclusion of the mind plain to every one of sane mind. Examples are — where persons imagine they are Christ — that they are to die at a certain time. The shaking palsy would probably originate in the spinal column. The disease operates through the nerves.

Cross-Examination.

He had shaking palsy - paralysis agitans clear distinction between it and chorea In palsy the muscles have a weak and trembling motion not subject to the will — in chorea the movements are strong and vigorous: One is a nervous twitching or spasmodic movement, the other, a weak and debilitated motion. I never examined him specially. I never saw any signs of chorea. The difference between this and chorea is very marked and easily seen. I never examined him closely. Palsy does not directly affect the brain, more than any disease. The body is debilitated and mind proportionally. Central chorea may affect the mind. My examples do not cover all

245

the cases of delusions. A man might be deluded about a matter reasonable in itself. I noticed a twitching of his face and mouth. That would be palsy - a common symptom of palsy. The twitching is of a different character - one is spasmodic and the other is not.

Re-direct Examination.

The symptoms were so well developed in the old man that it could be easily observed and I call it as I did before, palsy.

Which was all the evidence offered by either of said parties.

And thereupon the said defendants asked the Court to give to the jury each of the following instructions numbered 1 to 16 inclusive, except as to the portions thereof included in brackets, thus: [——], but the Court refused to give said instructions as asked, but modified the same by inserting therein the words and clauses included therein in brackets as aforesaid: to which ruling of the Court in refusing to give each of said instructions as asked, and modifying the same as aforesaid, and giving the same and each of them so modified the defendants by their Counsel then and there excepted,

and the court read said instructions so modified to the jury as follows!

No. 1.

It is the right of all sane persons of lawful age having the requisite mental capacity to bequeath and dispose of their property in accordance with their own will and wishes; and they may, if they choose, entirely neglect their own children and next of kin as objects of their bounty, and devise their entire estate to strangers

No. 2.

If the jury believe from the evidence that George Taylor executed the paper read in evidence as testified to by the witnesses Smith and Sharp, and that he then fully understood what he was about, the nature of the transaction in which he was engaged, and the effect the same would have upon his property and rationally understood his just relations to those who were the natural objects of his ~~bounty~~ affections and bounty, such facts are sufficient to authorize the jury in finding such paper to be the will of said George Taylor.

24

No 3.

If the jury believe from the evidence that George Taylor went to the witness W. H. Smith, and employed him to write his will, and that he then without prompting from anyone present dictated to said Smith the terms of his said will, and that said Smith wrote the same accordingly, and that said Taylor several weeks afterward stated to Samuel Taylor the exact provisions of such will, and delivered the paper to him for safe-keeping this is strong evidence to be consid-ered by the jury, as showing that said George Taylor was then capable of making a will [so far as his general mental capac-ity was concerned]; yet all this may have been true, and the said Taylor afflicted by an insane delusion as to his son Mason and which delusion, if it entered into the terms of the will would render it void].

No. 4.

If the jury should determine from the evidence that George Taylor at times had some insane delusions on some subjects, fancying things to exist that had no existence, and of whose existence he had no reasonable evidence, yet if the jury believe that at the time of the alleged execution of the paper produced

as his will. he had mind enough to know and appreciate his relations to the natural objects of his bounty, and to understand the general character of his property, and the character of the disposition thereof made by such will, then he had a mind sufficiently sound to make a valid will [unless such insane delusion entered into and caused him to make some of the provisions of the will.]

No. 5.

If the jury believe from the evidence that George Taylor had and exercised sufficient active memory to collect in his mind without prompting the particulars or elements of the business to be transacted when engaged in the act of executing his will, and to hold them in his mind a sufficient time to perceive at least their obvious relations to each other, and to form a rational judgment in relation to them, then the jury should find that at that time he possessed sufficient capacity to make a will.

No. 6.

The certificate of the oaths of the witnesses Smith and Sharp attached to the paper read in evidence is competent evidence to be considered by the jury upon the question of the

249 ✓ execution of the will and is entitled to such weight as the jury think it may deserve, and should be considered in connection with the other evidence in the case

No. 7.

