

said it at the Danville meeting?  
 a After we got to ~~the~~ Danville, Mr. Sidell came to the Hotel & invited us to go over to Judge Davis's office, as the room would be better & he had two offices, he said he had a back & front one & we could use the back one; anyhow, we went over there & when we went in Judge Davis invited us into the other room, ~~where~~. We went in there & made our business known & Mr. Sidell said that he had—

g Now, just state what you said on that occasion to Mr. Sidell? (The words you used in making your business known as near as you can recollect.)

a I don't know who it was that made the conversation in the first place; we talked all around about the matter. I can not positively who introduced the matter, I can't say as to that. In talking about the matter & the settlement Mr. Sidell said—at first he didn't feel inclined to say much himself; he said he would talk through his attorney; but after we talked awhile, he said, in speaking about

pay - Judge Davis, amongst them. talked a good deal - he said that he was pretty well posted when he went into the trade; that he saw a written opinion of a Circuit or District Judge - I am not positive, what kind of a Judge it was of Illinois, stating that the law was unconstitutional & he went into it with the knowledge that there would be no hereafter to it.

Q What did he say, if anything, in relation to the breed of cattle?

A Well sir I don't know that he said anything about it. I don't remember that he did.

Q Were they called by any name in his presence?

A They were called Texas cattle always.

Q What did he call them if he spoke of them?

A He said he bought his cattle down in that Texas country; I don't know whether he called them Texas cattle or not. He never called them anything else, & there never was any other name mentioned for them that I ever heard. He said when he went down there to buy his cattle

before he commenced buying, he had that opinion - saw it - that written opinion.

Q You know nothing about Texas cattle passing over the herding ground of Mr. Thompson?

A I do not, sir.

Q I will ask you now, if in that conversation, or any other conversation with Mr. Sidell, he designated the point at which he bought the cattle other than Hog's point?

A It seems to me that he bought at ten different places, but I won't be positive that he did. I can't say it was in that country some place that he bought - he was very free to tell where he ~~bought~~<sup>got</sup> his cattle.

Q What state did you understand?

By Mr. Schfield. What state did he say?

A Hog's Point is not in Texas, as we understand it.

A I understood him to say that he bought the cattle, I think, in Texas, but Hog's point was one place he shipped cattle from.

Q Was there anything said in his presence, or by him or any of the parties in relation to the capacity

of Texas cattle, to communicate the disease to native cattle, & if so, state  
 a I presume there was a good deal said, but I don't know that I recollect of any conversation that I had with him or the other porter, in regard to that, that day.

q Have you had an opportunity of ascertaining that fact - whether Texas cattle will communicate disease to native cattle by passing over the trail?

a I have.

q State to his Honor your observations!

a I have never had any cattle that passed over the line of Texas cattle but that died - not all but the great majority of them died.

q You may state what observation you have had, if any, in relation to that fact; the capacity of the Texas cattle to produce disease among native cattle, state particularly.

a My first experience was in 1846. I went to Kansas & bought a lot of cattle & started home with them & lost almost half of them before I got through to this country from Spanish

fever - the same disease that our  
cattle died with in 1868.

Q How did they contract the disease?

A By travelling over the ground where  
Texas cattle had been.

Q What is your experience as to the  
length of time, after exposure, that the  
disease will manifest itself?

A From 2 to 6 weeks I think generally.

Q Did you lose cattle from that cause?

A In 1868?

Q Yes, sir?

A I did.

Q About how many?

A There were over 100 in our herd.

Q How many of the 100 died?

A There were more than 100 died, out  
of 165.

Q State now particularly, if you please,  
your observation in relation to the  
introduction of the disease amongst  
the cattle?

A Do you want me to state the number  
of cattle lost?

Q You may state - yes, sir.

A I lost 73 head of my individual  
cattle.

Q How many had you?

A 100

Q How many were exposed?

A There were more cattle - I had an interest in another part that I lost the 50 head in; that is a share of them.

Q How many were exposed?

A 165.

Q In what manner was the disease communicated?

A By traveling - by Texas cattle going over my herding-ground.

Q Whose cattle do you know?

A Mr. Eaton & Mr. Alexander's.

Q I will ask you if you know whether the Texas cattle passed over the herding-ground during the spring & summer of 1868 - the herding ground of Mr. Thompson?

A I don't know as they did.

Q You don't know anything about it.

A No, sir.

By Mr. Schofield. Is the herding ground that you are speaking of your cattle being on the same as Mr. Thompson's?

A No, sir. They are not, they are along ways apart.

Q Had you an opportunity of knowing the extent - if the cattle

ried on the trail taken by Texas cattle  
when they had been driven, have you  
had an opportunity of knowing that fact?  
If you have please state it;  
a All the experience that I had had,  
was what I had in Missouri & that  
was pretty dear.

q I am speaking now, of 1868, at the time  
or about the time you lost yours;  
a At that time I didn't think there  
was any danger of any cattle crossing  
our herding-ground, if I had, I would  
have had a guard out & had my cattle  
away, but before I knew that there was  
any danger or that there was any-  
thing of the kind; there had been <sup>only</sup> two or  
~~three~~ <sup>two</sup> herds taken right across over the  
herding ground so that my whole chance  
of saving the cattle, was cut off; they  
crossed right near my pound.

q Do you know the route they took  
in crossing to your pound & leaving  
there?

438 a They came from Tolono - from  
the Northwest to the south-east

Q Do you know who the cattle belonged to that communicated the disease to your cattle?

A They belonged to Mr. Eaton.

Q Now state what was the consequence to the native cattle on the route; then cattle the Defts took in going to Lolowa + after they left from Lolowa until they arrived at their destination?

By Mr. Schofield Have you stated that you know of their coming?

A Which cattle do you mean that go through my herding ground?

Q Yes, sir

A All the cattle —

Objected to as not being the same cattle

Objection sustained

Q You spoke of a meeting in the Raymond school-house, in which you met the Defts, or at least two of the defts, were there any other meetings at which the Defts were present or either of them & if so which?

A Yes, sir, there was a meeting at the Block school-house at which both were present,

g Which were present at the <sup>Block</sup> school house?

a Mr. Eaton + Col. Sullivan.

g Now, if at the Block school-house, they made any declaration in relation to the cattle—where they came from, their character or their communicating disease, please state the manner + order in which it was said?

a Mr. Eaton was called upon to report. He said that he would write to Mr. Alexander in the first instance, but he reported them, that it was a pretty big thing + he concluded to go + see him + he had been + seen him + they had had a conference together + Mr. Alexander said as soon as the matter could be ascertained, he was ready to fix up his part of the losses, and would do it as soon as he could ascertain how much it was—what it was—what his proportion was!

g Did he say anything at that time or was anything on that occasion, in relation to the route his cattle had taken, what breed they were, or their communicating

disease?

a I don't think there was a word said about that; I don't think there was; I don't recollect of there being any  
q Was Col. Sullivant present at that meeting?

a Col. Sullivant was there.

q State to the court, if you please, what Col. Sullivant said, if any-thing?

a Col. Sullivant said that he had always been ready to do what was right about the matter, & still ready at any time & all times  
q Was there anything said there either by him or in his presence, in relation to the stock of cattle - the breed - where they come from, the route they had taken or their capacity to communicate disease?

a I don't know that there was one word said about that; we were talking about other matters more

q Nothing said about that?

a I don't remember that there was one word.

441 q Were you present at any other meeting?

after the meeting <sup>at</sup> in the Block-  
 school-house, ~~at~~ in which the Depts,  
 or either of them were present?  
 a Well I don't know as I was, I don't  
 remember. There were other meetings  
 but I can't say whether they were  
 present or not, I am not positive  
 about that. There was a great  
 many present at all the meetings.  
 q Had you any conversation at any  
 time, with Col. Sullivan or Mr. Eaton  
 in relation to this matter?

a I was at Col. Sullivan's when  
 they were making examination  
 of their stock, <sup>I was</sup> at ~~Mr.~~ <sup>Col.</sup> Alexander's  
 when they were making examin-  
 ation, but there was no - I had no  
 particular conversation with Mr.  
 Eaton or Col. Sullivan.

q Did either of these gentlemen at  
 that time say anything about  
 the route their cattle had taken?

a I don't think they did, sir, I don't  
 know as it was spoken of.

q Or about their capacity to com-  
 municate disease?

a Well they both thought they had  
 a capacity for that

q What did they say?

a They said they thought so any how.

q Which of them?

a Mr. Eaton + Col. Sullivant said so.

q What were the words Mr. Eaton used?

a He said, he thought there was no doubt that the disease was communicated by Texas cattle.

q What did Col. Sullivant say?

a Col. Sullivant said the same.

q Whose cattle were they talking about?

a It was their cattle that they had on their farm; they were talking about the Texas cattle + their own loss + the loss of their neighbors.

q Have you seen these nation cattle sick?

a Yes, sir.

q You have heard the description of the symptoms given by several of the witnesses?

a Yes, sir, it is all the same; if you see one die there is no <sup>thing</sup> difference.

### Cross Examination

By Mr. Ficklin.

q Where do you live, up there?

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a I live in town 17 - the west part of

town 17,

Q How far from the Lost Groove?

A It is 3 miles - it may be  $3\frac{1}{2}$  miles from Lost Groove - I live in 4 or the west  $\frac{1}{2}$  of 4.

Q What direction do you live from the east line of the Alexander farm - Broadlands, as it is called?

A My land is  $\frac{1}{2}$  a mile west, then it is  $\frac{1}{2}$  a mile intervening between the two.

Q What distance south of you & at what point do you turn into the Alexander farm?

A There is a road running on their west line - north & south roads - they have several gates they turn in at different points.

Q Now, in regard to your acquaintance with these Texas cattle, you say that you were acquainted with in Kansas, Missouri & this state I believe?

A Yes, sir.

Q Any other state except those three?

A No, sir.

Q Where was you bought in Missouri?

A I bought in Kansas, in 1866.

Q You bought them in Kansas?

a Yes, sir, they were not Texas cattle, but I bought them there.

q They were native Kansas cattle?

a Yes, sir.

q You crossed the line of travel of Texas cattle, I understand you?

a Yes sir, there were some parties in Missouri who brought in a large quantity of Texas cattle that we crossed the trail of.

q Now, just tell the court what you know of the facts of crossing this line, after these parties in Missouri had driven their cattle along there, how long was it?

a I can't tell that, I don't know the length of time. I started from Kansas to drive my cattle home to this country & for the first two or three weeks I drove right through the prairie; & I never, for sometimes 3 or 4 days, would come to an improvement & I had no means of knowing when I did cross the line; we crossed a good many trails of cattle & I had no means of knowing what they were.

445- q Did you see any of Texas cattle that made any of these trails that you

crossed?

a I saw a large - after I got well advanced into Missouri, I saw a herd of Texas cattle, that had been driven through.

q That is some one told you that, a That's all; all I know is, the man that drove them, said he drove them through

q You then, if I understand you didn't see any drove of Texas cattle being driven along <sup>any</sup> the route that you crossed?

a I saw them on the route, they were in a large prairie, ~~herding~~, when I saw them, herding, I suppose I crossed right along where they were?

q You didn't know how long they had been herding at this place when you saw they were herding?

a No sir

q Now how long the trail had been made that you crossed; how many weeks?

a No.

q Your cattle you brought there, I understand you, a good many of them died

446 a Yes, sir.

Q Now, in regard to this further knowledge had you witnessed the disease anywhere else?

A That was my first experience.

Q What is the distance from your home to Tolono?

A It is about 10 miles.

Q You are a good many miles - you are south-west of Mr. Yazell's.

A Yes, Sir.

Q Was Mr. Trimm's cattle - he had some cattle up there in some of those herds. Do you know anything about them?

A No, Sir.

Q Were you frequently in Tolono that season?

A I was a few times.

Q Were you apprised of the fact of these 20,000, more or less, being loaded there of Texas cattle?

Q Not until the cattle commenced dying. I did not know anything about it. I was in there until after the cattle - a good many died around Tolono, before I was aware that there was anything the matter.

447 Q When did you first know there was

Texas cattle being brought into the neighborhood or that country, then?

a It was when Mr. Eaton went through with the first one that I knew anything of it, on our range; I had heard said that there was Texas cattle going through on the north side of How long after Mr. Eaton went a long driving his cattle then, that you —

a lost cattle?

q No that you heard of it?

a I heard of it pretty soon; he hadn't been along more than a couple of times, I guess before I was apprised of. I saw cattle first, & I didn't know what they was, I didn't know they was Texas cattle. I was a good ways off.

q Did you take any steps when you heard of it to keep your cattle off their trail?

a I couldn't do it sir; they had been all around me & my pasture. I had two pastures & my cattle that I had, I had all the stock I could keep, & I couldn't do any other way than to keep them on the herding-grounds

Q Was your a herd being herded by a herder?

A Yes, sir on my own land at night

Q Now, sir regard to these meetings I think Mr. Raymond that were one of the committee?

A Yes, sir I was at one time.

Q Please tell me of the different meetings where was the first holden, that was held there?

A I believe that the first meeting was at the block school house.

Q The block school house?

A Yes sir I believe it was, but it has almost gone from my mind where it was.

Q Where was the next?

A I think at the Raymond school-house. I think it was the time that Prof. Granger + Mr. Richardson were there.

Q Then the next?

A That was at the Block school-house we adjourned from one place to the other.

Q Then the next was at the Raymond?

A No it rather seems to me that the next was either at the Block or

the Insley: I don't think we had more than two down there I don't remember, there might have been more; I don't remember.

Q How many meetings at the Insley school-house?

A I think there was two there.

Q Two there - how many at the Block?

A I think there were two or 3 at the Block school-house.

Q And 2 at yours - 6 in all?

A I think there was 6 or 7 meetings altogether.

Q Now, at which one of these meetings - it was at the meeting at your school-house, at which the organization was formed by persons claiming to have suffered from the cattle, was it?

A The first meeting was at the Block school-house.

Q Who was the chairman of that?

A J. R. Southworth?

Q Where does he live?

A He lives in town 17,

Q Did he continue to be the chairman

A He was chairman.

Q All through?

1, 5-6  
a All through, I believe, I guess there was once, perhaps, he wasn't there, & there was somebody appointed in his place.

q Who was secretary?

a Mr. Marks.

q Mr. Marks was secretary?

a Yes, sir.

q Who, of the Depts, was present at the first meeting, you say, at your <sup>school</sup> house?

a Col. Sullivan & Mr. Eaton, I think they were present.

q Now, at which meeting was it that a committee was appointed to go down & bring these parties in?

a To go down to visit them?

q Yes, sir?

a I was not one of that committee. I don't know, but I think I was present at that meeting.

q You think you were present at that?

a I rather think I was not present at that meeting that the parties were appointed to go & visit them; I don't remember now.

q How many of the meetings did you attend?  
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a I don't know as I could say the number but mostly all of them, I think at that time I was not there. If I was I was late, I don't think I was present.

q I will ask you when the first indication of threats of violence to those parties was manifested in those meetings?

a I don't know that there was any particular threats made there: I have no recollection that there was.

q Then the general threats: do you know anything about that?

a I don't know as I do air, nothing in the way of violence. I don't know of any.

q I will ask you if those meetings of which you have spoken, & which Mr. Somers has called out - I will ask you what was said about those parties taking the matter into their own hands? If it was settled why, it would be all right, & if it was not, they would settle it in their own way?

a I don't think there was anything said at the public meeting, in that

452 way. There was a good deal of

pathing & a good deal of excitement & it was a public meeting - every body was there & nobody was kept out & sometimes there would be men there from 6 or 8 or 10 miles.

Q You were not on the Committee that went in the night train to Col. Sullivan & those other parties?

A No, sir.

Q Were you there at the next meeting when they met?

A I think I was.

Q Do you recollect of ~~hearing~~ <sup>saying</sup> in one of those meetings that you have spoken of, in a speech there, to the crowd or to the chairman, that if these men didn't settle <sup>that</sup> you wouldn't like to be responsible for the consequences?

A I don't know but I did; I don't know as I did. I don't know I couldn't say I might have said it.

Q I will ask you then in regard to the Danville meeting, I am requested to ask, whether in that meeting in which you spoke, as I think you did speak, I will ask you if there was any danger of personal violence to these men?

a I never thought there was,

q Never thought there was?

a No sir, never saw any symptoms  
q No threats of personal violence or  
destroying property, or anything of  
that sort?

a No, sir, I don't know of any at all.

q Were these men safe, now, if they had  
refused to make a settlement ~~then~~?  
of that?

a I think so. I don't think there was  
any body then that wanted to hurt  
or touch them. I never saw anything  
of the kind.

q When you returned from Danville you  
had a consultation there & made  
the report. Do you recollect of threats  
being made there?

a I don't - not of violence. Mr. Anderson

q And of one of the committee, ad-  
journing - moving to adjourn, with  
the preface, that as these men had refused  
to settle, they would now take the  
matter into their own hands - take  
the law in their own hands - settle  
it their own way?

a There might have been such a  
resolution or speech to that effect, but

I don't recollect about it

q I will ask you about what is the distance from where Mr. Easton lives on the Alexandria farm, to where Mr. Sullivan lives, the different residences of the two?

a I should think it was 5 or 6 miles I may be mistaken.

q I am not asking the precise distance, but generally.

a I should think it would be about that.

q Then the distance to Mr. Sidell's?

a I don't know, I never was to his premises, or if I was I didn't know it.

q You speak of a conversation at Mr. Sullivan's in which he said that "we have Texas cattle" or "our" "Texas cattle"; will ask you if that conversation was in reference to the cattle of Col. Sullivan's place; or in reference to some other cattle?

a It was a reference to his own cattle, on his own place.

q Can you tell what was said by any of your committee, in reference to Mr. Sidell, when he stated that he had consulted in regard to & had

the opinion of some learned Judge in reference to this law question here what was said by any of you in reply to that?

a I think that we - or I think ~~that~~, perhaps, that I stated that there was no use in talking any more: if that was the objection there was no chance for any settlement, & we might as well go home with out further consultation, as to stay there, it didn't amount to anything.

Q In regard to the place of purchasing the cattle, you speak of Texas cattle, as though you supposed this Hogs point, on Red River, was in Texas I want to ask you if Hogs point is not the place. Mr. Sidelle said he bought these cattle on Red River?

a I understood him to say that, that he bought these cattle in Texas & shipped them from Hogs point & another place, but I am not positive where it is,

Q You understood him to say that he bought them in Texas?

a Yes, Sir.

456 Q I wish you would reflect about that

+ see if that don't grow out of the general cry that they were Texas cattle?

a No I don't think it was; there don't anybody call them any other name they ain't called by any person there - reported that way in every sale yard & every other place.

q You are aware of the fact that Red River is boat in Louisiana & Texas

a Yes, sir.

q You don't know the locality of this Hog's point do you?

a No sir I never was there.

q Were any of those Texas cattle about Tolono, <sup>at any time</sup> when you were there.

a Yes, sir, there was. I saw a large number there.

q Saw a large number there?

a Yes sir, - well, several hundred, - 300 or 400, perhaps,

q Being herded there outside?

a No sir, They were in the cattle yard & right around the cattle yards. There was a good deal of excitement when I was there; there had a good many cattle died.

457 q Now, I will ask you the further fact -

You seem to be familiar with Col. Eaton's Alexander farm - also with Col. Sullivant's - I will ask you if you ever saw those cattle called Texas cattle outside of their enclosure after they were taken to their farms?

a I never did.

q They kept them enclosed all the while?

a So far as I know they did.

q I will ask you, if at some one of those meetings the condition of settlement proposed to Mr. Sidell & Mr. Alexander & Mr. Eaton, were not that they should pay for all the cattle lost in that neighborhood, because they had brought the Texas cattle into it?

a No, I don't know as they were. The condition was - all the conditions I ever heard made, was that the party should prove losses & ~~the~~ value & the stock that killed it, & then they was to pay for it; that was all the proposition that I ever knew made in the meeting; the losses should prove loss & value & the men's stock - when they all drove on one trail they could divide it up in proportion to the stock that

they drove.