A defect of memory unless it be total or appertain to things essential to the will is not sufficient to establish testamentary incapacity, and advanced age alone raises no presumption of incapacity in the testator, provided he appear to have sufficient mind to fully understand the provisions of his will, and the effect it will have upon parties to whom he is related

No. 8

✓ A testator possesses a sound and disposing mind and memory within the meaning of the law, when he has an understanding of the nature of the business in which he is engaged, and a recollection of the property he means to dispose of as well as the persons who are the natural objects of his bounty and the manner in which he desires it to be distributed between them [unless affected with some morbid and insane delusion as to some or one of them]. And the memory of such testator may be very imperfect, may be greatly impaired by age and disease; he

may not at times be able to recollect the names, the persons, or the families with whom he had been intimately acquainted, he may at times say or do idle things, and appear dull and stupid, and yet his understanding be sufficiently sound to make a valid will.

No. 9.

If the jury believe from the evidence that George Taylor did not devise to his son Mason Taylor as much property as he did to his other heirs and did so because he disliked or had a prejudice against said Mason or his wife - such facts do not in the least detract from the validity of the will, and the jury should find accordingly, unless such prejudice is proven to the satisfaction of the jury to have been an insane delusion, and constituted the reason for so making the will.

No. 10

If the jury believe from the evidence that George Taylor went to the residence of Mason Taylor the day before the making of his will, and while there the said George and Mason Taylor had high words and the said George considered himself insulted and aggrieved by the treatment received from his said son

257

Mason, and while so in anger and in a passion caused the will now submitted to the jury to be made while so feeling aggrieved such facts [alone] will not invalidate the will, [but to do so it must further appear that such state of aggrieved feeling was caused by the absurd belief of supposed facts, and as to the existence of which he had no evidence tending to convince a sane mind].

No. 11

If the jury believe from the evidence that George Taylor entertained unjust suspicions in relation to Rollin Dayton or his wife stealing from him, the same is not sufficient to establish that the said George Taylor was the victim of insane delusions on that subject notwithstanding such suspicions may have been unfounded in fact, unless the jury believe from all the circumstances, that such suspicions were so unreasonable, that no sane man would entertain the same.

No. 12

If the jury believe from the evidence that George Taylor, the testator, was a monomaniac as regards the character of Rollin Dayton or his wife, still unless they can trace some devise or bequest in said testator's will as

being controlled or affected by such belief, then they will in their deliberations disregard such belief of the said testator [and the same rule applies to his son Mason and wife].

No. 13

In deciding upon the capacity of George Taylor to make a will, the jury should take into consideration the number of those who were the principal objects of his bounty and said Taylor's opinion of their respective deserts with reference to conduct and treatment he may have received from each — the pecuniary situation of each and what he had before done for them, and the amount and condition of his property, and also any act or bad treatment he may have received, shortly before the making of his said will; and if, from all the circumstances of the case, the jury should conclude the writing offered in evidence to be the will of said George Taylor, they should so find by their verdict.

No. 14.

If the jury believe from the evidence, that up to a short time before the making of the will read in evidence, George Taylor was upon friendly terms with his son Mason Taylor, and visited

11
253

him frequently, and was accustomed to speak kindly of him, and that about that time the conduct of said Mason Taylor was such that said George Taylor was offended on account thereof, and that immediately upon receiving such offence said George Taylor proceeded to make the will in question, and such circumstances should be considered by the jury as strongly tending to show that said George Taylor had not been laboring under an insane delusion previously, to the prejudice of said Mason Taylor, and that the will in question is not the offspring or result of such delusion.

No. 15=

To establish that George Taylor was the victim of insane delusions at the time of making his will, the jury must believe from the evidence that said George Taylor then believed in the existence of facts which no rational person would have believed; and further, if the jury should believe from the evidence that said George Taylor was a monomaniac on any particular subject that fact would not affect the validity of his will, unless they believe from the evidence that the existence of such delusion controlled said Taylor [to some extent] in the making of his said will.