Q What do you know of the demand on them either to be present ~~or to send~~ at one of these meetings, or send a written statement?

A I don't know anything about it.

### Redirect Examination

By Mr. Lowese

Q Mr. Ficklin has asked you in relation to personal violence to them depts, I will ask you if there was any danger of personal violence in your judgment?

A No sir, I don't think there was.

Q They have not compromised with all the parties?

A I don't think they ever felt as if there was any danger.

Q State whether there has been in your judgment at any time, any danger of personal violence?

By Mr. Ficklin He has stated 2 or 3 times that they were not in danger.

By the witness, that's my opinion, I don't think they were.

### Recross Examination

By Mr. Schofield.

Q Do you state that there was never any time when there was any danger to either person or property?

A I don't think there was.

Q Don't you recollect the fact that there was a lot of hay burnt on the Alexander place in 1868?

A I know it by Mr. Eaton's telling me; he told me there was a stack burnt. I was there while it was burning - on the farm.

Q Saw it?

A I saw the bottom. It was all burnt pretty near, & I asked Mr. Eaton if he knew how it come, & he said that he was afraid that somebody had set it on fire; but he told his hands that he thought it had caught fire. It was an old stack of hay, 2 or 3 years old; it fell down once or twice.

Q Is that what he told you, or his hands?

A Me:

Q That he had told his hands that he thought it caught fire?

A Yes, sir.

Q But told you that he thought somebody had set it on fire?

a He said he didn't know - any thing about it; he didn't know how it was done.

q You know, of your own knowledge that the hay was burnt there?

a I saw the bottom of the stack, I didn't know what it was, but it was burning.

q Don't you know of another stack being burnt after that time?

a I don't know, sir. I never saw another one burning.

q Wasn't you there & saw it, afterwards, when it had been burnt?

a No sir, not to my knowledge.

q Did he state to you, in this connection, what was the reason <sup>that</sup> he concealed from the hands, his opinion?

a He didn't say a word.

q He didn't state why?

a No.

Re-direct examination

By Mr. Somers.

q I will ask you now, if you don't know of your own knowledge that these plaintiffs had stacks burnt, too?

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Mr. Gazel had ~~that~~ a stack burnt  
that year about that time?

a I don't know, sir, anything about it.

q What do you know, if anything, about  
Mr. Protufield's hay being burnt?

a I don't know anything about it.

Ann Shreppow

John Curly, being recalled on  
behalf of the Plaintiff, was examined  
in chief by Mr. J. Smith & testified  
as follows:

q I will ask you if you ever had  
any conversation with Col. Sullivan  
as to whether or no he drove his  
lot of cattle that you spoke of  
in your examination across this  
herding ground; if he ever made any  
statement to you about that?

a He told me that he crossed the  
bridge with them & went on the  
south side of Little Hickory grove  
down to the pasture & turned them  
in.

q Would that be across the herding  
ground?

a That would be across the land  
where these cattle run.

## Cross examination

By Mr. Schofield

Q What time was it that Col. Sullivan came along there with his cattle; what time in the day?

A He turned in the cattle that he left at my house, between sundown + dark.

Q Between sundown + dark.

A Yes, sir.

He never passed with any cattle at 9 o'clock in the morning, that I know of.

Q He got his own cattle - it must have been those that he took down home after night?

A He didn't get them home that night. I think that is my understanding from him. If he drove them home that night, it would take from 10 to 11 o'clock, because he lives 5 or 6 miles from my place, + it was between sundown + dark when he turned the cattle in at my house.

On a. Thompson

Andrew Milliken a witness called on behalf of the Plaintiff being duly sworn was examined in chief by Mr Smith + testified as

follows.

Q Where did you live in 1868?

A In Raymond township Champaign Co.

Q How far did you live from this field of battle between natives & Texas cattle?

A I am sorry to say, I lived right on it or in it rather.

Q I will ask you, now, if you know ~~any~~ the routes over which any of these lots of cattle that were driven across there, were driven?

A I am pretty well acquainted with routes, I have traveled them all.

Q If you know of any of cattle having been driven over any of these routes, that belonged to either of these depts, or being driven by the Depts, state all you know about it.

A The first lot of Texas cattle I ever saw, I was coming from Urbana, I came down to Philo & at the Lock school-house I struck the trail of cattle as I traveled, about  $\frac{1}{2}$  mile I believe it is, up to the corner - Johnson's corner - Lynn Groves farm - the N.W. corner of the farm I turned south then a mile, to go

home, right at the gate of Mr. Johnson's farm I met Mr. Cross & two or 3 other men laying there waiting for Franklin Burritt to come home, that lives opposite Mr. Johnson's house to stay all night. They had their cattle there in Mr. Johnson's hog-pound.

Q That is the Mr. Johnson that testified this morning?

A Yes, sir, I talked with Mr. Cross then I believe his name is, at least that he represented to me - ~~that~~ he told me that they were Mr. Sidelli's cattle that was on Saturday evening somewhere about the last of May.

Q What became of those cattle there that evening if you know?

A They were put in the pasture & remained all night I suppose.

Q What kind of cattle were they?

A They were cattle I always considered as Texas cattle - described as such - He told me they came from Texas.

Q Who?

A Mr. Cross & he also told me that Mr. Sidelli was in Texas, at that time & that Mr. Sullivan had gone down

to buy cattle.

Objection as to what Mr. Cron  
may have stated outside  
of the line of his duties.

Objection sustained.

Q Now, what do you know about  
these cattle next?

A I don't know anything further, only  
I left them there in the lot, that  
evening.

Q Do you know what became of  
them afterwards?

A They were driven to the farm, under-  
stood.

Q What direction <sup>was</sup> they driven, if you  
know?

A They were driven directly to the  
farm; I suppose, I don't know any  
other place, I saw other bunches of  
cattle, that is all I know of  
that bunch.

Q Which direction was Col. Sullivan's  
farm from there?

A Col. Sullivan's & Mr. Sidelli's, both  
lie east from that point.

Q State whether there was a public road  
leading east from that point.

A Yes, sir.

466 Q State whether it ran across or along

the line of this herding-ground of Mr. Thompson's?

a The last time I was along the prairie, it did; there was, on the open prairie there; the road on one side & the prairie on the <sup>on</sup> the other.

q What other bunches of cattle do you know of having passed along the road & about that herding ground.

a Some 2 or 3 weeks after that. I don't know the length of time - I was going to Sydney - my wife & I was in a spring wagon I met a bunch of Texas cattle, opposite Mr. Mitchell's house, coming along, & a man riding along ahead of them, a tall man, I did not know, I asked him whose cattle they were & he told me, they was Mr. Sidell's cattle, says I, "What are you coming this route for?" says he "I am going down to go into Mr. Alexander's pasture & go across, toward that damned mud-hole over there" I went on further down the road, some 1/2 mile & then, at the school-house - at the Block-school house - there I met Mr. Cross, I spoke with him & he told me they were Mr. Sidell's

cattle. Says I "What are you going down this way for?" says he. "I want to avoid that mud-hole up there; I have been tired of pulling cattle of the mud this morning" & he says. "I will go in Mr. Alexander's pasture & I will keep right along his fence until I get at the Lost Groove & then I have got prairie.

Q How far was Mr. Thompson's herding-ground from where he crossed the prairie?

A He let them right out on where Mr. Porterfield's & Mr. Thompson's cattle run; the last time I was through there it was all open prairie.

Q State whether or no they were —  
 A I will say this: that the open prairie that lays open there is the head water of the Little Vermillion & it is very wet — a slough — & it has been lying open ever since I know. The last time I knew anything about it, it was open.

Q That is the herding ground?

A Yes, sir.

Q Now, my question is this. Did that

lot of cattle, that morning, cross  
the herding-ground where these cat-  
tle were herded by Mr. Thompson?  
a I don't know that they did, only  
Mr. Cross told me that he was going  
to take them across. I can testify  
to seeing the cattle go into the pen-  
ture & go up the fence.

q In that direction?

a Yes sir.

q What time of the day was that?

a Some time in the forenoon, between  
that & noon.

q Do you know of any other cattle  
crossing - passing along that road  
or along - crossing that herding  
ground, any other lot of Texas cattle?

q No sir I don't. I know Texas cattle  
traveled along that road, I supposed  
they were, I don't know.

q Do you know anything of Mr. Ya-  
zili's cattle dying - of your own knowl-  
edge?

a No, sir.

q Did you attend those meetings?

a Yes, sir.

q What say?

469 a Yes sir.

Cross examination.By Mr. Schofield,

Q You are one of the plaintiffs in this Texas cattle suit are you not?

A Yes, sir.

Q How many cattle have you sued for?

A I have sued for 50 head.

Q You say that Mr. Gross told you that those cattle came from Texas?

A Yes, sir.

Q How did he happen to tell you that?

A I asked him where the cattle came from.

Q You asked him where they came from?

A Yes, sir, I asked them where they came from.

Q What did you ask him that for?

A Because I wanted to know.

Q What did you want to know for?

A For information.

Q What did you want that information for?

A I wanted to know what they cost - what such cattle were worth.

Q What did he tell you they cost?

A \$20, a head, here at Tulsas.

Q Did he tell you who had got them in Texas?

a Yes, sir.

q Who?

a He said Mr. Sidell had bought them in Texas.

q And shipped them up?

a Yes, sir.

q How many were there in the lot?

a I don't know that I asked him how many there were I think he told me there were 400 or 500, There was something said about that amount, I am not positive he told me how many he did have though.

q When was it you saw that first lot of Texas cattle - there - the first lot you saw of Texas cattle?

a It was sometime about, I think it was about the 23<sup>d</sup> of May, the first bunch I saw.

q The 23<sup>d</sup> of May?

a I think it was.

q Have you got it marked down?

a No, sir.

q How long was it until you saw the next one?

a I don't know how long

q Approximate the time as near as you can?

471 a It was two or three weeks may be

longer.

Q When did you first learn that the Texas cattle were coming into the country?

A That was the first information I had of it.

Q When you met this lot of Mr. Sidell's yearlings, - I didn't meet them - I overtook them; that is I overtook Mr. Cross right there, or rather, he was standing right alongside of the road + inquired of me if Frank Burr was behind me.

Q Mr. Raymond is also a Plaintiff in a suit against the Dept., in a loss for Texas cattle?

A I believe he told you so.

Q I didn't recollect that he did say so.

A I think he told you so.

Adjourned to 8:30 A.M.  
June 2<sup>nd</sup>, 1870.

Ames Thompson 178. June 2<sup>nd</sup> 1870.

Do John a witness recalled on behalf of the Plaintiff, make the following explanations:

We did not go to Mr. Sidell's farm; We went to see Mr. Jackson's farm. To see some stock that he had run by the side of Mr. Sidell's cattle but not at Mr. Sidell's farm, as I stated yesterday. My attention was called to it I see, by noticing my report that it was Mr. Jackson's farm we went to: that was all I wanted to correct,

Ames Thompson

Wm. R. Wilson, a witness, called on behalf of the Plaintiff; being duly sworn was examined in chief by Mr. Smith. A testified as follows.

Q Where did you reside in 1868?

A Champaign, Co. Ill.

Q In whose employ were you in 1868?

A Mr. Eaton - or Mr. Alexander's; Mr. Eaton was my employer.

Q In what capacity were you employed?

A Book-keeper.

Q Book-keeper?

473 A Yes, sir.

Q State what your location was then where you were located - on what farm?

A John J. Alexander's Broadland's farm, Champaign Co.

Q What time - at what time did you go there in the year 1868?

A I believe it was in the beginning of April.

Q The beginning of April?

A Yes, sir about the 1<sup>st</sup> of April.

Q When did you leave there - when did your employment cease?

A The last of July 1869.

Q The last of July 1869?

A Yes, sir.

Q I will ask you if you kept a record of all the cattle that were brought to the farm & those that were taken away?

A Yes, sir, I did.

Q Was that a part of your duty as book-keeper for Mr. Eaton & Mr. Alexander?

A Yes, sir.

Q Can you remember now, with out the book, when the several lots of cattle were brought on the farm during the summer?

No, sir, not very distinctly, I can not

Q Have you read this letter referred to by Mr. Eaton?

A Yes sir, I read it some time ago perhaps, a year ago.

Q Now tell the Court what kind of cattle there were that were brought on to that farm during the month of April, May, or June - about that time, along?

A I have no personal knowledge of my own.

Q Well sir, if you know from anything Mr. Eaton or Mr. Alexander said about what kind of cattle they were, you may state?

A I frequently heard them called Texas cattle by all the hands on the place.

Q I don't care anything about the hands - as to anything Mr. Eaton said about that.

A I frequently heard him call them Texas cattle.

Q Have you ever heard Mr. Alexander call them anything?

A I don't remember that I have.

Q What kind of looking cattle were they?

425 A They had long horns & looked pretty

hard - pretty thin.

Q Any difference between them and native cattle & if so what?

A Yes, sir, in my opinion there was a difference, but I am not an expert in cattle & I can't define the difference.

Q Difference in shape & size?

A Yes, sir

Q Was there any native cattle died on that farm in the summer of 1868?

A There was.

Q What time did they commence dying?

A The disease first made its appearance the latter part of July & I believe the first record of the death of a native steer is recorded on the Register as having taken place on the 29<sup>th</sup> of July.

Q 29<sup>th</sup> of July?

A Yes, sir.

Q Now when did the dying of the native cattle cease?

A About 2 or 3 weeks afterwards; about 3 weeks I would say.

Q What say

A About 3 weeks I would say

Q During that interval how many native cattle on the farm of Mr.

Eaton & Mr. Alexander, died?

a Some 200.

q Something over 200?

a I believe so, sir.

q Now, if you know if you may state of what disease they died?

a It was this disease commonly known as Spanish fever or Texas fever.

q State what disease Mr. Eaton called it if anything, & if you heard him state what was the cause of their dying, you may state it.

a I have had so many various conversations with regard to disease in the office that I am not now able to call distinctly to remembrance anything that may have been said definitely by Mr. Eaton on the subject.

q Did you ever hear Mr. Eaton say what caused their death, at any conversation, at any time?

a No, I don't believe I have.

q If you have heard him say how they contracted the disease, state that.

a I can't answer that.

477 q What they contracted it from

how they came to be sick?

a I don't believe that I have ever heard him make any remark on the subject, he didn't generally talk much of his business in the office so I have had very little opportunity of knowing much about it.

q What was the condition of the native cattle on that farm, before the Texas cattle were brought there.

a In good order - fat - about ready to ship

q How were they off for health?

a They appeared very healthy.

q Had they been exposed to any other Texas cattle?

a They had not, previous, so far as my knowledge extends.

q Except those that were brought on the farm?

a Yes, sir.

q Were the native cattle on that farm kept within the enclosure of Mr. Eaton's farm?

a They were, sir.

q What do you know about the native cattle on that farm, following the trail or being on the

trail, or in the range, in the partnership with the Texas cattle?

a They were in the same partnership generally. There was one bunch of native cattle, I believe - working oxen, to the best of my knowledge - that were not mixed with the rest,

q Well sir, what become of the cattle not mixed with the Texas cattle?

a They had no disease as far as I know,

q What proportion of those mixed with the Texas cattle, got sick?

a I am unable to state that,

q Do you know what proportion of those that took sick, died?

a Pretty much all  $\frac{2}{3}$  at least,

q How many lots of cattle were bought on<sup>to</sup> that farm by Mr. Eaton or Mr. Alexander?

a I can't say, sir, there was probably 7 or 8,

q 7 or 8 different lots?

a Yes, sir,

q Do you know where they were brought from?

q Some from Tolono + some from Homer,

q Some from Tolono + some from Homer?

Q Yes sir.

Q Now, what was the road - what road would those cattle come from Homer to get to the farm, or before that do you know where this prairie is, that has been described by Mr. Thompson, spoken of as this ranging or hudding-ground - where the plain-tiff's cattle ranged that summer?

A Yes, sir.

Q Which direction does that lay from the Broadland's farm?

A North.

Q Which direction does Homer lie from Broadland's?

A North East.

Q In bringing cattle from Homer station to the Broadland's farm state how they are brought, if you know. Do you know the route in bringing cattle to that farm from Homer. Do you know the route they were brought over any cattle being brought from Homer, to the farm.

A All I know is, they were brought from Homer. I didn't see them driven on the road, but as there is no other road leading to Broadland's farm, than the road directly

south, it is the road that has al-  
ways been used there. I haven't seen  
the cattle drivers but I have no doubt  
they were driven that way.

By

the Court: argument is objectionable  
That part of the answer that states  
there is no other road, will be ad-  
mitted.

Q What cattle do you refer to.

A To them Texas cattle.

Q What Texas cattle do you refer to?

A Abilene cattle.

Q State whether or no, it is a part of  
the same Texas cattle brought on that  
spring? brought on that farm in the  
Spring of 1868?

A They were - yes, sir.

Q I will ask you if you ever passed  
over the route from Broadlands  
farm, to Homer?

A Yes, sir I have.

Q State what road Mr. Eaton & other  
parties took in going to their Broad-  
lands farm, to & from Homer, what  
route they pursued - followed?

A I wasn't along; I don't know.

481 Q I am speaking in your general

going & coming, what was your most usual route of travel, to & from the farm.

a The most general route was thro' the farm north, to a lane running east & west & then east about  $\frac{1}{2}$  mile & then north to Homer.

q Now, in following in that route to Homer, state how that route runs, with reference to this grazing ground where the plaintiffs cattle were grazing.

a It runs right across it I believe.

q State to the Court whether there is any other convenient route or any other usual route from Broadlands farm to Homer?

a Yes, sir there is another way that is a little out of the way. I have frequently gone myself, past Col. Sullivan's place. I know Mr. Eaton very frequently, ~~himself~~ <sup>himself</sup> went to Homer, that way.

q That you say was out of the way?

a Yes, sir.

q How much out of the way?

a About a mile or two.

q Did you ever accompany any lots of cattle from the farm to Homer

or from Homer, to the farm?

a Not in 1868, sir.

q State whether Mr. Eaton or Mr. Alexander, or any of the parties in their employment, at the time, made any statement to you about which route these cattle were brought then

Objected to.

Objections sustained.

Exception by Plaintiff.

q State whether Mr. Eaton ever made any statement in your presence, or to you about what route or on which route those cattle were brought?

a I can't now remember that he did.

q You don't remember that he did?

a No, sir.

q State if you can remember what time in the day or night, then several lots or any of these lots of Texas cattle were brought ~~then~~ to that farm?

a They were generally, at no particular or stated time; they were brought in at all times of the day ~~and~~ or night according to the time the train arrived in Golons &

brought a lot of cattle  
 Q Cattle approaching the farm from  
 Tolono, which way would they come  
 to the farm?

Objected to.

By Mr Schofield, He can state the line of  
 travel. If there is one way or more  
 than one way, he can show.

Objection sustained.

Q Do you know the road leading from  
 Tolono to Broadlands?

A Yes, sir.

Q Which way does that approach  
 the farm?

A On the west side, sir.

By Mr Schofield; That is from Tolono?

A Yes, sir.

Q The road from Homer approaches  
 it from the north?

A Yes, sir.

Q State what you mean by Abi-  
 leni cattle?

A Abilene is a station in Kansas  
 to which Texans consign their  
 cattle for sale; there are rather  
 extensive stock yards there, & cattle  
 are sold there to eastern drovers &  
 brought here. They are called Abilene cattle  
 in the same sense that western

cattle are called Illinois cattle  
in the New York market.

By Mr Schofield. I would like to know if  
the witness has been to Abilene: if  
he ha'nt it is a mere matter of  
history learned from some one else.

By the witness, I don't make the statement  
from my own personal knowledge  
I have read something of it; it  
is in my reading.

Q Did you ever hear Mr. Eaton say  
anything about the Abilene cattle  
a No, sir. I have not.

Q I will ask you if there was any  
difference in the appearance of  
those Abilene cattle - those that you  
designate Abilene cattle & those  
that were brought there without  
the adjective Abilene attached to  
them?

a No, sir, none that I could disting-  
uish.

Q I will ask you if there was any  
distinction or any difference in  
their capacity & in their mode of  
communicating or contaminating  
the native cattle with this poison.

a None that I know of sir.

Objected to as the witness does not know anything about the mode of Countaminating.

The Court directs that the witness be interrogated as to what he knows

Q Have you been over the Route from Polono to Broadlands - that route?

a I have not sir, I had it at that time;

Q Have you since?

a Yes, sir.

Q Are you familiar with the route & road?

a Not very.

Q Well, you know it?

a I know it.

Q Do you know anything about such a thing as Texas fever? I want you to tell that. I will get you to tell what you know.

a I don't know very much about it.

Q Well, sir, you may tell what you have observed & seen during the year, in reference to this matter?

486 a I have seen numbers of cattle

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dead in the partition, of an evening.

Q You stated to be about 200?

A Yes, sir.

Q Tell generally how they died & what they did & all about it.

A I can't say anything about that

sir, only that they simply died.

Q Did you see any of them die, or sick?

A I never saw a steer die, in my life.

Q Did you see any sick ones?

A Yes, sir.

Q What did they do?

A They didn't look very lively; that's all I could remark about them.

Q Didn't indicate any thing like a playful disposition?

A Not much.

Q Did you see any disturbed after they were dead?

A Yes, sir, I saw one opened.

Q Did you hear the statement of Dr. Johns yesterday morning?

A Yes, sir.

Q Well, sir, what do you say - whether they looked like what the

said they did or not?

Objected to.

Objection sustained.

a I don't know the inside of a steer  
from the inside of a horse.

q I will ask you if this road  
running from Lolono eastward  
to the Broadlands farm, crosses  
this grazing-ground, where the  
plaintiff's cattle were grazed & herded  
in 1868 at any part of it? Whether  
it crosses any part of it either  
east or west or south?

a No, sir.

q That road runs south of this  
grazing ground does it?

a Yes, sir, in the west I believe.

q Approaches the farm to the west?

a Yes, sir, that is the grazing-ground  
between Lolono & Broadlands, is on  
the west; the grazing-ground for  
the plaintiff's cattle, is on the north  
side of the Broadlands farm be-  
tween Broadland & Hamer.

q Now I will ask you if you know  
this road running from Lolono  
the east - this country road that  
was spoken of, running to the east-  
ward, along which the

witnesser spoke of the cattle having  
passed?

a I am not familiar with it,  
q Do you know where it is?

a I know about where it is,  
q Now keep that road in your mind  
state whether this road leading from  
Homer, on the north, to the south  
of Broadlands farm - if that road  
would cross this county - road  
that we have just mentioned, & if so  
where, in going to Broadlands farm  
to Homer?

a I don't know, sir, I am not able  
to answer you definitely.

q I will ask you again if you know  
where this road - this county road  
running north of that grazing ground  
runs from Tolono east, proceeding  
along in that eastern country?

a I know about the general position.

q Now then, do you know where  
Homer is?

a Yes, sir.

q Now the road going from Homer,  
of which you have spoken as being  
the most usual route to go from

Home to the Broadlands farm, would that road intersect & cross this road in going to Broadlands south?

a Yes, sir.

q Now, can you tell about where that road would cross this county road east & west & that is, where the north & south & east & west roads intersect?

a Crossed it one mile west of the Vermillion Co. line.

q How far east of Mr. Thompson's place, if you know where it is?

a It is about a mile east.

q Now, at the point where this road leading from Homer intersects with the east & west road, as it proceeds towards Broadlands farm what is the quality of this country — open or improved — enclosed or unenclosed — there leading towards the Broadlands farm?

a It was open, then.

q Open prairie?

a Yes sir.

q Do you know any thing about Mr. Sullivan's or Mr. Sidell's cattle?

490 a No, sir.

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Q Did you ever pay for any cattle  
as the carman or clerk or book-keeper  
of Mr. Eaton or Mr. Alexander, which  
were alleged to have died of their  
Tex or Fever?

Objected to as irrelevant.

Objection sustained.

Exception by Plaintiff.

Cross-examination.

By Mr. Schofield

Q You stated I believe, that you were  
the book-keeper on the Alexander  
farm during the year 1868?

A Yes, sir.

Q As book-keeper your duty, of course  
was confined generally, to the of-  
fice?

A Altogether sir.

Q You had no duties to discharge  
outside of the office?

A Not any.

Q The knowledge that you had of  
this stock was such as you de-  
rived in the course of your duty, by  
report made to you of the  
numbers, which <sup>you</sup> had to record  
upon the books?

491 A Yes, sir.

Q What kind of cattle were they - native or what?

A Native.

Q What quantity - do you recollect?  
Between the 1<sup>st</sup> of May & the 1<sup>st</sup> of August?

A I can't recollect, but One bunch of 365, is the only bunch I have any distinct recollection of.

Q Are you able to state the amount of native cattle that were on the farm, when they first commenced shipping Texas cattle there - about the amount?

A I don't - except in general terms.

Q Well just give a general idea?

A I believe there was about 3,000 head.

Q About 3,000 head at the time the first Texas cattle were brought there?

A Yes, sir.

Q The ~~average~~ way cattle were rated in that country what was their value - in the average?

Objected to.

Q Well I will change the question What quality were they - what age?

A They were young cattle.

Q Averaging about what age?

Q Didnt touch those grounds at all.  
 A No sir.

Q That was a little out of the way,  
 You remark. I believe before.

A Yes, sir.

Q Of your own knowledge you don't  
 know what route these cattle  
 were driven not having had any  
 thing to do with that part of  
 it?

A No, Sir.

Q Wouldn't the cattle that were put  
 into the pasture on the farm  
 Bradlow's farm, next to Colonel  
 Sullivan's, be brought there more  
 rapidly by the road running  
 by Col. Sullivan's, than by the  
 one he directly down?

A It would.

Q Do you know of any cattle being  
 put that summer into pasture  
 that had been shipped from  
 Homer?

A No, sir.

Q Your knowledge of the manner of  
 as to whether they are Texas  
 cattle or other cattle, + as to  
 whether they came from Abilene  
 or whether they are called Abilene

cattle was merely by the general report there on the farm; you don't know it from having been to either of these places yourself?

a No sir. I know it from Mr. Eaton.

q Yes, you heard them called abian cattle?

a He was out & doing business & when he came to the office <sup>always</sup> ~~always~~ gave me the minutes of his business from his memorandum which I transferred to the books.

And now through the plaintiff calls

C. L. Eaton a witness for the plaintiff, having been duly sworn was examined in chief by Mr. Smith & testified as follows:

q State whether or no any of those Texas cattle—called Texas cattle—brought on your farm in the year 1868; were brought from Homer to the farm—to the Broadlands farm;

a Yes, sir, I suppose there was a lot or two lots that were, of those cattle that are spoken of here that were brought from Homer, although I didn't see them brought on the farm myself.

but I saw them on the road coming towards the farm.

Q What road - describe it - the route they come over from Homer to the farm?

a I was going to Homer when one lot of the cattle was brought out, I went to Homer + met them on the road; half way between Homer and where the road turns in the land about the point Mr. Thompson spoke of having met, but I didn't turn back + go with the cattle. I went on to home + perhaps stayed a few minutes. I went on to Homer + left the cattle there, they were going towards the farm.

Q Going south?

a Yes Sir.

Q State whether, in proceeding south after you met the cattle - to the farm they would cross over the herding-ground described by Mr. Thompson?

a Going the route we usually visit - not always but usually went - they would.

4989 You don't know of your own

knowledge whether they did in fact?

a No, Sir, I do not, I was not with them when they went over the herding-ground, or near either of the lots of Did you see the second lot on the road?

a No, Sir, I don't think I did. I don't think I saw the second lot at all, I don't think I was at home when they were brought, My impression is - I am pretty certain I didn't see them brought on the farm.

Q How far was you from the north line of this herding-ground when you met the lot of cattle as you was going to Homers about how far north of the herding-ground?

a My recollection of the matter is that I met the cattle. I am very certain, right at John Long's - & that is one mile & a half by the lane where they would touch first the herding-ground. I know that I met the cattle there. Mr. Thompson's testimony was that he met me

about this point.

Q A little south of this point you recollect?

A Yes sir. I have not any very distinct recollection of the exact point where I met Mr. Thompson. I was on my road to Honev. but when I met the cattle at Longe I think I staid on the hill until they passed by so I could look at the cattle. I then went on to Honev.

Q I transacted my business, came back by the same road to where I met the cattle when I got to Honev I received a despatch requiring my attention to Tolono. I came back on the south to take the road immediately west of Tolono. So I didn't go on the farm that day at all.

Q When the cattle would reach this point the county road from this point, what direction would they pursue in proceeding to Broadlands - the county road running east & west?

A They could go both way, east or west

Q Which would be the most convenient way for them to reach the farm.

A West

Q State whether in passing that way they would cross the range, or the feeding ground?

A Yes, Sir, if they passed over our road.

Q Who was in charge of the lot of cattle at that time?

A I don't know that I can tell you any one of the men at that time in charge of them. My principal foreman, at that time was Mr. Renick I don't know whether he was there. We were in the habit of sending different people there.

Q Do you recollect what pasture that lot of cattle were turned into that day?

A No Sir. I don't know where they ~~was~~ were turned in that day at all.

Q You don't remember the field?

A I don't remember the field at all that they were in. If you will let me have that diagram I aint so sure but that I can tell you. According to this

statement although this was made up from my recollection & from information I received from my men, these cattle were placed in what we called the "Fractional Pasture." I think; probably not that day.

Q That fractional pasture is well on the north line of the farm?

A Yes, Sir, it runs pretty well to that.

Q Then in going to that fractional pasture would that cross along or over the herding ground?

A Yes, Sir, if they went directly to the fractional pasture, but it was not our habit to take cattle usually directly from the cars to any pasture but to bring them first to the head-quarter to brand them. That is the usual custom.

Q And distribute them amongst the pastures?

A Yes, Sir, but those cattle grazed I think during the season, after they were ranged in that fractional pasture.

Q Do you recollect the date of that lot of cattle being brought, or can you tell by reference to this

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letter?

a Taking it for granted that these dates were right it was one of those lots of cattle represented to have been brought there on the 25<sup>th</sup> of June & another lot on the 2<sup>nd</sup> of July. I cannot now distinguish which of these lots it was I saw but one of the lots of cattle on the road & which one it was I couldn't say.

q You are not prepared to speak from memory which one it was or the exact date of their passing?

a No Sir, but I think that date is about correct,

q Have you knowledge of this route - of cattle being brought from Tolono - any cattle brought from Tolono, any time, to Homer - are you familiar with that route to your farm?

a Yes Sir, I have been over it frequently.

q You may point out that route if you please, while we are on the subject?

a Well Sir, do you mean the route that cattle taken to Mr. Alexander's

farm were driven over, or the Sullivan & Bidell cattle.

of No. 10, I meant the route your cattle went over.

a Our route from the stock yard at Tolono was diagonally across the section of land Tolono stands upon until we reached the southeast corner of that section; then we continued diagonally across the next section until we struck a lane running due east. We then proceeded on that lane as far as it continued, which I think is about two & a half miles east. There we struck the open prairie which was it was then all open; at least there was a large open space from that point all the way to the west side of the Alexander farm. All the cattle I saw passing over there myself went as near a direct line from the mouth of that lane to a certain gate on the west side of the farm we are in the habit of taking them, as they could be driven. The general route was about.

a straight line.

Q After striking in the broad prairie then you took a diagonal course across to your gate as your convenience dictated?

A Yes sir. I say I was with but one or two late sheep, that went across there but that is our usual route I am in the habit of ~~driving~~ driving cattle frequently there that was our route.

Q In passing over that ~~you~~ would you touch this herding-ground described by Mr. Thompson - any part east or west?

A No sir, wouldn't go within 3 or 4 miles; we went south, didn't go far enough east to reach it.

Q You missed it entirely?

A Yes sir, we turned ~~right~~ into our pasture a mile west of the west extremity of that herding-ground & 3 or 4 miles south of it.

Q Do you know of Mr. Alexander's owning or had he on the farm in your possession, any of the cattle called Texas cattle prior to the 27<sup>th</sup> of February 1867?

305 - A Oh yes, we were having them two

or three years.

Q I mean of these particular lots brought down from Homer, - if the cattle driven down from Homer of the two lots - if you owned either of them, prior to the 27<sup>th</sup> of Feb 1867?

A I certainly did not, myself. I don't know that Mr. Alexander did. I know nothing about those cattle until I was notified that they arrived at Homer,

Q You didn't buy them yourself?

A I had nothing to do with the purchase of them, & didn't really know that they were coming until I was apprised by telegraph that there was a lot of cattle to be at Homer at such a time & then I went to receive them.

Q They were not taken into possession by you or taken on the farm prior to that time?

A No Sir. They were taken on at the time I gave you, & that is the first time I ever knew of the cattle.

Cross-examination

Q Mr Schofield

Q As I understand you to say - you can reflect again if I have not a correct understanding of it - you were notified by telegraph that these lots of cattle that were shipped to Homer were there?

A Would be there.

Q To come down & be brought to the farm?

A Yes, sir.

Q And your duty was simply limited to sending men to bring them down?

A That was it.

Q State to the Court, if you defined the route that these men should bring or drive cattle, or ~~good~~ gave a general direction that they should go & get them?

A I defined no route. I supposed of course that they were in the habit of bringing cattle back & forth & I would simply give the order to my chief herdsman to ~~to~~ have the cattle & he would give orders to somebody else.

Q Next about your large farm -

about the chief herdsman - whether you issue orders direct to the hands or whether you have departments & each head of a department is responsible?

- a As to the general arrangement management, I have <sup>the general</sup> charge of the farm & have then a general superintendent, who is supposed to have general charge of all the details of the farm, to whom I generally give my orders as to who is to be done. He has under his management men in charge of the different departments. For instance we have a chief herdsman and anything connected with the is generally communicated to him, or is communicated through him as to any business that is immediately connected with the cattle. It is the same with any other department on the farm. That is the general way of doing business.
- q In this instance, when you received this despatch you referred to your chief herdsman?
- 5-08 a That's my recollection of it. I have

not  
Q Any very distinct recollection of this particular circumstance but this was the general custom & have no doubt that that was the course followed in that case.

Q He then furnished the men <sup>& sent</sup> & got the cattle - brought them?

A I don't really know myself, who men brought them on the farm I can't recollect now, even though I met the cattle, who were with them exactly. It has been so long.

Alice Thompson

Joseph M. Sullivan, one of the defendants, a witness, called on behalf of the plaintiffs, having been duly sworn was examined in chief by Mr. Smith & testified as follows.

Q You know of the lot - I believe however you only bought one lot of these cattle in 1868?

A Yes, Sir.

Q Describe the route if you please over which these cattle were driven Sir, after they come into your possession until they reached your farm?

509 A They were brought from Tolono

on the eastern south north of  
Thompson's herding ground

Q Taken along that road were they?

A Yes sir.

Q State whether or not they crossed  
that ground, <sup>that was</sup> used by Mr. Thomp-  
son as his herding ground that  
year?

A They did sir.

Q How many of them did you  
have Colonel?

A About 500.

Q I will ask you to state whether  
or no any of those that you drove  
along there communicated any  
disease to your own native cattle  
after you got them home &  
turned them into your pasture?

A Well sir, that would be a difficult  
question to answer. I had some  
other stray Texas cattle, in my  
enclosures. I don't know whether  
those two stray cows commu-  
nicated disease to mine or not.

Q How long had you had them  
there before this lot came  
there?

5-10. A About - there wasn't three days

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difference I think they got there after mine.

Q That was two cows was it?

A Yes Sir, two or three days difference.

Q How many native cattle did you lose?

A About about forty.

Q About 40?

A Yes, Sir.

Q Did those native cattle, of your own which you lost - had they mingled or mixed with this herd of Texas cattle that you took home?

A They had been exposed to them.

Q What was the time you passed across this herding ground - this prairie?

A It was about the 3<sup>rd</sup> or 4<sup>th</sup> day of June. The 4<sup>th</sup> day of June I think, Sir.

Q They were taken directly to your house - were they - the Texas cattle?

A Not the same day that they crossed this herding ground: they was left on Mr. Eaton's farm - got in there after dark; it was so late we couldn't get them home.

Q Mean as soon as you could get them home?

A Yes, Sir.

Q About how long after that did your own native cattle commence dying; after they were put on your farm?

A They commenced to die about 2 or 3 days before Dr Johns + Capt. Brown were there. You can fix that date by the pamphlet (referring to the pamphlet of Dr Johns)

Q You don't remember the exact week or date.

A No, Sir.

Q What time did they commence dying

A About the 12<sup>th</sup> of August, two or three days before the 14<sup>th</sup> which was the date of the visit of Dr Johns + Capt. Brown.

Q What had been the condition of your native cattle prior to the time these cattle were brought on the farm?

A They were healthy Sir, I think.

Q Do you know anything either from your own knowledge or from any statements that Col. Eaton may

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have made to you, about his  
Lex or cattle crossing that herding  
ground or any of them during  
that spring?

a I don't know that I do. from  
anything that I heard Mr. Eaton  
say, not from my own knowledge;  
but I have heard frequently that  
they passed through. I don't know  
that I got it from either Mr. Eaton  
— And I know I didn't see them  
myself.

q Do you know anything about Mr.  
Sidell's cattle passing over that  
prairie, either by your own infor-  
mation, or by any declaration  
of Mr. Sidell?

a No, Sir, I don't know that I do. I have  
always supposed that his cattle  
went that way though.

q Is that <sup>the</sup> route they would nat-  
urally follow, in going from  
Tolono to his farm?

a Yes Sir, I think so. I will correct  
that in this particular. His cattle  
went on East. I turned off before  
they got to the end of the prairie.  
His cattle proceeded right on

eastward along the line of the road?

a Yes Sir.

And through -

Cross examination waived -  
Charles Conger, a witness for the plaintiff having been duly sworn was examined in chief by Mr. Smith & testified as follows.

Q Where did you reside in 1868?

a In Champaign County Homer Township.

Q State whether you resided on this road leading east from Tolono? to along north of this herding ground of Mr. Thompson that summer?

a I did, I resided -

Q How far from the road?

a I lived right on the road, right north of the Lost Grove.

Q How far from the herding ground?

a I was west of the corner of the herding ground about a quarter of a mile.

Q You was west of the west corner about a quarter of a mile?

514 a Yes Sir, west of the north-west

corner,

Q Was there any road then that turned north, at or near your place - that left this county road?

A Right east of the house a few rods there is a road turning north; about 60 ~~or~~ <sup>about</sup> 5-8 rods from the corner of the ground west there was a road turning north.

Q Did that lead through the herding ground or from?

A From it.

Q When did your road lead to, that is what was its general terminus?

A It would lead to a good many places; went a mile north & then east, or going to the timber it ran north or east.

Q You could leave it for north or east?

A Yes sir.

Q Did you see this lot of cattle spoken of as Mr Sandusky's lot of cattle that summer?