No. 16

Although the jury may believe from the evidence that George Taylor the testator might be filthy and loathsome in his personal habits, may have been affected in his urinary organs, and may have been stupid to a great degree, and greatly impaired in his mental faculties, still if they believe that said Taylor had mental ability sufficient to know his property and the persons entitled to his bounty, and retain a recollection of the same in his mind so as to form a rational judgment concerning the same, then he had legal capacity to make a will, and the jury should find accordingly.

Endorsed.

"Filed July 13th 1869

F. G. Reid, clerk"

And at the same time the defendants further requested the Court to give each of the following instructions which were refused, to wit: Nos 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 as follows:

No. 17

The issue which the jury are to determine by their verdict is, whether the writing produced in evidence be the will of George Taylor or not.

255

No. 18

If the jury believe from the evidence, that the paper read in evidence as the will of George Taylor was reduced to writing at his request, and signed by him, or by some other person in his presence and by his direction, and attested in the presence of said Taylor by two or more credible witnesses at his request and in the presence of each other, then the same was executed with sufficient legal formalities to constitute a valid will, and in case the jury also believe that said George Taylor was 21 years old or upwards and then had sufficient mental capacity to make a will, as stated in the other instructions the jury should find such paper to be the will of said George Taylor

No. 19

The fact that George Taylor in his last will did not bequeath more than $50 to his son Mason Taylor is not a fact that can in any respect detract from the validity of said George Taylor's will.

No. 20

Although the jury may believe from the evidence that George Taylor had not capacity to transact the ordinary affairs of life, or was incompetent to make a valid contract, yet if they believe from the evidence that said

256 Taylor had capacity to know his property
Sufficient
and to whom he desired to leave or will bit,
he had capacity to make a will, and it
should stand

No. 21

✓ It is not essential that George Taylor
should have been in the full possession of all
his mental faculties at the time of the alleged
execution of the paper read in evidence as
his will in order to render him competent
to make a valid will at that time, but it is
sufficient in this respect to authorize the
jury to find said will to be valid, if they
believe from the evidence that he then had
sufficient reason to comprehend, and did
comprehend the nature of the transaction
in which he was engaged, and that he
intended to dispose of his property to the
persons and in the manner therein stated.

No. 22

✓ That if the jury believe from the evidence
that George Taylor, the testator, believed that
Rollin Dayton stole from him a horse collar
and one dollar in money, and was convinced
of said larcenies, from the fact that he found
the said horse collar in said Dayton's possession
who had it in use, and an old worthless one

237

said Dayton put in the place of said stolen collar; and that he placed $21 in a drawer, and soon thereafter found but $20 in said drawer, and that Dayton lived in the house with him, and the only person that would probably have access to said drawer, and that said Taylor had for many years entertained a hatred for said Dayton and considered him a thief and scoundrel, all of which they are to find from the evidence. And further, if the jury believe from the evidence, that said Taylor for a time entertained the opinion that said Dayton stole from him a wooden box and a note made by Boyce and Bunch, and his belief in the larceny of said box and note was from the fact that when said Dayton left his house the box was missing, and at a time before the Boyce and Bunch note was gone, and the testator could not find the same for a long time, and on investigation found the box in question had been given to Bolivar Roe, and subsequently found the Boyce and Bunch note, and admitted that he was mistaken in regard to those suspicions, and admitted the same, and thereafter said nothing about the box and note, and if the jury further believe from the evidence that said Taylor entertained the belief that Dayton had stolen his money, and that such belief was founded