A I saw a lot of cattle pass through that the men who were driving.

them said were Mr. Sandusky's cattle.  
 q Where did they go to; what route did they take when they got to your house?

a Turned north.

q How many of them were there?

a I don't know; I didn't count them.

q State what time that was that the cattle passed on —

a I should suppose there was about a hundred. I didn't count.

q What time in the year was that?

a I don't know sir.

q You don't recollect the date?

a No sir.

q State whether the road — the east and west road running — from your house, leading from Tolono east along the north line of this heading range, state whether that road was fenced along your house in front?

a Yes sir, it was fenced.

q How far west of you & how far east of you did the lane run?

a I run west of me to Tolono, or in the neighborhood. There is some open lanes along & there

576 was one place west of me, I think

there was  $\frac{1}{2}$  a mile of open prairie  
against Mr. Porterfield's farm

Q That was west?

A Yes, sir, there was two lanes between  
that open —

Q How far east did that lane extend  
before the open prairie?

A From that lane where the cattle  
turned north?

Q Yes, sir,

A My land runs 62 rods east of  
that lane & was fenced up on the  
south about 62 rods.

Q East of the point where the cattle  
turned north?

A From the corner of the fence  
where the fence board is — 58 rods.

Q At that point where the Sandusky  
cattle turned, does the lane lead  
north?

A Yes, sir, fenced up.

Q All of that is a lane?

A Yes, sir, fenced up.

Q Do you know anything about a  
lot of cattle — Texas cattle — driven  
along that road & eastward by  
Mr. Sidell?

A There were several lots of cattle  
drove along that road; they was states

to be Mr. Sidell's cattle.

Q By the men that had them in charge?

A These men told me that they were Mr. Sidell's cattle the men that were driving them.

Q In taking those cattle home, did they turn north of the lane or proceed east?

A They went east.

Q In passing eastward, in the direction of Mr. Sidell's farm, would they pass along or over the herding ground of Mr. Thompson?

A Pass along the north side.

Q I will get you to state, when the road proceeds on the north side whether the prairie is open on the north side of the road; that these cattle could range over if they wanted to; whether the road is fenced up; or not - whether it was then in the summer of 1868?

A It was open  $\frac{1}{4}$  mile. I think; I have a fractional piece of land; it was open  $\frac{3}{4}$  of a mile along section 31, east of me + then there was  $\frac{1}{2}$  a mile east of that which was

open, which would make it about  
 $1\frac{1}{4}$  miles of open land on the  
 south,

Q Did you, at any time during that  
 summer, in May or June, or about  
 that, see any of those Texas cattle  
 crossing this herding-ground -  
 this ranging ground - where Mr.  
 Thompson permitted the cattle  
 that he had in his charge to range?

A What - whether I saw Texas cattle  
 of Yes sir, crossing over the range?

A Well I saw them going east,  
 that they said were Mr. Sandusky's  
 +

Q Mr. Sandusky's + Mr. Sidelli's do you  
 mean?

A And Mr. Sidelli's + there was a  
 loose one or two, that lay around there  
 sometimes they dropped some that  
 were lame or got mad or something  
 + there was some loose ones ~~that~~ run  
 around here; there was some cattle  
 died there on that ground,

Q On that herding-ground?

A Yes, sir.

Q Were you present at any time when  
 any of those particular lots either  
 of Mr. Sidelli's or Mr. Eatour's <sup>or</sup> of any

body else, were drivin across that range? Did you see any lots drivin across that range, or see any stragglers on that range?

a They drove their cattle right east along that range.

q Did you lose any cattle by these Texas cattle - passing along that way?

a I lost two cows.

q How long after these cattle passed along did you lose your cows - after Mr. Sidell passed - was it after or before he passed?

a It was after.

q How long after?

a I can't tell you sir.

q You don't remember the date, as I understand you of this transaction?

a No, sir I didn't expect to give the date because I don't know.

### Cross examination

By Mr. Schofield

q Do you recollect about the time the cattle said to be Mr. Sandusky's went along there?

a I can't give you the date of it.

q Suppose not, but can't you give about the time?

a It must have been some time in June, But I don't know the time.  
 q after or before Mr Sidell went along?  
 a It was the last lot of cattle I saw go along that season.

By McSmith. That was Mr Sandurky's was it?

a Yes sir.  
 q They went along before your cattle died, did they?

a Oh Yes, sir. My cattle died some time in July I suppose.

q After Mr Sandurky's cattle - these cattle of Mr Sidell's + Mr Sandurky's from the west, came the same road?

a Yes, sir.  
 q And at a point nearly opposite your house, Mr Sandurky's cattle turned & went north?

a Yes sir. East of my house a few rods, they turned north,

q The Sidell cattle went still further east?

a Yes, sir.  
 q Have you ever seen these cattle that Mr Thompson was herding that

1-21 year in the road & in the lane by your

house - north & west 1868<sup>d</sup>  
 a I don't know that I ever did  
 q Cattle that were grazing on their  
 herding ground - do you know of  
 their getting up there?

a There was cattle grazing on their  
 grounds, then, that often came up  
 in the lane: there was cattle laid  
 in the lane: came up into my  
 cows, always been in the habit  
 of coming up into the lane -  
 cattle have.

q In 1868, at the time there cattle  
 were along there immediately west  
 of your house, a small piece of va=  
 cant land, running down to their  
 herding ground, very nearly a mile -  
 it is a mile - more or less - the west side  
 of the fractional range?

a It is, I expect, ~~1~~ 1½ miles west. I  
 could tell you exactly by stating  
 that from this lane where Mr. Sear=  
 denky's cattle turned, it is a mile  
 west. It is 2½ miles, nearly, from  
 my house, west, to that herding ground  
 q And there is ¼<sup>a</sup> mile of open  
 ground there?

522 a Yes, Sir.

Q East wasn't there another strip?

A East of that  $\frac{1}{2}$  a mile, there is a lane.

Q Running to the grazing-ground?

A Yes sir, & then east another mile, is another lane & then this lane east of my house, makes another mile, that is a fractional section — not quite a mile.

Q The lane nearest your house on the west — was there in 1868; some open prairie then running down to the —

A No, sir, it was fenced up to a narrow lane.

Q That year.

A Yes sir, that spring, before the cattle passed.

Q There was nothing to prevent cattle through, passing over the highway at either of those points you have indicated there — one of those lanes, or open ground, down on the general grazing ground?

A No sir there was nothing to hinder.

Q And nothing to prevent cattle from passing up on the highway from the grazing-ground?

§ 23 A No sir.

Q Do you know how Mr. Thompson herded his cattle, whether he kept a herder with them that summer, or whether he let the cattle take care of themselves through the day?

A I never saw him herding his cattle. I think he let them mostly run at large. I think he was in the habit of turning them out in the morning & gathering up in the evening. He might have went out through the day to see after them. I know they often came around by my house - his cattle

Q Mr. Thompson's cattle often did?

A Yes, Sir, they would be around there hunting and inquiring for the cattle; they scattered; they was in the habit of going through the cane every year; had been in the habit of getting away from them & coming thro' there.

Q What line of travel did Mr. Yager pursue in driving his cattle home from the herding ground; or rather I will ask you wouldn't he follow the line of travel of the Sandusky cattle, part of the way, in passing from that herding ground?

Q He would to get his nearest way home.

### Re-direct Examination.

By Mr. Smith.

Q You speak of cattle coming up there, I will ask you, if the cattle that came up, slept with your cattle over night there & laid around your place - if there wasn't the neighborhood cattle not herded by any body - that was running at large there?

A Yes, sir; sometimes all the way I knew any thing about the cattle, would be by the brands, sometimes there was a few of Mr. Posters fields cattle down in there, come up with my cows; sometimes I would see one brand & sometimes another that I supposed was out of their herds,

Q Do you know anything of your own knowledge about the plaintiffs' cattle ever being up there?

A No, I don't only from their being along there inquiring for their cattle.

Q Did Mr. Thompson or Mr. Gazel ever come there inquiring for these cattle?

a Mr. Yazel never did, that I know of.

q Did Mr. Thompson?

a Yes, sir, sometimes Mr. Thompson  
+ sometimes his boys,

q But you don't know anything at  
all - you have no notice of his  
cattle being up there?

a I didn't know his cattle,

q Then you just simply didn't  
know anything about his cattle  
being there as a matter of fact?

a I told them, sometimes a lot of  
cattle went down -

q That ain't my question, Do you  
know at all - have you any infor-  
mation of your own at all, that  
any of Mr. Thompson's cattle <sup>ever</sup> was  
there, or Mr. Yazel's - that is, do you  
know that fact?

a All the way that I would know it  
would be by the brands. I saw  
some cattle there, I was frequently  
in + about the Grove, + saw cattle  
there among the cattle -

q That ain't my question at all,  
just answer my question. I am  
asking nothing about grove or  
hedge, I am asking you if you know  
of your own knowledge, that the

Plaintiffs, or Mr. Thompson's cattle ever were up there around your corner? I am not asking you about the Grove at all.

a All the knowledge that I would have, from being amongst a lot of cattle that Mr. Thompson claimed to herd, & that there was different cattles, different brands, probably B's & S's & so on, & I saw them cattle along the road there, but to say whose cattle they were, I didn't know only that they were branded, that's all.

q You don't know them —

a I didn't know, I had ~~no~~ knowledge, to know that they were his cattle, or the cattle <sup>that</sup> he was herding only from the brands. I knew some of the men he was herding with & saw letters on cattle.

Re cross examination.

By Mr Schofield

q You have also stated that they were frequently coming & inquiring of you for cattle?

a They have been in the habit every year

Answer Amster

- James P. Mitchell, a witness called on behalf of the plaintiff, being duly sworn, was examined in chief by Mr Smith & testified as follows,
- Q Where do you reside?
- A I reside in Sydney Township, Champagne Co.
- Q How far from the field of this Texas fever?
- A I reside  $\frac{1}{2}$  a mile south of where those cattle were drove along.
- Q First I will get you to tell, if you know this route from Tolono, east, along which it is said these cattle were driven?
- A Yes sir, I am somewhat acquainted with the route,
- Q Been along it?
- A Yes, sir.
- Q State if you know of any Texas cattle being driven along that route in the summer of 1868? & if so, when & who drove and all about it & whose cattle they were?
- A I saw some three lots, I think, drove along there to my certain knowledge, two went along the same day one lot, I went down —

I had a kind of anxiety to see Texan cattle - I went down to the road to look at them, they had been herding from middling early in the morning, on the grazing ground, or loose prairie, of about  $\frac{1}{2}$  section. I could see them from my house, very plain, herding there middling early in the morning, & then later in the forenoon another herd came along & herded them I went down but I don't just remember for which one of these herds I looked at as they passed along. I asked the man whose they were, - the man who had them in charge - & he said they were Mr. Sidell's. I thought at the time they were Mr. Alexander's - I supposed they was, I didn't know of such a man as Mr. Sidell at that time.

Q Mr. Sidell's cattle.

A Yes, sir, he said there was 480 head I think as well as I can recollect.

Q Did they include both lots that went along that morning?

529 A That was only one lot

q State whether that was on their route you speak of, leading from Dolono, east?

a It was.

q State where the cattle were at the time you saw them, with reference to Mr. Thompson's herding ground — where Mr. Thompson herded his cattle?

a At that time, from where I met them at the corner, 4 miles or  $4\frac{1}{2}$  or to the extent of 5 ranging along, Mr. Thompson's cattle run further east which would make it 5 miles, may be over a few rods but on the average, but on the average, 4 miles or  $4\frac{1}{2}$ ,

q West of that herding-ground?

a Yes, sir.

q Which direction were they going?

a They were going east.

q Did you ever see any other cattle pass along that road?

a Yes, sir. I saw the same day another lot, but I did not go down to them, I saw them pass by.

q Whose cattle were they?

a I didn't make any inquiries

530 q Do you know of any Texas cattle having been on this range up there?

of your own knowledge?

Q Which?

Q Thompson's range, where these cattle were herded?

A I don't know, of my own knowledge more than what Mr. Eaton told me.

Q What did Mr. Eaton tell you?

A He told me that he paid out \$1,000. I think, as well as I can remember paid out \$1,000, to individuals —

By Mr. Schofield. That's about pay, that's the same question the Court ruled out.

Q No, no, my question is, what did Mr. Eaton say, if anything about the cattle?

A He said that he drove cattle from Homer down across that range. He said he drove or had drove — something to that —

Q Across that range?

A Yes, sir.

Q Now have you heard at any time, any statements made by Col. Sullivan or Mr. Sidell, about these cattle while you were there with ~~Mr.~~ Col. Eaton. Have you ever heard any conversation or heard him make any statements about this drive —

about the loss of their cattle? State fully & distinctly all that you have heard Col. Eaton say about their matter, & state the time & place, if more than one, & keep them separate as well as you can?

a As near as I can remember, about the 1<sup>st</sup> of August, the citizens of our neighborhood held a meeting, & I amongst some few others, were appointed to wait on Col. Sullivant Mr. Sidell & Mr. Eaton. We went down there; we started on Sunday night in order to get there Monday morning early, to find them at home. We went on down & found Col. Sullivant at home; got to Mr. Sidell's early in the morning. There was but little said at either of these places in regard to the cattle but Mr. Sidell said right in his own doorway that he thought the time was premature in regard to settling for the cattle, and also said that he would meet us at Mr. Alexander's farm. We left pretty soon and went to Mr. Sullivant's & took breakfast there, & while we were there. there

was more conversation than there was before, Col. Sullivant said that he had lost his milk cows + I don't remember how many other cattle; that he had some 400 or 500 head of Texas cattle on his farm. I saw them, myself, but didn't count them. Then, after breakfast we went across to Mr. Alexander's place + there Mr. Sidell met us - came soon after we got there. Mr. Sidell said he felt willing and ready, he said it with both hands lifted, that he felt ready + willing at any time, when it was shown up what his liabilities was to foot them up.

g Now, I wish you would tell what you were talking about in the morning? I wish you would tell what you men said - what you want - what you told them you were after. I wish you would try to get all of that conversation, or substantially all, by both sides so that we can tell what you were talking about. A single sentence don't give much information

hence tell what you were talking about, what you went thru after, & then give the conversation, in full of these gentlemen, in full, so we will be able to understand something about what you were talking about, but at present, it would be very difficult to tell what you were talking about?

a We were directed by the meeting to have these gentlemen - to see what they would do, whether they would pay us for our cattle.

q Just tell what was said?

a Mr. Joseph Sullivant said, that he had no doubt but that the disease was contracted from Texas cattle, driven along the route. Mr. Sidell said the same.

q From what Texas cattle?

a The Texas cattle that they had driven.

q That who had driven?

a That Mr. Sidell & Mr. Sullivant.

Mr. Eaton said that he thought that in all probability the disease was contracted from Texas cattle.

q Mr. Eaton said that, you say?

a Yes, sir

Q At that meeting?

A Yes, sir, at Mr. Eaton's house.

Q Whose Texas cattle was he talking about?

A The Texas cattle - their own cattle that they had been driving along Mr. Eaton's cattle or rather Mr. Alexander's.

Q Now, go on with your conversation tell ~~us~~ what each one said, particularly, give us all, as near as you can.

A Mr. Eaton also stated that, - we were requested to invite them over to a meeting at the Raymond school-house; they said they would meet us over there & they did & at that meeting Mr. Eaton also stated that the mails were uncertain & he would either write or go down & see Mr. Alexander,

Q Now, this conversation you are giving, now, was that the same day, or at a subsequent meeting.

A That was the next day.

Q At a meeting?

535- A Yes sir, the next day.

Q Now, then, go on with the conversation of the meeting?

A This was on Monday, that we were at Mr. Alexander's house. The next day, which was on Tuesday —

Q That was the meeting which you had invited them to meet you?

A Yes, Sir.

Q Now, go on & state about that.

A There was considerable said on both sides — nothing definite either way what they would do, more than they thought the matter had not fully developed itself. They thought the time —

Q The Court is trying to find out the facts in the case & he can't tell who you mean by "they."

A Mr. Eaton said it.

Q Very well, now just proceed & tell what he said.

A Mr. Eaton took the floor & said the disease had not fully developed itself, & he thought that the time — or rather that it was premature & as soon as it could be ascertained what the liability was he felt assured as the agent for Mr. Alexander, that he

would foot up & pay all the liabilities that fell to his part.

Q Now any thing else said by Mr. Eaton in that same speech?

A Not that I just remember exactly.

Q You were commencing to tell some thing about the mails; what was it about that, about the mails being uncertain?

A He said that he would write a letter - or I dont know but he said that he would write or go down, At the next meeting, what I was going to state -

Q Just get through the first, telling all that Mr. Eaton said at that meeting?

A That's all.

Q Now if there was any thing said by Col. Sullivan or Mr. Sidell?

A Mr. Sidell wasnt there.

Q Was Col. Sullivan?

A Yes, sir.

Q What did he say, if any thing?

A He didnt say a great amount but he said he was ready & willing to pay for his part of the damages.

537

By Mr. Schofield. Who said that?

a Mr. Sullivant always made such statements, as far as I had any knowledge.

q Is it not true that Col. Sullivant has always been willing to deal very generously with ~~you~~ all of you gentlemen?

a I think he has.

q Was there any other meeting at which you were?

a I was at one the next week.

q Where was it?

a At the Block school-house.

q What took place there?

a At that meeting Mr. Stogden & Mr. Sullivant, & Mr. Eaton was there - I think that was the meeting they were there the next meeting.

q Who was Mr. Stogden?

a He said he came to represent Mr. Sidell.

q Now, <sup>what</sup> what was said by the several parties there? State individually what was said ~~+~~ what each one said & state it fully, how it began & what was said?

a Mr. Stogden took the floor.

I don't

know whether he took it first, or how, but he stated that he was there to represent Mr. Sidell & felt sure, whatever his liability was, that Mr. Sidell would stand to; he felt as a man, that Mr. Sidell was a gentleman & would foot up & as long as he had a dollar he would see - that he didn't fall with him - he would sink or swim with him; that was the reply.

Q That Mr. Stogden would?

A Yes, sir.

Q Anything else said by Mr. Stogden - anything said about this disease - about the cattle dying and how they came to die?

A Yes, sir. I don't just remember the reply that he said, about how they came to die.

Q If he said anything else you may state what it was - if Mr. Stogden said anything else at that meeting?

A I don't remember anything else.

Q Did Col. Sullivan make any statements to the meeting?

A Yes, sir, he got up.

Q What did he say?

Q He said he was ready to pay his part of the damage & willing to pay it, when it was shown up what his part of the damage was.

Q Anything said about how the damage was done; was that all he said - that he was willing to pay his part of the damage.

A Col Sullivan stated that he had no doubt the disease was contracted from Texas cattle.

Q Go on, now, & tell the balance if there is any balance, is that all he said?

A Well I don't know, He took out - I don't know as that amount - to anything - he did make some statement in regard - took a paper out of his pocket - I think it was he at that meeting - what he would do - pay for the cattle - paying such & such a time.

Q Now, I will ask you if Col. Easton was present at that meeting?

A I think he was.

Q Did he say anything?

A Yes, sir.

540 Q Now state fully what he said?

Q just commence where he began  
 & tell all he said & end quickly.  
 a I don't know as I can tell, I can't  
 tell the—

Q Well as near as you can remember.  
 a Well, he got up & said that he had  
 been to see Col Alexander & he  
 said that Col Alexander said that  
 his sympathies were with the peo-  
 ple very much, which it had been  
 but a short time since he owned  
 but one cow himself. & he thought  
 — Mr. Eaton thought, that the disease  
 was contracted by this Texas cattle  
 driven along, & Mr. Alexander said  
 he felt willing to pay the dama-  
 ge done by his cattle, as soon  
 as it could be ascertained what  
 it would be. He then went on to  
 state that he thought it would be  
 proper to appoint a committee, that  
 would be legal — have the governor  
 or Judge Gallagher appoint a  
 committee that would be legal, to  
 assess the damages.

Q Anything else, Mr. Mitchell?

a I don't know of anything in  
 particular

Q Was that all that was said, as near as you can remember it, or substantially, by either of these gentlemen, at that meeting?

A Yes, sir I think so.

Q Did you attend any other meeting, or have any other conversation or hear any other conversation, with either of those gentlemen at ~~that~~ <sup>any other</sup> place?

A Only what I have stated.

Q You have stated all that you heard all or either one of them say?

A I think I have.

### Cross Examination

By Mr. Schofield.

Q When was it you saw this first lot of cattle, said to be Mr. Sidell's going east on the road?

A I think it was about the first of June.

Q About the first of June?

A I think it was

Q Where was it that you had the conversation with Mr. Eaton when he told you that he had cattle across this landing ground

Where Mr. Thompson was herding cattle?

a That was in October, I think.

q Where at?

a At his own house,

q Who else was present?

a Mr. Wilson, I think, was present - he was there,

q His book-keeper?

a Yes, sir, I think he was there,

q Any body else?

a Yes, sir, there was a man went with me was there,

q A man with you?

a Yes, sir.

q Who was he?

a Mr. Rowe

q James Rowe?

a Yes, sir.

q What did you go there for that time?

a I went there to see if we could make any settlement with regard to the cattle that died.

q To see if you could see if you could make any settlement with regard to your cattle that died?

a Yes, sir.

q You lost some, too, did you?

343 a Yes, sir.

Q You brought suit for them?

A Yes, sir.

Q Suit still pending?

A Yes, sir.

Q How many cattle did you lose?

A Somewhere in the 30's

Q What did you say to Mr. Eaton that called forth the remark that he had driven cattle across that herding ground?

A I don't know as I know what I said - He was speaking -

Q Now isn't it a little singular, that you can recollect so well what he said & can't recollect what you said?

A He was talking about paying out money for different routes of cattle, & he said that he had paid out money on that route which he thought he hadn't ought to, but still he would do it, in order to keep down feeling.

Q He paid out on which route that he ought not to?

A The north route.

Q That, he thought out to pay out money on - that route?

5-44. A He thought that the disease - he

said, was contracted—

Q That conversation don't seem to admit that he had driven cattle across this herding ground?

A He didn't say - he said he had drove there - But he didn't think he was under obligations - duty bound, or words to that amount,

Q He didn't think he was under any legal obligations to pay this except to keep peace?

A That he thought - that's what he stated.

Q Now, did he tell you that he drove the cattle down across that herding ground, himself?

A I understood him so,

Q You understood him so?

A I understood him that he drove there or had it drove; that was my understanding from him.

Q Did he say so?

A Well, I just say them words - I understood him.

Q You was appointed one of the committee was it you?

A Yes, sir.

Q Who appointed you?

545 a The neighbors

Q The neighbors?

A Yes, sir

Q Where was the meeting held at?

A At what was called the Block-school-house.

Q When was it held?

A About the first days of August I can't remember the date.

Q What was the object of the Committee as stated by the appointing power?

A The object of the Committee was to find out whether these men were willing to pay for the cattle that died.

Q I wish you to explain to the Court, now, why so simple a thing as that, it was thought by that meeting, required a Committee; why a man couldn't go & ask about his own cattle without appointing a Committee; why you considered it necessary to have a public meeting & have a Committee appointed?

A Just at that time, it was about the harvest, & it would have took about every man in the neighborhood to have gone, & they

thought they could do the business by two or three.

Q Wouldn't it have been about as easy for a man to have gone to them, as it would to have gone + attended those meetings there at the school house? Couldn't a man have gone about his business about as quick as he could go + stay at a meeting?

A Not so easy, because it was right in the neighborhood, + it is some distance over to those places.

Q Didn't they stay at those meetings long enough so that any man could have gone to see the parties?

A No, I think in every instance, the meetings were appointed, in the afternoon, + it would take a pretty good days work to have gone around.

Q Could it have gone, you think, by taking the afternoon, but going, like you did, in the night it was all right?

Q Yes, if they took half the night for it they might have done so.

547 Q Then the meetings seemed to have

been not confined to one afternoon, there; there were quite a number wasn't there?

a There was several.

q Now, was it understood or represented at those meetings, that there would be any danger of a man's going to Mr. Sullivan or to Mr. Adell, or Mr. Eaton to talk about this matter; any danger of violence so that you had to have a committee?

a Not a bit.

q Wasn't?

a No, sir.

q Wasn't it intended by the meeting to coerce these men to a settlement?

a No sir, there was no such feeling with the committee or parties.

q Did you never hear anybody say that if they didn't settle, they would suffer for it?

a No, sir I never heard any man say that they would suffer.

q Either at the meeting or elsewhere?

a No, sir.

548 q You talk about time - that the object of this meeting was to save

time; that was the only object this meeting had in view?

a Of course mine —

q No, answer the question, <sup>now</sup> what was the object of that meeting; what was it? I want you tell why it was that the neighborhood had to gather up at that time, from time after time & have a committee appointed?

a As well as I can it to you, a few can do the business of a great neighborhood, better than all of them can, so a few were appointed to attend to the business of the neighborhood.

q Is that the way they generally transacted the business of the neighborhood — is that the way?

a No — as a general thing,

q Ain't every man in the habit of attending to his own business generally, bringing his own law-suit, going to town, buying goods & all that?

a In common affairs, they are.

q This wasn't the first law suit that ever occurred in that country?

149 a I guess not.

Q No the first affair affecting property in the courts there?

A I guess not,

Q Not the first ~~loss~~ loss of property is it, that ~~ever occurred~~?

A No, sir.

Q This is the first time the people ever found it necessary to gather together in public meetings, to appoint committees to see whether men would pay for property or not is it?

A I think it is the first time.

Q Is it this fact, that there was a terrible state of excitement against these cattle owners, at that time?

A There was an excitement; men had lost their cattle & they were dying & they wanted the men to say whether they was willing & wanted their money.

Q And didn't they threaten violence against these owners of cattle too?

A Not to my knowledge.

Q Did you not hear anybody threaten these men?

A I could not tell,

Q Neither their persons or property?

A No, sir.

Q Did you never threaten them yourself?

A No sir, I never have.

Q Why didn't you go to Col. Sullivan's house in the day-time or Sunday? Was it on account of your religious proclivities?

A I can tell you what I was doing on Sunday, I was notified to bury my cattle on Sunday & I was burying, all day Sunday.

Q Was the balance of the committee burying their cattle, all day Sunday?

A Part of them, I think, I am not certain.

Q At the time the meeting appointed - was it appointed that you should go on Sunday night to Col. Sullivan's house?

A That was the arrangement, I think, that we should start Sunday night in order to get to Mr. Sidell early.

Q Why did the meeting conceive you ought not to start earlier than night?

A We went over.

Q Why did it the meeting direct you to go over in the day time on Sunday?

a Because they said these gentlemen were very apt to be from home,

q On Sunday?

a No.

q Why not go in the day time, wasn't your idea, in going to his house at night to intimidate him?

a No, sir, not a particle.

q You went & told him to come along with you?

a We asked him,

q You told him you had come for him?

a No, sir.

q What words did you use when you got to his house?

a I can't remember the exact words but we asked him to meet us over at Mr. Alexander.

q Did it you tell him that he must come & go along with you?

a I don't know that we told him he must go; I don't think such language was used.

q What language did you use?

a He said he would come over right away as soon as he got some little business transacted,

Q Didn't you go right on, that night to Mr. Sidell's, from Col. Sullivan's house?

A Of course; that's what—

Q I don't know that it follows of course; what did you do—did you go that night?

A Yes sir.

Q Did he stay behind to transact business or did 'nt you take him,

A I had reference to Mr. Sidell.

Q I speak about Col. Sullivan, the man you went after in the night; it was day time when you got to Mr. Sidell's wasn't it?

A Yes sir, day-light.

Q You told Mr. Sullivan he must go with you to Mr. Sidell's didn't you

A I don't know what John Insley told him; he went in & waked him up & he came out & got in the wagon & went with us.

Q You sent Mr. Insley in as being a friend of Col. Sullivan's,

A I guess he was sent in as being a friend.

Q Know you not to be so violent in his feelings, as some of the balance of

the committee?

a There was none of the committee that felt any way violent or <sup>I think</sup> harsh at the time.

q How long was that before Court met there in that country?

a I don't know.

q Do you know when the Court did meet?

a I don't know when the Court did meet.

q Was it that in the middle of harvest?

a Yes, sir, it was, in oat harvest,

q a busy time?

a It may be there was some wheat to get, I know I was cutting my own oats, at the time, though.

q It was a busy season for farmers was it?

a Yes, sir.

q These meetings were all fully attended, were they?

a Tolerably so.

q Mr. Sidell said he thought the time was a little premature to settle;

a Yes, sir, he said so in his own dooryard.

q You wanted Mr. Sidell to go over to Mr. Alexander's?

a Yes sir,

q Mr. Sidell wouldnt do it?

a He did do it,

q He went along?

a He went along after we went away

q But he didnt go with you?

a No, sir,

q Staid behind to transact some business?

a Yes, sir, that's what I spoke awhile ago.

q And he came afterwards.

a Yes, sir,

q When you got to Col. Sullivan's you took breakfast there?

a Yes, sir,

q He remarked that he had lost his milk cows & that he had no doubt that the cattle had communicated the disease?

a Yes sir - Texas cattle,

q Did he make that remark at his house, or over at Mr. Alexander's place?

a It was at his place.

q At his own house?

a I think he made it at his own house,

555-

q Did he state that he had no doubt

this disease was communicated  
 by his cattle, or that this disease  
 was communicated from Texas cattle  
 a As near as I can recollect it was  
 Texas cattle.

q His language was Texas cattle?  
 a As near as can remember Texas  
 cattle.

q Mr. Eaton said, when you arrived  
 there & got in conversation with  
 him, that he had no doubt this  
 disease was communicated from  
 Texas cattle, or his cattle - which?

a Texas cattle

q Didnt state that he had no doubt  
 it was communicated from his  
 cattle, but Texas cattle, speaking  
 generally.

a Yes, Mr as far as I understood,

q Mr. Sidell made use of substan-  
 tially the same remarks, I believe  
 you stated?

a Yes sir.

q And he used it in the same  
 way - throwing up his hands  
 you say - No, that was with  
 regard to the settlement I believe  
 you stated.

556 a Yes, sir.

Q Mr. Eaton didn't state that he had no doubt it was communicated from their own cattle, but simply that he had no doubt but that it was communicated by Texas cattle.

A Texas cattle; as well as I can remember that was the reply.

Q You told them to meet you at the Raymond School House?

A Yes, sir, we requested them to meet us - there was to be a meeting there appointed.

Q Didn't you tell them they must meet them there?

A I don't think we told them that they must.

Q When was the meeting appointed for?

A It was appointed from a meeting that was held on the Saturday, previous to this.

Q At what time were you to get together after this meeting at Mr. Alexander's farm?

A In the afternoon on Tuesday as well as I can remember it.

Q How many persons were at that meeting?

A There was not a very large turn out - well, there was -

Q About the same<sup>as</sup> there was at the meeting at which you were appointed?

A About I think.

Q A good deal of warm feeling then manifested wasn't there?

A Which one?

Q At the meeting on Tuesday, at the Raymond School house?

A There was nothing more than usual at such meetings.

Q Well I don't know how much is usual; Tell the Court.

A There was nothing rash that I heard of, nor any threats made.

Q You heard no threats of violence of any kind?

A No sir I did not.

558 Q Did you hear any person at that meeting state to the meeting that

he counselled moderation, but that if this thing was not settled he would not undertake to be responsible for the consequences?

a I never heard that.

q Never heard any such language as that?

a No, sir.

q Did not you hear Mr. Raymond make use of such language at a meeting there?

a I did not.

q Turn to Mr. Eaton & make use of a remark in substance like that?

a Not that I have any knowledge of.

q You think this was a very orderly, peaceable & quiet part of a meeting?

a Well, for the occasion there was nothing. —

q You think a man could have got up there & refused & denounced all these claims with perfect safety & without danger to person or property?

a I don't think there was any danger of any person being hurt there

q None at all?

559 a I don't,

Q Might have got up & said this was a false & fraudulent claim on the part of these men, & no one would have disturbed him, or shown any violent disposition toward him?

A No, I don't think any one would have raised a hand to hurt a man of quiet, good people, all of them there.

Q Yes, sir, they are not in the habit of fighting, then.

Q Wasn't in the humor to fight them? Didn't feel like it at all. Do you recollect of hearing Mr. Eaton at that meeting make use of language something like this - at any other of these meetings that you have spoken of, make use of language in substance like this, that he was willing to settle this thing fairly & honorably, but if violence was used, why he didn't intend to make any further effort to adjust it?

A I don't think I ever heard him say, "If violence was used," I don't have any knowledge of it.

Q Well, threatening?

560 A I know one time at the meeting

he hoped violence wouldn't be used  
or something of that kind. I  
think that was said at the  
Block School-house,

Q You spoke about Col. Sullivan's  
at one of those meetings - I think  
it was at the Block-School-house  
- having a paper & offering to  
make certain adjustments?

A Yes, sir,

Q What did he do with that paper.

A I suppose he put it in his  
pocket after he read it.

Q He required certain conditions to  
be performed, didn't he?

A Not that I have any knowledge of.

Q Didn't?

A No, sir,

Q Didn't the meeting refuse to  
come to the terms he proposed?

A He just got up & made a state-  
ment to all those -

Q What did he say - Now tell us  
all - & what did the meeting  
state back?

A He read off a proposition that  
he & some others - Mr. Eaton, I  
think & Mr. Sidell, had offered at his  
house - drew up resolutions what they

proposed to do & stated the amount of money that they intended paying but I don't remember the amount that they would pay.

Q Do your recollections on what conditions he would pay it, was he just going to give it to any body that asked for it?

A I think that would settle for their cattle,

Q How - on what terms - what kind of a settlement did he propose to have?

A I can't remember; I think it was just to settle from their cattle - those that had died from their trails.

Q He was going to pay for all?

A It was not my understanding that Mr. Sullivan would pay for all. I think the parties had agreed among themselves, as I understood the paper to read.

Q What was the reason that you say Col. Sullivan proscribed that paper to the meeting & afterwards took it away with him - why did he do that did <sup>you</sup> he know?

562 A I don't know that I can tell you

now, he said that those that didn't feel like taking up his proposition could go elsewhere: I think he said words to that effect.

Q Did anybody accept?

A I don't know whether they did right then & there, or not,

Q Did you do it?

A I didn't then,

Q Did Mr. Gazel?

A He did it to my knowledge;

Q I want to ask you this, if you in conjunction with others didn't meet Col. Sullivan in his own yard - in the school house yard & agree in the first instance to settle with him, & accept these terms & then afterwards, when you went to the meeting refuse to do it.

A No, sir, I never did.

Q Did not others?

A I never met him in the school house yard?

Q Any meeting?

A I never met him in the school house yard. The first I knew about Mr. Sullivan was -

563 Q Did you meet him any where & agree

to these terms & afterwards repudiate them?

a At the school house yard?

q Any place in the world?

a He came to my house. Mr. & Mrs. Insley wanted to know what I'd take for my cows, dead. he called them. I told him I would take 60 a head for them. These was the words.

q That is the only conversation you had.

a Right there; & then he kept wanting to know - saying that was too much & read over what the others had agreed to take. I told them if he would pay me cash I would take \$40. a head rather than have trouble all around & he agreed to <sup>do</sup> it & pay me that but he never paid. I never got any money.

q You never had any agreement with him at all about money?

a Not any further than that - more than once he told he would be over past my house & would leave the money if I wasnt at home & a certificate from him which my wife should sign for me if

I should not be at home. That was all the conversation we ever had.

Q Now, you say at the meetings at the Block school house, Mr. Stogden was there & took the floor & made some remarks on behalf of Mr. Sidell.

A Yes, sir.

Q And at the same meeting Col. Sullivan also made some remarks

A Yes, sir I think he did at the same meeting,

Q And also at the same meeting Mr. Eaton made some remarks?

A Yes, sir.

Q Please to tell the Court if you are positive Mr. Eaton & Mr. Stogden were at the same meeting.

A As far as I can remember it was the same day, it might have been different, but it seems to me it was the same meeting.

Q Was Mr. Eaton there at all when Mr. Stogden was there?

A It is possible I may be mistaken but I was thinking I saw both there on the same day, but its two years ago. I have never noted it down

Q Mr. Eaton's proposition, you say, at that time was that this thing ought to be adjusted by some sort of commission to be appointed by the Governor or Judge Callagher?

A Yes, sir.

Q And that was Mr. Alexander's idea?

A He didn't say that that was Mr. Alexander's idea that I remember.

Q That didn't put the meeting at all, did it?

A I don't remember whether they took up with that idea or not.

Q They didn't carry it out at least?

A No sir, it wasn't—

Q It wasn't accepted, was it, by the meeting there?

A I forget now.

Q Didn't that meeting fix, now, its self, its own terms of settlement, & say that these gentlemen had to come to them?

A Now!

Q That these gentlemen had to come to your own terms?

A I don't think there was at that meeting.

Q Did it you adopt in this meeting your own basis of settlement & was it your object by the appointing of committees & holding subsequent meetings to force them men to come to your own terms?

A No sir, there was not such measures taken to my certain knowledge.

Q Did you try?

A No sir I don't think there was any measures taken to try & force them.

Amel Thompson -

Q B. Stogden, a witness ~~filed~~ called on behalf of the Plaintiff being duly sworn was examined in chief by Mr. Smith & testified as follows:

Q Where did you reside in 1868?

A The south part of Vermillion, Co.

Q Are you acquainted with Mr. Sidell?

A Yes sir,

Q Did you attend any of those meetings that have been spoken of here - that the witnesses have spoken of?

A Yes sir,

Q How many of them?

A As well as my memory serves me, I think it was about three.

567 Q About three?

a Yes sir,

q In what capacity, whether in your own behalf, or in behalf of some other person, you attended those meetings?

a I was first requested by Mr. Sidell,

q When you went over there did you go to represent him at any of those meetings?

a I did.

q Have you heard statements that have been attributed to you by the witnesses, as having been made at the meeting?

a Some of them I have, & some perhaps, not,

q What you said at this meeting or <sup>at any</sup> of them was made on account of Mr. Sidell or for him?

Objected to.

By Mr. Schofield: I have no objection to Mr. Stogden stating what he did say on behalf of Mr. Sidell.

q You may state it that way - what you said on behalf of Mr. Sidell & at his request?

a That sir, I think has been stated correctly by the witnesses, except the qualification,

By the Court.

Go on + state it in your own way now + all about it.

a I suggested first that I was there for the purpose of representing Mr. Sidell + I did not know what Mr. Sidell had said to those parties, but I presumed that the statement that the parties had made in regard to what Mr. Sidell said was correct. I presume that they were men that would not misrepresent him, but what ever Mr. Sidell had said in the premises I believed him to be a gentle man. + I believed him to be good for all his liabilities - that I would endorse him as long as I had a dollar. Those were about the words in substance that I said on that point.

Cross Examination,  
By Mr. Schofield.

Q Was that all you said in the meeting at that time?

569 a No sir.

g First go on & state all you said & what they said to you too in your hearing. Tell the whole thing that occurred.

a As near as my memory serves me, I stated on the floor of that meeting & gave it as my opinion that moderation would be the best for all the parties concerned. I looked upon it as a public calamity that had befallen us all, and therefore I thought that that calamity was so disastrous that it would finally regulate itself, & that it was not ~~hardly~~ really necessary for the people in mass to be <sup>participated</sup> disturbed about the introduction of Texas cattle into our country hereafter, that the present lesson was sufficient & after that we would not be bothered any more <sup>with</sup> the traffic. I think I made substantially those statements & counselled moderation.

that the people should, under all the circumstances, be patient & wait the final result, and see how many of the cattle died, and what the best plan would be by which they could get satisfaction for their stock that died. I think that was about the substance of what I said on that point - about the substance of all I did say at that meeting.