on the fact that he had received certain sums of money from divers persons, and had paid out sums of money, and caused the same to be figured up by witness Lirman Taylor, and on such computation this was found to be some two or three hundred dollars missing and deficient, and that said Dayton lived in his house, and could have access to his money, the testator having been sick, helpless, and insensible on one occasion, if the jury so believe from the evidence; and if the jury believe from the evidence that said testator George Taylor entertained the belief that said Dayton and his wife had stolen the clothing of his late wife and his bed clothes, and that the testator entertained such belief from the fact that said clothing and bed clothes had been placed in a box up stairs, and that the same had been under the care of said Dayton and his wife for some two years, and that after said Dayton left the residence of said testator, he examined said box containing said clothing and bed-clothes, and a large part of said articles were gone and missing. And if the jury further believe from the evidence, that said testator had heard that said Dayton's wife had or designed sending a part of said testator's deceased wife's clothing back East to her friends

23 - And if the jury believe from all the testimony that such deductions and conclusions on the part of said testator are but natural and consonant with said testator's former beliefs and what most persons in advanced years might believe, that such evidence does not establish an insane delusion or monomania in said testator, and the jury should find accordingly on that proposition.

No. 23.

In order to constitute capacity to make a will, it is sufficient that the testator know what he is doing, and to whom he is giving his property at the time of the execution of his will.

No. 24

The jury are instructed that neither advice, argument or persuasion will vitiate a will made freely and from conviction, although such will might not have been made but for such advice or persuasion,

No. 25.

That undue influence within the meaning of the law which will invalidate a will is that degree of influence which deprives the testator of his free agency and makes the will more the act of the party influencing than of the

testator himself.

No. 26.

If the jury believe from the evidence that George Taylor at the time he made his will knew what he was doing, and to whom he was giving his property in and by his said will, such facts establish the testamentary capacity of said Taylor, and the jury should find the paper submitted to them to be the will of said Taylor provided they find that the same was executed and witnessed according to law.

To which ruling, in refusing said instructio and each of them, the defendants by their coun- sel then and there excepted.

And thereupon the complainant asks the court to give the following instructions, to wit: Nos 1, 2 3. 4. 5. 6. 7. 8. 9. 10. 11. 12, 13 14. 15 and 16. as follows;

No. 1

That unless the jury believe from the evidence that said George Taylor at the time of executing said paper was capable of comprehending the condition of his property, and of collecting in his mind without prompting, the elements of his business to be transacted, and holding them there until their relations to each other, could be perceived and a rational

6. judgment in respect there to be formed, they should find against the validity of the will

No. 2

V. The jury are instructed upon the question of undue influence that it is not alone the extent but also the character of the influence which the law regards in passing on the question whether such influence is unlawful, and that if the jury believe from the evidence that at and before the time of making such will the said George Taylor was in a condition of mind susceptible of being easily influenced or controlled, and that said will (when judged by principles of natural justice) makes an unjust distribution of the testator's property among those equally entitled to the testator's bounty, and that any degree of influence however slight was used by any person to procure such unjust distribution; and that the will was made by reason of such influence; the law regards such influence as unlawful, and the jury should in that case find against the validity of said will.

No. 3.

✓ Where a person conceives something extravagant to exist, which has no

existence whatever save in his own heated imagination, but he is incapable of being permanently reasoned out of that conception, such person may be said to be under a delusion; and the absence or presence of delusion, so understood forms the true test or criterion of absent or present insanity.

No. 4

A will made under the influence of a powerful delusion which has not only impaired, but perverted the testator's judgment and understanding in relation to subjects connected with the provisions of the will, so as to exercise a controlling influence in the disposition of his property, is not the will of a person of sound mind

No. 5

That it is the prolonged departure without an adequate external cause, from the state of feeling and modes of thinking usual to the individual when in health, that is the true feature of disorder in mind.

No. 6.

Monomania invalidates a civil act when such act comes within the circle of the diseased operation of the mind; and is produced by such operation.

263

No. 7

If George Taylor has been proved to have entertained an insane delusion toward one of his sons, sometime before the making of his will, he must be shown to have recovered therefrom, before the date of the will. if the will be obnoxious to the presumption of having been produced or affected by any such delusion, the will should be held not good.