Q Now you say you were counselling moderation, if there was any reason for your counselling moderation, you may state to the Court what it was. If any threats were made in your presence you may state it.

A No, not particularly any threats were made in my presence.

Q Well any warnings, any warnings - any thing of that kind.

A I took it from the feeling of the people generally, that there was a hostile feeling particularly

and unnecessarily hostile feeling against Mr. Sidell personally.

Q If the time of that meeting, in that meeting there was a considerable quantity of ill-feeling manifested toward these defendants, or either of them, you may state that fact.

A Well it is true that occasionally some man would ~~speak~~<sup>make</sup> remarks that were rather inflammatory and unnecessary + un-called for, as I thought + many of them were strangers to me. I couldn't tell who they were.

Q Do you recollect what the remarks were? Had you been warned not to go into that meeting?

A Yes, sir I was, in one instance.

Q By whom?

A By a gentleman that lives on Salt Fork by named Yount,

Q Was he at those meetings?

5-72 A Yes, sir.

Re Direct Examination by  
Mr. Smith

Q Did you think there was any danger of anybody getting hurt there at that meeting? any cause of alarm or fear of personal injury?

A I think I can truthfully answer that I didn't feel in any danger myself.

Q Did not feel in any danger?

A No, sir, not myself - I had no fear of any danger of my own safety.

Q This man Yount, wasn't he a drunker, wild, crazy fool generally?

A He was drinking at the time some, sir, I can't say he was what you might call drunk but he was drinking some.

Q I will ask you if that ain't generally his condition, Jack Yount, I think they call him,

A Atterly Yount, yes sir, he is given to dissipation a good deal.

Q A very wild, loud extravagant talking fellow ain't that his description?

a I presume so. Of late years I am not so well acquainted with him as I was <sup>a few</sup> years ago. I have been acquainted with Mr. Yount 25 years.

q I will ask you if that ain't his general character, to be very extravagant in his assertions as well as his whiskey.

a I am inclined to the opinion from one or two other expressions he dropped, that Yount was in earnest.

q So far as he himself was concerned  
a Yes, sir.

q Does he live in the neighborhood of these other people, or is it farther east out of this neighborhood entirely.

a It is farther east than where most of the devastation occurred, where the stock died.

q On the same line but further east?

a Further east, yes sir, + north.

Recess examination by Mr. Schofield.

q Does it lie near Mr. Yazel?

a He lives east. I should judge from the collection I have he lives some 3 or 4 miles <sup>west</sup> east.

q You stated before that Yount was then one of the parties in the meeting & he had lost cattle, too.

a Yes, sir.

Arul Shrupow

John Sidell a witness for the plaintiff, having been duly sworn, was examined in chief by Mr Smith, and testified as follows. -

Q When did you purchase, if you did purchase, any cattle of the kind called Texas cattle?

It was brought into your neighborhood in the summer of 1868, about which the witnesses have testified - About when as near as you can recollect?

A My impression is that I bought the first lot during the latter part of April ~~1868~~

Q 1868?

a Yes sir,

q Do you recollect when you bought the second lot Edw Sidell?

a I contracted for them some time ~~during~~ the fore part of May.

q Fore part of May?

a Yes sir, at the latter part of April  
It may possibly have been the latter part of April.

q 1868?

a Yes sir,

q Now, I'll ask you if you sold a lot to Colonel Sullivan that he had that year a lot that he had?

a I can hardly answer that - I might say I either sold them to him or let him take them of the parties I had bought.

q They came through your hands rather in that way?

a They were delivered to me - I had loaded them for the purpose of sending them home, and I let him take them - I charged him no commission - I just let him take them over.

q My object is to find out the date Colonel Sullivan got his cattle.

- 577 a It was about the date that I received  
my last cattle,  
q some time in May?  
a Yes sir, pretty well toward the latter  
part of May, I should think,  
q I'll ask you if those cattle that  
you bought at that time were  
the ones that were driven from  
Golond east from your place?  
a I presume so - I was not with  
the cattle, but as a matter of  
course they were the same cattle,  
q Was Mr Croft in your employ?  
And did he receive your cattle and  
take them home?  
a Yes sir, he was acting as a sort  
of foreman for me,  
q He was your foreman?  
a Yes sir,

By Mr Sicken

Did you state where you purchased  
and received those cattle?

a No sir,  
Alec Shropow

J B Postersfield, a witness  
for the plaintiff, having been  
duly sworn, was examined in

chief by Mr Smith and testified as follows -

Q Where did you reside in the Spring and summer of 1868?

A In Champaign County.

Q In what portion of the county?

A In Sidney Township in the south-eastern portion of the county.

Q What was your vocation?

A I was farming; that was one thing, grazing stock,

Q How far did you reside from Mr Thompson if you know?

A Between five and six miles, I think - from four to six miles at least.

Q Are you acquainted with his herding ground and if so state how?

A I am acquainted with the western portion of his herding ground, but not the eastern portion particularly.

Q Are you acquainted with the plaintiff Mr Goyel?

A Yes sir.

Q I will ask you if you knew his cattle or any of them?

A I did not sir, I didn't know

579.

his cattle, or any portion of them  
Q How far are you from the road  
leading from Golond to Colonel  
Sullivan's?

A Well sir, the road leading from  
Golond to Colonel Sullivan's that  
has been described runs along  
what was then the south side of  
my farm.

Q I'll ask you, if at any time during  
the spring or summer of 1868,  
you saw what is known as  
Texas cattle driven along your  
neighborhood?

A Well sir, I saw one lot.

Q What time?

A Well sir, from my recollection  
it was in the month of June.

Q Where were they?

A They were on the road leading from  
Golond - running east - between  
sections 27 and 34 town 18 - range  
10 east.

Q Do you know how many, and who  
they belonged to, who had them in charge?

A I do not sir, it was on the  
county road

Q Is this the only drove you saw

during -

a That's the only drove I saw, I will state that I can't see but a short distance - that my sight was a great deal worse then, I happened to be out riding and met the drove,

q Whose cattle were they, do you know?

a I don't know sir, I asked no questions.

q Was this the only drove?

a This was the only drove I saw,

q What do you know of the defendants, if anything, having in their care, or possession, Texas cattle?

a Well sir, I have been in Broddlows' farm during the summer of 1868, and saw Texas cattle, and heard Mr Eaton saying he had so many Texas cattle.

q And of your own knowledge you know nothing of his having Texas cattle - of your own knowledge?

a I was there - I saw them.

q Had you at that, or at any time, any conversation with defendant or either of them in relation to

Texas cattle and their capacity to communicate diseases; the route they took, or any information of that kind? Give the fact as it occurred, and the order in which it occurred?

a Well sir, I had conversation with Mr Eaton and Mr Sullivant both in regard to the capacity of those cattle to communicate diseases.

q Now give the words as near as you can recollect of each - first of Colonel Sullivant - when was it?

a Well sir I can't tell that - we had a great deal of conversation on the subject, but I can't give the words.

q Well the substance as well as you can remember?

a Well sir the substance was -

q And how it came about?

a He was talking frequently about Texas cattle communicating diseases, We seemed to agree that they did communicate it,

q State what you said to the Colonel

5-82.

- and the Colonel to you, to the best of your recollection,
- a To the best of my recollection it was that they communicated the disease, but how neither of us had any idea.
- q Well, but I am talking about what the Colonel said?
- a Well sir, that's what I say the Colonel said.
- q How many conversations had you with the Colonel?
- a Well sir, I couldn't say - not a large number.
- q In either of those conversations was there any thing said as to the ownership and possession of Texas cattle, and if so state what he said?
- a He said he owned the cattle that he had taken home to his own farm.
- q What Texas cattle, if any particular Texas cattle was referred to in any of the conversations - state what Texas cattle it was in connection with communicating the disease?
- a Well sir, -

583.

By Mr Schofield

State the conversation fully.

By The Court:

He can state what cattle were referred to,

Q State what cattle were referred to -  
Give the words,

A Well, we referred to the cattle owned by  
Mr Sidell, Colonel Sullivan, and Mr  
Eaton, those are all the cattle we  
talked about.

Q What was said of anything in relation  
to the capacity of those cattle to commu-  
nicate diseases, and if so which of them,  
and what was said?

A I heard Mr Eaton and Colonel  
Sullivan say that it seemed evident  
that the Texas cattle did commu-  
nicate diseases, because their own  
cattle at home had died, after  
they had been taken out to their  
respective farms.

Q Did you understand from either  
of them, the route that cattle had  
taken, where from the route  
that had been taken in getting  
them home.

5-84 a I believe that Mr Eaton told me repeatedly, that they had followed the route that has been described here.

q Give that route

a The south route, running from the west end of Solon to the Broadland farm, which runs south of Lynn Cove, those cattle they got at Solon they never drove upon that route but cattle they got at Homer, I heard them speak of joining them from Homer to the north side of the Broadland farm.

q As that route - in what direction from the herding ground if Mr Thompson's is that route, if you know where his herding ground is? I forgot to ask, do you know where it is?

a Eds sir,

q Well now answer the other question.

a This road running from Homer which is a county road, runs due south from Homer until it strikes the herding ground at some point - I don't know exactly

The east end, that being a considerable distance from my place, and runs across as described by Mr Eaton to the north side of the Broadland farm.

The road from Golow starts from there and runs perhaps south of east, I don't know how much south of east, - but it runs in a south-east direction, until it strikes the west end of the Broadland farm.

Q How far does that road running from Golow to Hower - how far would that road be from the herding ground - the Broadland farm how far would it be?

A It wouldn't come near the herding ground - the road from Golow runs to the west end of the Broadland farm, while the herding ground doesn't extend so far west by one mile as the Broadland farm.

Q Had you conversation with either of the defendants, and if so state when and how that conversation occurred in relation to the route their cattle took?

a Do you mean Mr Sidell?

q Yes sir Mr Sidell.

a I never had.

q Had you any conversation with Mr Lerop and Mr Stogden?

a I don't know Mr Lerop - I have had a good deal with Mr Stogden, but I don't know that he ever spoke about the route that Mr Sidell drove his cattle.

q You referred then in your answer to a conversation with Mr Eaton and Col. Sullivan?

a Yes sir.

q Were they together at the time?

a At the time that they spoke - which conversation have you referred to?

q The conversation in which you say the parties told you that they had no doubt their cattle had communicated the disease.

a Well sir, that conversation - the conversation similar to that - took place at their meeting referred to at the Raymond school house - they were both present at that time.

q In any conversation that you had

with either of them before or after-  
words, was that subject mentioned  
and if so state?

a Well sir, I can't state positively - It  
seemed to be taken for granted -  
there wasn't much said on that  
subject, that I can now call to mind.

q Had you not an interview with  
either of the dependants at any other  
time, apart from these meetings?

a Yes sir I met Colonel Sullivan  
at his own house. Mr Ainsley told  
me that Mr Sullivan had been to  
my house to see me, and I went  
over to see the Colonel at his  
own house. That was the way.

q Had this subject relative to Texas  
cattle, or their capacity to communicate  
disease, or the route that his cattle  
had taken - if that was the matter  
of his conversation at the time you  
speak of when you were at the  
Colonel's house, be pleased to state  
to his Honor what was said,  
and the manner in which  
it was said.

588,

a I can't recollect further than this, in speaking of settling or selling the claims along that route for cattle -  
q What route?

a The several routes. In speaking of settling these claims for further damages, the Colonel spoke that the route leading from the west end of the Broadland farm, of course he had no interest in, because his cattle hadn't come on that route. But on the route running past where I lived, he claimed that,  
q What route?

a The county road running due east from Golons, described as passing along Thompsons herding ground.

q Now what was said?

a He spoke of that being his trail - I believe that was his language - His trail - and spoke if he made a settlement it would be on that trail.

q Give as near as you can recollect his language, about his using that as a trail for his cattle, if

The number of droves, or any thing else was referred to?

a Well sir, the number of droves wasn't referred to. He spoke of his proposition taking his cattle and Mr Slidell's cattle. He spoke that he felt under obligations compared with the number of cattle that he - And I understood him that Mr Slidell had drove over that road.

q How about the other route. What did he say about driving cattle over any other route?

a He never spoke as though he had any - I heard Mr Eaton speak of that too. He spoke of these routes, he claimed that his trail came to the west end, never spoke of settling along those other routes.

q What other route?

a The county road running due east of Golow - that he felt that he had not much interest in that route

q Who was that you were conversing with?

a That was Mr Eaton.

q Now be pleased to say what Mr Eaton said?

588. a Mr Eaton said - This conversation came up - Mr Eaton was at our house came over on some other business And I inquired of him in regard to settling the claims that was along the several routes, And he said so far as he was concerned he was ready to settle his share according to the basis that they had established, but along the route - the county road running east & west, but he felt that he hadn't much interest in that trail that that was led, Sullivan's And Mr Skidells trail - that the locality hadn't much interest in that trail meaning along Thompsons herding ground.

q East and west?

a East and west,

q What was Mr Eaton

a Mr Eaton yes, sir,

q Have you given now about your best recollection of your various conversations had with these defendants.

a Well yes sir aside from what they said in those public meetings, I have.

q Were you at Danville?

591. a I was sir,

q Well sir you may state occurred there,

a Well I was one of that committee that was appointed,

q How did you happen to go to Danville?

a We met at Colonel Sullivan's on the day that Dr Johnson made that examination - and at that time we all agreed to meet at Danville,

q who was all?

a Mr Eaton, Mr Raymond, Col. Sullivan, and the committee - Inasmuch as Mr Sidell's family was very unwell, and we agreed to accommodate Mr Sidell that far that we could meet where he lived, so that he could be present, at that time - and we met there, I don't recollect the date, but it was after the fourteenth of August, which seems to have been the date of that meeting at Colonel Sullivan's. We met at Danville with a view to arrive at some basis of settlement,

q Well sir now state what occurred?

a Well sir the way we had to go for that purpose, we had had a meeting, a previous meeting in which Mr.

592.

Sidell and Colonel Sullivan and Mr Eaton had made propositions to pay us for our cattle. Then the question came up - how much are we entitled to for our cattle; how much the cattle ought to be valued at; the different qualities of cattle. There was various propositions made by all parties present including Colonel Sullivan and Mr Eaton - to the parties who had lost the cattle. This committee was appointed to confer with those men in regard to the valuation of those cattle - with - as a basis of settlement - We went to Danville to agree with those parties at Danville and at Danville we couldn't agree - We met as has been said here in Judge Davis' office - what I suppose to be Judge Davis' office, and were informed by Mr Sidell that those were his attorneys, that they would act for him, and found very soon that as far as settling for the cattle was concerned, on the basis that we had

understood for pay for our cattle -  
 that they didn't mean to do that -  
 that they wished to know how  
 much less than the value of the  
 cattle we would take.

Q You spoke of an arrangement between  
 those defendants, or between Mr Eaton  
 and Mr Sullivant in relation to  
 paying for the cattle on the respec-  
 tive routes?

A Yes sir,

Q How state to his Honor if you  
 understood what that arrangement  
 was between them,

A Between these various parties?

Q These defendants, Colonel Sullivant  
 and Mr Eaton - between them?

A I didn't refer to that arrangement, what  
 I referred to was an arrangement that  
 we understood that we the parties  
 losing the cattle had made with  
 them, the parties that had brought  
 in Texas cattle. - I am speaking  
 of this arrangement made when  
 this committee was appointed.

Q You refer to a conversation that  
 you had with Colonel

Sullivan or Mr Eaton in which  
 the Colonel or Mr Eaton spoke of  
 their various trails - the trails that  
 the various parties had taken with  
 their cattle, and the depredations  
 committed on these trails?

a Yes sir

q And their responsibility for these  
 depredations, if you understood  
 them how they would pay, how they  
 would adjust that matter, please to  
 state it?

a That question was often spoken of  
 in the meetings and in the private  
 conversations, and this was my  
 understanding from the conver-  
 sation between the gentlemen  
 that they would pay the various losses  
 that occurred on the various routes  
 over which they drove their cattle,  
 and then so far as dividing losses  
 amongst themselves they would do  
 that themselves, but that they would pay  
 the losses that occurred on the several  
 routes - pay the parties

that had lost on these several routes  
 And then divide that other matter  
 between themselves,

Q Did you understand from them  
 or did they tell you - the Leilonol or  
 Mr Eaton, And if so state what  
 was said in relation to what  
 particular route the Leilonol  
 should pay for - And what partic-  
 ular route Mr Eaton should  
 pay for?

A You asked me what they referred to?

Q Which of them referred to it?

A Mr Eaton spoke of paying - that  
 he was ready to pay on his route.

Q What was his route?

A The west end of his route - well he  
 didn't state at that conversation  
 what was his route, and he said  
 so far as he was concerned, the  
 particular part of the route in  
 which I was interested - he  
 didn't feel that he had much  
 interest in that.

Q That wipes the herding ground?

A No sir, it's the west end of the

ground.

Q If you ever had a conversation with Colonel Sullivan in relation to what he claimed as his route be pleased to state.

A Colonel Sullivan repeatedly talked to me about the route that runs from Golow - this county road - along this herding ground as his trail, over which his cattle had come, and spoke of it as Mr Sidell's trail, - that is he never spoke of driving his cattle over that trail, route.

Q Do I understand you to say that he claimed the trail running by the herding ground, by the north side?

A Yes sir.

Q Had you any conversation with Mr Sidell or Mr Slogden in relation to what route his cattle took?

A I had conversation with Mr Sidell, I mean Mr Slogden, and I don't know - I never had any conversation, or I don't know what that conversation was with Mr Sidell.

597. Q How far did you reside from Mr Thompson's herding ground?

A Thompson's herding ground - that prairie - that open prairie runs to the south side of my farm. His cattle didn't come through - I live at the west end of it.

I wasn't aware that his cattle ever came to the west end, but at the centre and east part of the herding ground is where Mr Thompson herded those cattle.

Q I will ask you if you know the plaintiff's cattle?

A I did not sir.

Q I will ask you if you know any thing of the destructions of cattle on that line, on that trail?

A Oh yes sir I know -

By Mr Schofield

That is the north line?

A The line claimed by Colonel Sullivant - Yes sir I know about the destructions.

Q Now please state to his Honor what was the size of that.