No. 8

In all cases the party offering the will is bound to prove, to the satisfaction of the court and jury, that the paper in question does declare the will of the deceased, and that the supposed testator was, at the time of making and publishing the paper, of sound and disposing mind and memory.

No. 9

If the jury believe from the evidence, that at and before the time of making such will the said George Taylor was in a condition of mind susceptible of being easily influenced or controlled, and that the will itself is one giving unequal advantages to the children of the defendants Bolivar Roe, and that said Bolivar Roe was in a position to have brought influence to bear upon the said

George Taylor, the jury have the right to require that it should be proved with reasonable certainty that the will was the offspring of the free agency of the said George Taylor.

No. 10=

If the jury believe from the evidence, that the making of the will was procured by undue influence they should find against its validity, even although the person exercising such influence took nothing by the will himself.

No. 11=

If the jury believe from the evidence, that the mental condition and circumstances of said George Taylor, at and before the time of making such will were such as gave an opportunity for the exercise of undue influence, and the will itself is such an instrument as indicates that the opportunity has been embraced, and influence unduly exerted, the argument will be direct from the effect to the cause best calculated to have produced it, and the presumption will be against the validity of the will until the contrary is made to appear.

No. 12

If the jury believe from the evidence, that

5 said George Taylor for some time before the making of said will entertained an insane delusion in reference to his son Mason, and that such delusion was the cause of making such will, the jury should find against the validity of the will, even if the general capacity of said George Taylor is unimpeached.

No. 13.

If the jury believe from the evidence, that said George Taylor for some time before the making of said will entertained an insane delusion in reference to the stealing of his money or property, and that he connected his son Mason with such delusion as a party to such stealing, or in any way aiding, encouraging, abetting or trying to conceal the same, or the perpetrators of the same, and that in consequence of such insane delusion he made the will in question the jury should find against its validity.

No. 14

Retention of memory, display of talents and an appearance of rationality on various subjects are not always inconsistent with unsoundness of mind.

No. 15

If said George Taylor is proven by the evidence to have entertained an insane delusion in regard to his son Mason sometime before the making of the will, and the will itself is obnoxious to the presumption of having been produced or affected by such delusion, the said George Taylor must have been proven to have recovered from such delusion before the making of such will or the same will be held invalid.

No. 16

The jury are instructed that the sanity of the said George Taylor at the time of the execution of said paper writing is an affirmative fact to be established by those affirming the validity of the will, and that unless it is proved by the evidence that said George Taylor was of sound mind at the time of executing the paper in question, the jury should find against the validity of said will.

Endorsed

"Filed July 18th 1867

T. G. Petrie, clerk"

each and every of which were given.

To the giving of which instructions and each of them, the defendants then and there excepted

And thereupon, to wit, on the Eleventh day of July 1867 said jury retired to consider of their verdict, and afterwards, to wit on the morning of the Thirteenth day of July 1867 came again said jury and returned the following verdict

" We the jury find the paper given in evidence
" before us is not the will of George Taylor.
" Endorsed H. C. Preston
" Filed July 13th 1867 Foreman "
J. J. Blair clerk'

And the said jury and each of them, being asked the question, "Was this and is this your verdict?", each of them responded in the affirmative.

And thereupon the said defendants come and enter a motion for a new trial and assign the following reasons as the ground of said motion Motion

" State of Illinois
Ogle County ss. In Ogle County Circuit Court
Of the June Term A. D. 1867.

Mason Taylor
— vs —
Samuel Taylor et al

The said defendants come and enter this motion for a new trial in this cause, and as ground of

said motion give the following reasons
1- That the Court gave improper instructio
to the jury on the part of the complainant
2nd That the Court refused proper inst
-uctions on the part of the defendants. and
changed and modified said proper instruc
-tions that were given.
3d That the Court erred in not permitting
the will of George Taylor made on the 12th of
September 1860. to be read to the jury.
4th That the Court erred in permitting
the witnesses of the complainant to give
their opinions as to the mental condition
of said testator not being physicians or
experts.
5th That the Court erred in permitting
illegal evidence to be given to the jury on
the part of the complainant, and excluding
legal evidence on the part of the defendants
6th That the verdict of the jury is
against the Law and the evidence.
7th That the verdict of the jury is not
the result of an investigation of the law
and evidence in this cause, but was
obtained by a game of chance and against
the solemn convictions of a majority of
said jurors.
And for other errors on the part
of the Court, and the misconduct of the jury

and other illegal proceedings had in this cause, as will appear from the records and files of the same

Edsall, Jacobs and Bigg
for Defendants "

And afterwards, to wit on the 16th day of July 1864, came on to be heard the motion for a new trial or hearing in said cause, and thereupon the affidavit of J. Bolivar Roe was read in the words and figures following, to wit:

" State of Illinois } Circuit Court
" Ogle County ss } June Term 1864

Mason Taylor
— vs —
Samuel Taylor
et al

J. Bolivar Roe, first being duly sworn, on oath states that he is informed and believes that the jury in the above entitled cause, when they retired to consider of their verdict stood, seven for sustaining the will of said Jorge Taylor, and five against said will, and so remained, each of said jurors being firm in the conviction that they were right in their respective opinions, and so remained until the night of the 12th instant, when

they becoming wearied and fearing that they would be kept in custody over the sabbath it was agreed by and between the said seven jurors and the said five jurors that twelve ballots representing the validity of said will, and eleven against the same and that said twenty-three ballots should be placed in a hat, and twenty of said ballots should be drawn therefrom, and the party having the majority should prevail, and that they should abide the result and keep the same a secret, and that in pursuance of said arrangement said balloting was had and resulted in drawing the said eleven ballots against the validity of said will, and nine in favor of said will, and thereupon said jurors, relying upon the said agreement returned said verdict in the manner they did, but that the opinion of said jurors remained unchanged, of all of which this affiant has been informed and verily believes.

Subscribed and sworn to before me this 18th day of July 1864

Giles B. Roe

H. A. Mein
Notary Public"

Endorsed
Filed July 13th 1864
G. G. Petit, Clerk."

271

And thereupon the affidavit of H. A. Mills, one of the attorneys of the defendants was read in the words and figures following, to wit:

"State of Illinois }
Ogle County ss } Circuit Court of said County
June Term A. D. 1864.

Mason Taylor
— vs —
Samuel Taylor et al

Henry G. Grix, first being duly sworn upon his oath states, that he has seen and conversed with three of the jurors that tried the above entitled cause since they were discharged from the same, from all of whom affiant learned the fact that the verdict in this cause was obtained through some game of chance, but what said game was, or the way and manner in which it was managed and obtained affiant was unable to learn, from the fact that said jurors had agreed as each stated to keep the same a secret, and would not therefore divulge the same, and that two of said jurors expressed themselves that their convictions and judgment in said cause remained unchanged, but felt themselves respectively bound by their agreement. Affiant further upon his

oath states, that he has seen the officer that had charge of said jury while out, and during the time said agreement was made among said jurors, and at the time said balloting was had, who denies to affiant all knowledge of said agreement and of the said balloting, that affiant has reason to believe, that said officer knows more of said transaction than he is willing to disclose to affiant —
Therefore affiant requests that he may be examined in open Court
Subscribed and sworn to this 16th day of July A.D. 1864.

W. A. Pine

W. G. Petrie Clerk.

Endorsed
Filed July 16th, 1864
W. G. Petrie Clerk."

And thereupon it was ordered that James O'Kane, the officer having said jury in charge, be examined in open Court, who, being duly sworn deposed as follows:

"Mason Taylor
— vs —
Giles B Pope et al
July 16th 1864

In the Ogle County Circuit Court
June Term A.D. 1864

Testimony of James O'Kane who was duly sworn and testified as follows:

273

Question First—

Had you or not charge of the jury in the case of Mason Taylor a s— Samuel Taylor et als on Friday evening the 12th day of July instant; if so at what time did you take charge of said jury and how long did you continue to have charge of them?