A I live on this road spoken of running from Tolono east

- Ten miles, and perhaps eleven miles east of Golovno - I am not aware - in fact I know all of my neighbors whose cattle come out upon that line, that their cattle were diseased and a large portion of them died.
- Q About what portion of cattle - native cattle died on that line?
- A Well sir I should suppose seven-eighths along that line died, that were exposed to those cattle by coming on this road, and other cattle, fully three-fourths I would say,
- Q About what proportion that were diseased died?
- A When they came by us there - I should think - I stated that seven-eighths of all the milk cows that were exposed died; and the other cattle three-fourths
- Q 3-fourths?
- A Yes sir,
- Q What is your experience if you have any experience in relation to these diseases; As to

- The period of manifestation, after  
 looking over the ground
- Q Well sir, I don't know any thing  
 only in our neighborhood, and  
 I can't state positively as to  
 that, my cattle commenced  
 to die, and so did my neighbors  
 cattle, the last of July - the  
 last part of July - perhaps  
 the last week of July.
- Q What time before that did you  
 know that Texas cattle were  
 down over your route?
- A My recollection is that during  
 the latter part of May and the  
 month of June they were driven  
 over that route.
- Q You know nothing of the cattle  
 of Mr. Yager, the Plaintiff?
- A I do not sir.
- Q Have you had any conversation  
 with Mr. Stogden in relation  
 to the cattle of Mr. Sidell?
- A Yes sir, I had conversation  
 at Colonel Sullivan's.
- Q How state what was said at that  
 conversation, and the order in which  
 it was said.
- A I was at Colonel Sullivan's

600.

and Mr Sidell was there, and Mr Eaton was there - I mean Mr Sidell was there, Mr Eaton wasn't there that I recollect, of and the conversation was of the amount of cattle dying and the diseases in the country and the awful scourge that was then being visited upon us in the way of our cattle all destroyed & what was said by you on that occasion, or by Mr Stogden about Mr Sidell's cattle communicating diseases,

a There was nothing in that I recollect of, Mr Sidell merely stated that there was this - that there was going to be a meeting at the school-house that evening or the next day, He stated that he couldn't be present, that he would like to be present, but he couldn't - that he would send Mr Stogden there to represent him as far as he was interested on account of his cattle passing over that trail - the north trail -

601,9 Did you attend the various meetings of citizens that have been spoken of by the witnesses?

a I did sir, I attended most of them.

q Now in connection with the manner in which the meetings were conducted - all of them - state whether they were boisterous or whether threats of personal violence were made, and what was the object of the meeting - what was said.

a So far as the objects of the meeting were concerned, in the first place it seems - at least my understanding of it was, this being a disease that had broken out suddenly, and every person being interested in it - they came together to talk over the matter - to know what was the cause - if this Texas cattle being driven over this route was the cause - to talk over this matter, to get to understanding something about it if possible. This was the first meeting. Then this

committee that was spoken of first, was appointed to wait upon justices and let them know we were having meetings, and request them to attend. This was my understanding of it. The second meeting which took place, I think was the fourth of August Mr. Eaton and Col. Sullivan were present, then as far as the feeling of the meeting was concerned - it being boisterous and so on, why some of them were boisterous and some of them were feeling just so - just like they would at any meeting of that kind I think.

Q In the meetings, and in deliberations were there threats of personal violence Any resolutions offered - anything looking in that direction?

A There was nothing of my knowledge - nothing of that kind in the meeting.

Q Was there anything calculated to intimidate in the deliberations of the meeting?

603, a Why no sir,

✓ y Now you have referred to various conversations you have had with the dependants, - more particularly with Mr Eaton and Mr Sullivan - went, at those meetings, now I will ask you if the declarations on their part seem to have been made free and voluntarily, or whether they were coerced?

a At this meeting at the Raymond school house, which I think was the 4<sup>th</sup> of August, this matter was talked over in regard to the lopes of those cattle, the fact whether there was Texas cattle passing over these several routes would communicate disease - Professor Gaurge was present there and several other parties from Chicago, and they all talked about the probabilities of it. And they finally came to the conclusion - seemed to come to the conclusion, both Mr Eaton and Colonel Sullivan - that they did communicate

604.

diseases, from this fact that  
that their own cattle at home were  
dying from being exposed to these  
same ~~to~~ <sup>in</sup> Texas cattle. Then there  
was another meeting appointed  
at the Block School house on  
the next Saturday, which was  
the 8<sup>th</sup> of August, and those  
parties in as much as it  
seemed to be settled in the  
minds of the people to a certain  
extent they were requested to meet  
the citizens at the Block school  
house on the 8<sup>th</sup> of August. And  
state what they were willing to do  
in the matter and to request Mr  
Eaton if possible to have Mr  
Alexander present. On the 8<sup>th</sup>  
of August the meeting took place  
and those parties were present -  
that is Colonel Sullivan and Mr  
Eaton were present. And Mr Eaton  
made a statement - that he had been  
to see Mr Alexander, and Mr  
Alexander wished him to say to  
the people that he sympathized with  
them on account of their losses  
and that he was willing, had

authorized him to state that he was willing to pay his proportion of those losses, as soon as it could be ascertained. Leonard Sullivan made a statement of that kind too, that he was willing to pay his share of the losses, when it could be ascertained, but in as much as the cattle was still dying at this time, he thought the matter was premature.

Q From your observations of these various meetings, would it have been on any occasion hazardous for the defendants, or any of the defendants, to have been there and expressed their opinion freely.

A Express their feeling freely about not paying?

Q Yes sir.

A Well sir I am not shure about that - They felt first vote because they appeared ~~to be~~ willing to pay for those cattle, but I am under the impression that if they had said publicly, that they would not do so, I don't

Know about that, I am not so sure

Q Well so far as any thing did appear was there any danger or hazard?  
 A Well no sir: The people felt first rate, I myself accepted their proposition as well as many others, and felt glad in view of the fact that we considered their cattle had damaged us, and that they were willing to pay us for our losses, we all felt very well,

Q Now I will direct your attention to the meeting at Danville - I don't think I asked you as to any declaration by Mr Sidell there, or by Mr Estlin the defendants, or either of them that were there - Now state to his Honor what occurred - what was said to the parties?

A We went there supposing - It was understood that these gentlemen, (objected to)

Q What occurred - when you got to Danville what was said, what occurred?

607 a It was stated -

q Who stated it?

a Perhaps myself - I don't recollect about that - that we came down to arrange about this matter of a basis of settlement of our losses on the line of the road. Mr Sidell I think informed us that he had those Attorneys to act for him And that what ever arrangement they made it would be all right.

By Mr Schofield: -

That is Judge Davis and Terry -

a Yes sir.

q Go on if you please.

a Judge Davis asked us what conditions we would be pleased to settle on - we informed him that we came here with the understanding that they were to pay us for our cattle - and the only question we understood to be settled was as to the valuation of our stock. Judge Davis informed us that now they didn't think of settling upon that basis that they thought it was a great calamity that had happened.

And they wanted us to take the  
 hold or something like that -  
 Well we didn't feel like doing that  
 And after we had talked for  
 some time, Judge Davis intima-  
 ted that as there was - inasmuch  
 as perhaps we could not collect  
 anything legally, that there was  
 a doubt about it, and it would  
 be better for us to accept some-  
 thing in the way of compromise,  
 & accept a smaller amount.

So far as the committee was  
 concerned they didn't feel they had  
 any right to talk about that. And  
 Mr Sidell made this remark in  
 speaking of the law, that he had  
 gone into this thing with his eyes  
 open when he went to buy these  
 cattle - that he had a Judge's or  
 Attorneys, or a lawyer's opinion  
 in his pocket at the time.

g What did he say the opinion was,  
 a that the law we would have to  
 collect under was not  
 constitutional.

g If he stated in that conversation

when and where he had got that  
 a opinion, state what he said,  
 I only recollect this that he said that  
 previous to the time that he went  
 to purchase those cattle. - I only  
 recollect that.

Q Now if you have any answer to  
 make in response to any  
 question that I have asked you  
 that you have neglected or  
 inadvertently omitted to answer  
 at the time, state anything,  
 that occurs to your mind in  
 respect to any of the questions that  
 I have asked you.

a I have not.

Q If there is any thing we haven't asked  
 you please state.

a I don't recollect anything.

Q Have you stated fully all you  
 know about this.

a I have stated fully all I know  
 bearing on that subject

Adjourned to 1. P. M.

## Met pursuant to Adjournment

Proof Examination of the witness  
by Mr. Tretelin

Q Will you state whereabouts on the  
line of the road, you lived in  
Champaign? What is your  
section?

A I live on section 26,

Q What range?

A Town 18, range 10 east,

Q Where is the farm that you live on  
or did live on at that time?

A A portion of it was on section 26,  
and the balance of it was on 27,  
same town and range.

Q How long have you resided on that  
portion of the country?

A I have lived there on the farm for  
6 years last fall.

Q But in the immediate country?

A I lived in Champaign city, some  
six years before.

Q The first matter that I want to  
inquire into is this herding ground  
of Thompson's. It is marked  
here in the plot, I will ask you

611.

if you know the extent of that  
prairie east and west. I  
mean the open prairie, of  
course, east and west

a I know it exactly at the west  
and I know a portion of it in  
the east - not exactly how far  
it extends on the east end, I  
know the west portion very  
well, up to Lost Grove, which  
is probably near the center of it  
And my cattle was running upon  
the west end, and I know  
partially of the east part.

q What is the extent of or what was  
it I mean at that time in 1868?  
Now it isn't a matter of importa-  
nce, but at that time what was  
the extent of the unenclosed prairie  
from east to west?

a I can't describe it east of the  
Grove, I know what it was  
west of the Grove very well -  
west of the Grove it lay  
somewhat - it included - do  
you wish me to say the sections  
it included?

q I wanted to know more particularly  
the extent of it - the whole length

612, a LT extended west from the Grove about 2 miles and a half - that was east and west, that was the west part of the herding ground - north and south it extended - well - it averaged from three quarters of a mile to a mile and a quarter, I believe - I don't think that it was any where more than a mile - west -

q I will ask you how far it differs if any, from six miles east and west, the open prairie, or did differ at that time?

a I should think that that was about the extent of it

q Then its width is different as farms run in on it?

a Yes sir,

q Now this herding ground is called in common parlance, Thompson's herding ground, I will ask you if that is any more Thompson's herding ground than any body else's herding ground - that chooses to herd it?

a I am not aware sir that it is,

q The neighbors cattle run

613, a an that part of ground, or any other person who chooses to go there with his cattle - particularly any of the neighbors who chooses to go there - They have all the rights Mr Thompson has.

a Of course so far as I know,  
q Then in referring to the different routes of travel of these cattle, If I understand your testimony and I think I did, and I think you were very plain and distinct about it, there is one line of travel which I will call the south east line running from Golond down to the west side or end, I don't know whether the Broadlands farm is longer north and south or east and west, it is square I understand - Well I will call it then the west side, This line of travel that runs from Golond to the west side of the Broadlands farm is the one which was spoken of as the one over which the Alexander cattle traveled.

a I understood it to be so,

Q 14, Q (You understood that in the conversation with Mr Eaton?

A Yes sir,

Q In conversation with the different gentlemen at different times?

A Yes sir,

Q When the line from Tolono east running from the east side of this herding ground is the line of travel of Colonel Sullivan's cattle?

A Yes sir,

Q They traveled along this east and west road from Tolono, running east. And on the north side of this herding ground?

A Yes sir,

Q I'll ask you if that is the usual line of travel of Mr Sidell's also?

A I don't know about that - I should think it was - I should think it was,

Q You have been at Mr Sidell's house?

A I was there once,

Q That is east, Mr Sidell is in Vermillion and these others in Champaign?

A Yes sir,

615,

Q Is that he would be further east than Colonel Sullivant?

A Oh yes,

Q Then Colonel Sullivant would travel how many miles east before he would turn to his farm; on the ordinary line of travel how many miles would he go?

A From Golond?

Q Yes sir from Golond until he got to the place where he turns south? He is south east as I understand from Golond

A I would think that he would travel about fifteen miles, though I may be mistaken about that.

Q Let me ask you if that line of travel from Golond to Colonel Sullivant's farm where these so called Texas cattle were herding would be east of the herding ground before it turns south, or if he turns south before he reached the east end of the herding ground?

A I don't get your idea.

Q The idea is this: would he pass the east end of the

herding ground before he turns south, or would he turn south a little distance before he reached the east end of the herding ground? as I should suppose - I don't know any thing about it positively - I never traveled along the north side of that herding ground, I would - but never travelled along the north side of that herding ground. I judge he would turn a south east course across that herding ground - I don't know about that - I am not very well posted about that route, I only just suppose that - I might be incorrect,

Q You haven't a definite knowledge as far as to tell how far to the east the prairie would extend, beyond the point where he left the east and west road?

A W sir, I am not very well acquainted with that east end - I have traveled past but am not particularly

617,

acquainted with it,

Q What distance do you live from Mr Thompson's residence?

A I live on section 26, It would be three quarters of a mile south before I would come to that road you spoke of - I would think that it was five miles at least,

Q Are you acquainted with the manner in which these cattle in charge of Mr Thompson were headed? whether they were turned up in the morning and got up in the evening, or whether the eye of the header was on them and he with them during the day?

A Well sir I don't know, only his cattle some times came over to where - my cattle run west generally of the Grove and his generally east of the grove. Some times mine would go east a little, and his west and all I know is, I judge perhaps he didn't keep with them all the time, though I don't know,

Q You mean the Lost Grove?

618

a Yes sir,

q You saw them sometimes with your cattle?

a Yes sir, I saw them sometimes,

q I will ask now, in reference to the cattle Mr Thompson was herding, running west of his house, and up in this portion of the herding ground -

a That is north of his house?

q No, east and north - Have you ever known of their running there?

a I never saw them there,

q Never saw them at all?

a No sir, never saw them there,

q This east road - This road from Golow - passing east, would Colonel Sullivan's and Mr Sidell's and Mr Sanduskey's cattle all pass along that road, if they were driving the cattle in the several routes of travel towards their respective homes?

q I don't know where Mr Sanduskey lives, I know the point at which Mr Lenger stated that he turned off, if that's true then they would

not pass along the east part of the heading ground, if it is true they turned off, where I understood him to describe, they turned of as he stated fifty eight rods to where it was open.

Q Then he passed the west end of this Thompson's heading ground, but not passed the east end?

A There was a half mile that was right south of where I lived open, that if he traveled along that way he would pass.

Q In the conversation with these gentlemen, Mr Sidell Colonel Sullivant and Mr Eaton as I understood you, each are spoke of the respective line of travel, Mr Eaton of this east line running to the west side of the Broadlands' farm - The Alexander farm - and Colonel Sullivant, of this east road running east?

A They spoke of their responsibility as being connected.

Q And that those were the lines that their cattle traveled?

A That was it.

Q. And, also that some cattle were driven by Mr Eaton from Horner up there; driven south - was any thing said about that; a I don't now recollect that we ever talked anything about that, I have a faint recollection that Mr Eaton alluded to that once, but still it is not fixed in my mind.

Q I will ask you if you know if these gentlemen, or any two of them or all of them, possessing these cattle jointly, or whether they were owned by each respectively?

a That's the way - I have no knowledge different from that - each one -

Q Owned his own;

a Yes sir,

Q Drove them, or these different tracts or lots of travel, and place them on their own farms;

a Yes sir, I have no information different from that.

Q Now the conversation that they had, this that they speak of - as I understand you, and

Think I did not misunderstand you, to say they spoke of ascertaining the damage on the different lines of travel for the purpose of settling as to what such ones cattle had done;

a That is amongst themselves,

q Amongst them selves,

a Yes sir, that's the way I understood them to talk

q Now the conversation that was had with Mr Sullivant did you understand him to say that the Sanduskey cattle and the Johnson Pop cattle passing over a portion of this Colons east road;

a I don't recollect ever hearing them speak of the Ross cattle passing over that line.

q Well the Sanduskey cattle?

a I have heard some - perhaps Leonard Sullivant spoke of the Sanduskey cattle passing over that route.

q At one of the meetings at the Block school house, took a little time to reflect, if Colons

Sullivan did not insist that Mr Sandustrey and Mr Ross should be incorporated in the settlement that was made, and should bear their proportion; and I recollect very distinctly of Colonel Sullivan speaking to Mr Sandustrey,

Q At one of those meetings?

A Yes sir, and at other times too, I have no recollection of —

Q Of Mr Ross.

A Yes sir, I don't say it was not,

Q Now I understand you, you just don't recollect it,

A That's it sir,

Q Now speaking of those meetings I don't care about taking up time with the different ones, the first meeting as I understand it, was entirely proffered

You were getting together to determine about what you would do, — All the parties;

A Yes sir,

Q And that a portion of these gentlemen met you at the second

meeting?

a Yes sir,

q You spoke of some of them being pacific, and the people being very well pleased when there was a talk of paying for the cattle & others being boisterous?

a You perhaps misunderstood me - I didn't say that any of the meetings were boisterous.

They were all pacific - the question was asked me whether I thought there would be any danger.

q Yes. You said that some of the meetings were peaceable and the people were very well pleased, and with others that the feeling was not so good. My recollection is that you said "boisterous" but then the word amounts to nothing. I desire to call your attention to such of those meetings as indicated that there was no ill feeling amongst the people. Now which one of those meetings, for instance the one when you returned from Danville how was the feeling.

at that one!

a The feeling at that meeting was a disappointment, the people were very much disappointed the meeting that had been held previous to that at the Block school house Leonard Sullivan and Mr Eaton had agreed to settle as we thought all our losses - the losses of the people along that line, and the people felt very much mortified about it, and it was only a question of time as to how this thing - the amount of the losses was to be ascertained, and there was a great deal of talk on this subject, as to how we were going to go to get at it, and the importance of deliberating so as to do it as fairly as possible.

When we went to Danville we found that they were not agreeable at all to what we thought they had agreed to do,

and when we came back and spoke of it at the Lost Grove school house, there was

- appeared to be a very great feeling of disappointment, on the part of one of those parties

Q At one of the meetings at the Black school house where there was a committee appointed to wait upon this gentleman - was that at the Black school house, that was at the Black school house - we was appointed at the first meeting at the Black school house.

Q I mean the time they sent for Colonel Sullivan at two o'clock at night?

a That was at the Black school house.

Q That was that first meeting?

a Yes sir.

Q I will ask you then - if at some of those meetings - you attended - I believe all?

a I think I was there, I don't now recollect of any but what I was at. I think I was there.

Q I will ask you if you didn't yourself have occasion to counsel moderation and to

tell the people to be quiet - and that you didn't counsel any outbreak amongst the citizens in regard to this matter?

a Well sir, I don't know, that may have taken place, I don't recollect there being any harsh feeling, or any bad feeling - Still I don't know that it was not the case

9 You spoke in your direct examination of there not being in the Resolutions and things of that sort, violence manifested, I would ask you if on the out side there was not at times a good deal of bad feeling;

a I don't know that I ever was out side, I went there and went in, and as soon as business went away generally, I wasn't aware of any feeling to any great extent manifested there - some were excited in view of the fact that their cattle had all died, and some felt very easy over it

9 I'd ask you if at some of

Those meetings and particularly at the last meeting, one of the committee didn't state in substance - I am not using the language - that as this thing had failed you would turn to, and take the law in your own hands?

a There was nothing of that kind that I know of.

q Colonel Sullivan didn't make the remark?

a No sir there was nothing of that kind that I recollect of.

q Do you recollect saying of yourself that you counseled moderation, but if these gentlemen didn't settle - didn't pay for these cattle - that you wouldn't be responsible for what might be done.

a Well sir, I don't recollect saying that.

q Well didn't you feel that some - times and express it?

a I don't recollect of expressing it.

Q Now how near did you come to expressing a sentiment of that sort?

A Well sir, I don't recollect of expressing it.

Q Was there not really danger in the event of refusal, (was there not really danger of violence, wasn't that manifest?)

(Objected to, as he should be called on to say what was said and done.)

Q Now state if there wasn't declarations that if this thing was not settled; that the people would settle it themselves in their own way?

A Well sir, I am not aware - I can't state definitely that such threats were made, or that such expressions were made.

Q Can you state that they were not made?

A I can not.

Q What is your best recollection?

A I don't recollect that they were made I can't state they were.

not made, of course I don't know what took place over that meeting but in my hearing I can't state now that they were made -

Q Will you state, as near as you can remember what terms were proposed and agreed upon?

Rather settled upon by the parties interested - what they fixed upon as the terms they would settle upon

a (You mean at that meeting?)

Q Yes sir at any of those meetings.

a Well sir, on the 5<sup>th</sup> day of August at a meeting at the Black school house which was appointed to meet those parties when Mr. Eaton and Colonel Sullivan were both present, they agreed that as soon as the amount of the damage could be ascertained they were ready and willing to pay the losses along their respective routes, and the only difference of opinion and the only cause of waiting was

because the cattle were not all  
 dead at this time but were six,  
 and we hadn't agreed on any  
 manner of ascertaining the  
 actual loss - where the question  
 arose - It was suggested by  
 Mr Eaton - the importance of  
 having this thing fixed in such  
 a manner that when it was  
 settled it would be a finality -  
 He remarked that on several  
 occasions at that meeting - He  
 suggested the propriety of the  
 Governor appointing a Commission  
 - and the Judge of the Circuit court  
 while the people were in favor  
 of appointing a commission -  
 us to choose - that is the losers  
 to choose a man - and the  
 parties that we considered to have  
 been the cause of our losses  
 and they to choose a man  
 then the two a third which  
 didn't seem - They thought that  
 in as much as there was no -  
 as we was going into this matter  
 it might not be a

finality, and that was the reason  
it was not settled up - we  
supposed that was the reason  
at that time.