Answer

I had charge of said jury in said cause I took charge of said jury immediately after the adjournment of Court on Friday the 12th day of July instant, and continued in such charge until half past 12 o'clock of that night, when said jury informed me they had agreed on their verdict.

Question Second

Did you or not hear the said jury or any part of them discuss any mode or method by which they could arrive at an agreement on their verdict, made between the portion of the jury sustaining the will of George Taylor and those opposing the will of the said George Taylor. If you know, state what said agreement or understanding was. State fully and your means of knowledge.

Answer

I cannot say that I did. I heard the jurors discussing about the will, but did not pay attention, and cannot say what method they

adopted in arriving at their verdict. The first evening of the 11th or morning of the 12th one of the jurors asked me if the jury could not decide upon their verdict by lot or chance, stating that they could never agree. I informed him "Of course not". I have no personal knowledge that the jury arrived at their verdict by drawing or chance. I have stated all that I heard from the jurors on that subject while so on charge. No other person had charge of the jury after the adjournment of Court up to the time the jury agreed but myself.

James O. Rand

Endorsed
Filed July 16th 1864
F. G. Patrick clerk.

And thereupon the affidavit of G. Bolivar Roe was read as follows:

State of Illinois }
Ogle County ss } Circuit Court of said County
June Term 1864

Mason Taylor
— vs —
Samuel Taylor et al

G. Bolivar Roe, first being duly sworn, on his oath states, that affiant made an affidavit in this cause on the 18th

day of this months, and which he asks to refer to and make a part of this affidavit.
Affiant further upon his oath states, that after vigilant inquiry, he is utterly unable to find any witness or person by whom he can prove what transpired before the said jury at the time of the finding of this verdict, as set forth in said affidavit in this cause, except it be by one or more of said jurors, Therefore affiant prays that one or more of said jurors may be permitted to be examined or their affidavits read

Subscribed and sworn to before me this 16th day of July A.D. 1867

Giles B. Roe

F. G. Petris. Clerk

Endorsed
"Filed July 16th 1867
F. G. Petris, Clerk"

And thereupon the defendants asked leave to be permitted to examine A. J. Weatherington and James Johnston, two of said jurors, or one of them in open Court, or that they might be permitted to read their affidavits, by which they expected to prove the following facts, viz: That when said jury retired they stood seven (7) in favor of the validity of said George Taylor's will, and five (5) against the validity of said will, and that they so remained

during the whole time they were out. That on the evening of the 12th fearing they would be held in custody over the sabbath and being extremely anxious to be release it was agreed by and between the said 7 jurors and the said 5 jurors, that the eleven ballots representing the validity of said ~~will~~ George Taylor's will and eleven representing the invalidity of said will should be placed in a hat, and twenty drawn therefrom and the party having the majority should prevail, and that they would all abide the result whatever it should be, and that in pursuance of said agreement a balloting was had, and resulted in the drawing of the eleven ballots representing the invalidity of said will and nine representing the validity of said will; and thereupon said jurors, considering themselves bound by said agreement, returned the verdict in the manner they did, but that the opinion and convictions of said jurors remained unchanged.

Which motion being duly considered by the court was denied, to which ruling the defendants then and there excepted.

And the said motion for a new trial having been duly considered by the court was overruled, to which ruling the defendan

thereto and there excepted.

And thereupon the defendants entered a motion in arrest of judgment or decree, which motion being heard and considered by the Court was also overruled, to which the defendants then and there excepted; and the defendants were allowed twenty days, within which to have their bill of exceptions signed and filed.

"The foregoing bill of exceptions contains all the evidence given to the jury upon the trial of said cause. And forasmuch as the matters aforesaid and the exceptions aforesaid do not otherwise appear of record, this bill of exceptions is signed and sealed by the Hon. William M. Heaton Judge of said Court, and made a part of the record in said cause.

In witness whereof I William M. Heaton Judge of said Court do hereunto set my hand and seal this 23rd day of July A. D. 1867

W. M. Heaton (Seal)

Bill of Exceptions endorsed as follows;

Filed July 30th 1867

F. G. Petrie, Clerk"

Appeal Bond

Know all men by these presents: That we Bolivar Roe and John Roe of the County of Ogle and State of Illinois are held and firmly bound unto Mason Taylor in the penal sum of three hundred dollars lawful money of the United States for the payment of which well and truly to be made, we bind ourselves our heirs executors and administrators, jointly, severally and firmly by these presents.

Witness our hands and seals this 17th day of July A. D. 1867.

$3.00 Revenue Stamp

The condition of the above obligation is such that whereas Mason Taylor aforesaid the complainant did, on the 16th day of July A.D. 1867 in the Circuit Court of the County of Ogle in the State of Illinois at the June Term A.D. 1867 thereof in a certain cause therein pending on the Chancery side thereof wherein Mason Taylor was complainant and John Roe, Mary A. Roe, Mary F. Roe, Georgi Roe, Eleanor Roe, Bolivar Roe, Samuel Taylor, Elijah Taylor, George Taylor, Julia Taylor and Mason Taylor were defendants recover a decree that the paper writing produced was not the will of George Taylor deceased from which decree the said Bolivar Roe has taken an appeal to the Supreme Court of the State of Illinois; Now if the above Bolivar Roe shall duly prosecute his appeal and

shall pay whatsoever judgment, costs interest and damages that shall be adjudged against him in case said decree shall be affirmed, then the above obligation to be void, otherwise to remain in full force and effect

Bolivar Roe Seal
John Roe Seal

Witness S. B. Roe

State of Illinois }
Ogle county ss } I Frederick G. Pirie Clerk of the Circuit Court and Ex officio Recorder in and for said County do hereby certify that the foregoing is a true, full and complete record of the papers on file and of the entries of Court record in the foregoing entitled cause wherein Mason Taylor is complainant and John Roe, Martha Roe, Mary Frances Roe, George Roe Eleanor Roe, Bolivar Roe Samuel Taylor Eliza Taylor, George Taylor, Julia Taylor and Mason Taylor are defendants, in my office all duly compared therewith by me.

Witness my hand and the seal of said Court at Oregon in said County this 2 day of September A. D. 1869

F. G. Pirie Clerk

280

State of Illinois }
Third Grand Division } 355 In the Supreme Court
September Term A.D. 1786

John Roe, Eleanor Roe
George Roe, and Martha Roe and Mary Frances Roe
infants &c by G. Bolivar Roe
their next friend and G. Bolivar Roe
and others, Appellants

v.

Mason Taylor, Appellee

Assignment of Errors

And now the said John Roe, Eleanor Roe, George Roe and Mary Frances Roe, and Martha Roe infants &c by G. Bolivar Roe their next friend and G. Bolivar Roe, Appellants by Edsall & Crabtree their Attorneys, come and say that in the record and proceedings aforesaid there is manifest error in this to wit:

1. The Court erred in rejecting competent evidence offered by Appellants (defendants below.)

2. The Court erred in admitting incompetent evidence in behalf of the Appellee (the complainant below.)

3 The Court erred in modifying instructions asked by appellants and in giving the same so modified.

4. The Court erred in refusing to give

instructions asked by Appellants.
5. — The Court erred in giving instructions in behalf of appellee
6 — The Court erred in overruling the motion for a new trial.
7 — The Court erred in entering decree that the will produced was not the will of George Taylor.

By reason whereof the said Appellants pray that said decree may be reversed &c

Edsall & Gaither
Attys for the Appellants
John Roe, Eleanor Roe, Martha Roe
George Roe, and Mary Francis Roe and
G. Bolivar Roe!

John Roe, Eleanor Roe
George Roe Et al
Appellants

v

Mason Taylor
Appellee

Record

Filed Sept 10. 1867.
W. M. Taylor.
Clk.