9 Was there at any time at any of  
those meetings, any terms agreed  
upon that these gentlemen must  
come up to this time, or this  
thing could not be settled, and  
if they did come up to this time  
it could be settled?

a I never heard a sentiment of  
this kind, I will just say here  
the thing occurs to me that at that  
time when Colonel Sullivan  
and Mr. Eaton made this  
proposition - I together  
with several others arose and  
accepted that proposition of theirs  
without reference to whether  
this commission would be  
appointed by the Governor, and  
the Circuit Court Judge or the  
Commission we spoke -  
I proposed to accept it and did  
accept it.

Let either way be pursued  
thereafter - and several others

- agreed to the same thing,
- Q Was that done by the meeting, as a meeting, or was it done by the other gentlemen who thought that was a good way of doing it?
- A I understood it to be done by the meeting,
- Q Any resolution, or any thing of that kind?
- A I believe there was - but I am not positive, I haven't got the minutes of the meeting,
- Q Which meeting was it?
- A This was at the second meeting held on the 8<sup>th</sup> of August at the block school house,
- Q It was at the Raymond school house as I understood, that these gentlemen, were required to appear, or invited, or what ever you call it to appear?
- A Yes sir,
- Q Was that at the first meeting at the Raymond school house?
- A It's the first I know any thing I know any thing about,
- Q It was the second meeting that was held was it - or was it -

later than that?

a That this arrangement was made?

q No ~~is~~ no that these gentlemen were sent for?

a Well, this committee was appointed, as I know of - at the first meeting at the Black school house and requested to appear at the meeting at the Raymond school house, which took place either the Monday or Tuesday after.

q What day of the week was the 8<sup>th</sup> an?

a If I am correct it was an Saturday

q On Saturday?

a Yes sir, and if I am correct the first meeting that was held at the Black school house was on Saturday, & then the next <sup>evening</sup> meeting was on either Monday, or Tuesday evening. If it was Monday evening it was Aug 8<sup>th</sup> and if it was Tuesday evening it was the 4<sup>th</sup> that is my recollection, and then

The Saturday following was the 8<sup>th</sup>, and then they met at the Block school house.

Q Were you of the committee, that went to Colonel Sullivan's that Sunday night?

A I was not sir.

Q Not of that committee?

A No sir, they had to go to early for me.

Q Then I will ask you a question that I believe you in part answered, I will get you to make the answer more complete (You left the impression on my mind in the direct examination that if these gentlemen at one of these meetings had refused to do anything, for instance supposing they had said they were not liable in law, that the claim was an unfounded one, that they would make no satisfactory compensation - I will ask you now if it would have been safe to have made a declaration of that sort - Would it.

have been safe for them & have got up and said they would do nothing about that, that the claim was an unfounded one, And they had lost, and the rest of the neighbours had lost, and they would do nothing in regard to the matter;

a Well sir, that's only a matter of opinion of my own view of the fact, that the people all considered these gentlemen had brought the cattle there, and been the cause of their losses, and then expressed a willingness to settle all the way through, It seems to me that if they had positively refused & I fear that these would have been -

q danger;

a Yes sir, I don't know tho;

q I will ask you in regard to the appointment of a Committee to Sarville; I think I understood you before that Mr Sidell had no part in that, that was Colonel Sullivan and,

636,

Mr Eaton were present at that meeting, where you and others were appointed as a Committee to Danville

a Yes sir, I supposed Mr Stogden was present - but I am not positive about that.

q Mr Sidell certainly was not;

a No sir,

q Mr Eaton suggested to me that he was not present at that meeting; what is your recollection? When and where was that meeting held that appointed the committee to Danville?

a It was held on the 8<sup>th</sup> of August as I understand it, I understand Mr Eaton was present.

q At what school-house?

a At the Block's school house - I think I am not mistaken about that.

q Mr Eaton says - It may refresh your recollection - that he knew of no appointment of a committee and the first he heard was at his own house - There was so many of these meetings that he or you may be mistaken

637. a I think the minutes of that meeting -  
I have the minutes of that meeting  
with me in full, and I was  
looking them over before I came  
up to refresh my memory, and  
it states that that was the  
meeting at which this Committee  
was appointed -

q Well, is just a fact whether he  
was there according to the best  
of your recollection?

a That's my recollection that he was  
there.

q Is your recollection any way  
positive about Mr Stogden being  
present at that meeting?

a No sir, it is not, but I think he  
was there.

q At the meeting at the Raymond  
school house when Professor  
Gaugel was there, did you hear  
speeches of the different persons -  
Professor Gaugel, Mr Raymond  
and Mr Williker?

a Yes sir.

q What was the character of them -  
were they pacific or other-wise?

a When Professor Gaugel was

There, he was introduced to us as a  
 great veterinary surgeon from  
 London, and he was immediately  
 called upon to address the meeting,  
 in the hope that he might perhaps  
 give us some light on the nature  
 of this disease, - that's what we  
 all wanted to know something  
 about, and he commenced making  
 a speech, and attacking the laws  
 of Illinois, for prohibiting Texas  
 cattle. And the people were a little  
 angry about it - got a little mad  
 just then - I never saw - I  
 will say this in regard to the  
 exhibitions of illtemper - I  
 never saw at any of them, as  
 much of an exhibition as  
 there was there towards the Professor.  
 Mr Millerken made a speech  
 there, and Mr Raymond - Did you  
 take a part there towards cursing  
 down the Professor?  
 Well, there was some little  
 said there - I ain't much of  
 a speaker myself.

Q I will ask you the further question, it was partly corrected in the examination in chief in speaking of those cattle, you sometimes used the word "they" in reference to two of the postees and probably sometimes in reference to more of them - I will ask you if these gentlemen - didn't each of them man speak of his own cattle, and his own line of route that the cattle had been driven upon,

A In any thing that they said - in any propositions to settle it was always in regard to the damages that their own native cattle may have done,

Q Now in reference to this Danville meeting - I understand you this matter was introduced you got into Judge Davis's room and Judge Davis and Judge Gerry represented Mr Sidell - and you were informed at once that they represented him - that he had employed them?

A Yes sir, he said that - she

away & understood at that time was, these attorneys were representing all these parties -

Q But what was said? Mr Sidell told you that he was employing them to represent him?

A Yes sir,

Q And as to any other understanding if you got it from any one or either of the other defendants state it, And if you did not -

A I don't know they ever told me these were their Attorneys, And I couldn't state positively that they didn't, It was my understanding at the time these attorneys were acting -

Q We don't want that, unless you understood it from one of them

A Well sir, I did not sir, I did not,

Q Was there any understanding among you - committee men -

Did it enter into the consideration of appearing - at the meeting at Danville, that such party could employ attorneys on the ground to settle.

Q My mind is not clear upon that

subject, but I would say there was nothing of the kind thought of - for this reason that in every instance where we talked that I remember of - that is - when these justices were present at any meeting, they always expressed a desire to have this matter settled up without litigation, and so did we. We never thought <sup>about</sup> of having any litigation about it, and I don't think there was any intention of the kind.

9 Then as I understand you - let me see if I get your idea right - In your direct examination after you appear in Judge Davis's room, you stated what you thought you had gone there for, stated your claims, and Mr Sidell said pretty early in the meeting that these gentlemen, Judges Gerry and Davis were representing him - and after you had told him what you wanted, that each man wanted to be paid for his cattle, I understand in the order of your evidence

Judge Davis talked something about a compromise - taking less than the full value:

a Yes sir,

q And when that failed - when you declined to accept anything of that sort you committee men declined to accept any compromise?

a It was just this way - in the first place we was surprised to meet to those Attorneys in the case, but in the second place we did not consider we had any authority to negotiate about anything less than what we understood the parties themselves, Colonel Sullivan and Mr Eaton agreed to pay us - namely the price of the cattle. Our going there was simply to agree on the basis for the settlement of the value of this stock and when Judge Davis represented himself as their attorney and talked about settling on the basis of and holding anything like that of course we didn't consider we had any authority to speak of that.

Q Then you declined?

A Yes sir,

Q As a committee you declined to enter into any negotiations about anything else than the real value?

A He wasn't negotiating as to the value at all - It was more or less a matter arranged as to how we would get at the value, whether the Governor, Circuit Judge, or we ourselves appoint a commission to estimate the value of the stocks.

Q When you did get at the mode of ascertaining the value, then as I understand you, you were to have the full value, and you didn't feel at liberty to negotiate for anything less than the real value?

A Yes sir,

Q Thereupon these gentlemen expressed the opinion, that the law was unconstitutional, and you soon after withdrew?

A I don't know that the Judge did express the opinion that the law was unconstitutional, but suggested the idea that if this law

644.

was unconstitutional perhaps  
we couldn't collect anything if  
we would resort to law, and it  
would be better if we would  
accept anything

Q And you soon released?

A Yes sir, we left - got out of the  
way.

Q Was there any proposition on the  
part of anybody at Danville to  
arbitrate the matter?

A There was no proposition of that  
kind that I know of -

Q Your Committee made no such  
proposition, or did they? What is  
your best recollection about that?

A Well, I think we did propose to  
arbitrate - I didn't think of that  
before.

Q Well state your best recollection  
about that?

A Well my best recollection about  
that is, that we did propose to  
arbitrate.

Q Had you power to make that offer?

A I don't understand that we had - I  
suppose that we merely wished to  
press that matter, or get them to say  
that they were willing to

arbitrate and then we would have made it known to the meeting I s'pose that was the way,

Q Do you recollect, that at one of those meetings probable at the professor's meeting, or some other time of Mr Eaton saying that if there was any show of violence that would end all settlement on his part,

A Yes sir, I remember of Mr Eaton making the remark, and I think it was at the Block school house where they made the proposition to settle - That's my understanding of the matter - that after it was over - after this was proposition had been made, he wished it understood that if there any acts of violence they would feel them selves relieved of this, I think I recollect of this,

Q In regard to Texas cattle, you have known them, for how many years in your place?

A I didn't know of them before 1866, they may have been, but I didn't know about them, in November of 1866, I got about a hundred

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and they died, but communicated no disease. They were in very bad condition when I got them.

Q You have never known any contagion either before or since the year 1868; a I was not acquainted with it before 1866. There was none that year that I know of

Q Or 1867?

a 1867, I didn't know of any Texas cattle, 1868, I didn't know of any cases where they died from that disease. There was none in our neighborhood that I ever heard of.

Q There were Texas cattle on these farms?

a There was on Mr Alexander's farm Texas cattle as I have understood - I believe I saw them -

Q In 1868?

a Yes sir,

Re direct Examination  
By Mr Smith

Q Do you know who was the owner of these lands outlying there covered by this range?

647,

a I know a portion of them commencing at the west end - 80 acres which lay next to me, which is in 20, I don't know near all, I know the Railroad Company owns some and various persons, commencing at the west end, the 80 acres next to me in section 3.5,

9 You needn't be particular in describing - Just describe the several bodies, and the owners of the several bodies

a At that time John Easley, a man named Green, that lived in Champaign - the Illinois Central R.R. Company, and Mr Marks of Indiana,

By Mr Schofield

9 Didn't Mr Sullivant and Mr Alexander have some too?

a Colonel Sullivant and Mr Eaton to my knowledge didn't own any west of the Grove, East of the Grove I didn't know any thing about it

By Mr Schofield

East of the Grove you claimed you didn't know who owned it?

Q No sir I don't know,

The Plaintiff rests,

And I think from the defendant to maintain the issue on the part called

I W. Keite a witness for the defendant, having been duly sworn was examined in chief by Mr Schofield and testified as follows:

Q Where do you reside?

A I reside in Edgar county,

Q Are you a son of Dr William H Keite?

A Yes sir

Q State to the Court, if you please, what business you are engaged in and what you have been since you have been big enough to engage in anything?

A Farming,

Q What part of Edgar county have you been engaged in farming?

A The north portion of the county,

Q In the year 1865, if you and your father had any cattle and were engaged in herding any cattle, state what season of the year you got the cattle, and where you got them from, and where you took

649,

them to,

a In the spring of 1868, we bought a hundred head of cattle in the north western portion of the state of Missouri,

q What kind of cattle?

a Native cattle raised in Mo.

q Where did ship them to?

a To Quincy - we shipped them to Quincy, and then shipped them to Golond on the cars from there.

q From Golond what did you do?

a Drove them through to a Mulberry Grove in Edgar County,

q What day did you unload those cattle at Golond?

a The 20<sup>th</sup> of June,

q 1868?

a 1868, yes sir,

q At the time you unloaded them at Golond, were there any Texas cattle in the vicinity of Golond? to your knowledge?

a Yes sir,

q Did you see them?

a I have seen them -

q What number did you see there?

q There must have been between 200 & 300.

650. Q How near did you go to those cattle with your cattle?

A We were within half a quarter -

Q From Tolow what point did you go to first?

A To Bouse's Grove.

Q From there?

A We drove round - we drove to there and took a north east course - until we struck the trail that went to Mr Alexander's pasture. And then we drove on his pastures and through the pastures we went out home in a south east course.

Q How long were you in Mr Alexander's pastures?

A I suppose we were an hour any way.

Q Did you see any Texas cattle there?

A We did sir.

Q State if your cattle came in the range of the cattle on Mr Alexander's farm the Texas cattle?

A When we drove into the pasture on Mr Alexander's farm, I believe the cattle were laying at a pond - I went ahead of the cattle, and drove them away from the pond, and let my cattle come up and drink.

- and they laid down and I suppose we staid there half an hour,
- Q Right where the Texas cattell had been?
- A Yes sir, and then we drove and went to Sill's brook that night - and staid there - and next day went home,
- Q Along the line of road you pursued did you come across any cattell dead or dying?
- A Yes sir,
- Q What kind of cattell?
- A Texas cattell, or what they called Texas cattell.
- Q The kind commonly called Texas cattell in the country at that time?
- A Yes sir,
- Q How many of them do you recollect of seeing?
- A As much as a dozen any way.
- Q How close did your cattell pass to them?
- A They went right around them.
- Q After you got your cattell home, what was their condition of health and what did it remain?

65-2 a It remained as good as we could expect

q Did you lose any?

a Not a steer,

q Did you have any sickness?

a No sir,

q None at all?

a No sir,

q How long did you keep them?

a We began to feed in September and kept them through the winter until along about in January, I think we sold them.

q January following the June when you went down there?

a Yes sir,

q At Golond how long did you remain?

a We unloaded there and I suppose the cattle were in the pens some fifteen or twenty minutes there, and through a mistake they turned them out and the cars coming out, they took a stampede, and they ran round there some time, half an hour, and I reckon after I got them quiet I went back to Golond, and I suppose they went round there

- an hour, right away those cattle scattered over the country.
- Q The other Texas cattle, where were they at the time?
- A On the north side of the Railroad and we were on the south side.
- Q What cattle pens did you put your cattle in when you unshipped them?
- A The Golond and Western road pens.
- Q After you left Bouse's Grove, you speak about taking a direction south east, and then striking it at the trail of Mr Alexander's pasture?
- A Yes sir.
- Q Do you recollect striking the trail of - to the Alexander farm?
- A Yes sir.
- Q These cattle that you found lying along the road, west where?
- A There was some between Golond, and Bouse's Grove, and the others between Bouse's Grove and the Alexander pastures.
- Q You have never had any experience in handling Texas cattle yourself?

654. a None at all sir,

q The cattle you have handled have always been native cattle?

a Yes sir,

q Do you know who those Texas cattle at Yolow, which you spoke of there - belonged to?

a Mr Judah told me they belonged -

q Where was Mr Judah at?

(Objected to)

a At Yolow,

q What was Mr Judah doing at the time you had the conversation with him?

a He was there at the stock pens looking at our cattle,

q Do you know of Mr Judah of your own knowledge handling native cattle?

a He told me at the time he had -

(Objected to)

Crop Examination,

By Mr Smith

q Whereabouts in Missouri did you buy these cattle?

a The north west of Missouri Geny, North, Ottawa counties.

q Were you there to gather them

655,

up?

a Yes sir

q They were native cattle?

a Yes sir,

q You shipped to Golond, when?

a They got there on the 20<sup>th</sup>

q You shipped them to the Golond and Mabash yard;

a Yes sir on the 19<sup>th</sup>

q Put them up in the Golond and Mabash yard;

a Yes sir in Golond on the 20<sup>th</sup> of June

q How long did they remain in the yards?

a Some 15 or 20 minutes,

q And let out by mistake and stampeded?

a Yes sir,

q Which way did they go?

a They scattered over the prairie there.

q I will ask you if they didn't scatter out to the south east, if that wasn't the direction they took - off towards Bouse's brook?

a Yes sir,

q You had to get your horse and

follow them

a No sir my horse was there,  
 q Do you know whether any  
 Texas cattle had been in those  
 pens?

a Not that I know of,  
 You don't know any thing about  
 it?

a No sir,

q Don't you know it is true that  
 all the Texas cattle brought there  
 was unloaded in the central  
 pens?

a I know nothing about it.

q How far was these Texas cattle  
 steers from there when you saw  
 them?

a About a quarter of a mile,

q You don't know that your cattle  
 passed over any trail of Texas  
 cattle do you?

a Yes sir,

q How do you know?

a Because I saw the cattle lying there.

q Do you know how they came there?

a I suppose they had been dropped out of the crowd,

q I am asking you what you know,

a They had been left out of the

drove,

Q How did you know?

A The trail was there and looked like a good many hundred cattle had passed over.

Q Do you know any thing about it?

A Only what I heard.

By Mr Schofield,

Q You didn't suppose the cattle flew there?

A No sir.

And Thompson

Charles S Eaton one of the defendants, having been duly sworn, was examined <sup>as defendant</sup> in chief by Mr Schofield and testified as follows:

Q You are one of the defendants in this case I believe?

A Yes sir.

Q You have stated this morning I believe that you was in charge of the farm known as the Broadlads farm belonging to John & Alexander

A Yes sir.

Q Tell the Court if you have any interest in the cattle shipped or driven from Tolous & Colonel

Sullivan's farm in 1868, commonly called Texas cattle;

a I had no interest myself whatever in any of them,

q Had Mr Alexander?

a He had an interest in some of them at the time they were driven,

q You had none yourself at all?

a None at all - no,

q Had you any interest in the cattle driven there by Mr Sidell?

a Not any,

q Had Mr Alexander?

a None at all,

q None whatever,

a None,

q What was the extent of the interest Mr Alexander had in the cattle driven through by Mr Sullivan?

a None whatever sir,

q I understood you to say Mr Alexander had an interest in Colonel Sullivan's cattle;

a No, not in Colonel Sullivan's;

q I asked you if he had any interest in the cattle driven by Colonel Sullivan & his farm?

a Oh, no sir, I misunderstood you

question

Q You say then that Mr Alexander had no interest in Leol. Sullivan's cattle & no interest in the Sidell cattle?

A No sir, none at all.

Q Had either of these gentlemen any interest in the cattle on that place or driven on the Alexander farm?

A None whatever.

Q Tell the court if there was any connection between these parties in driving the cattle?

A No sir, no, none whatever that I know of.

Q Did you assist, or did Leol. Alexander assist either of these parties in driving the cattle through?

A No sir not any at all, except - there was no assistance I was with Leol. Sullivan's cattle accidentally, merely for a short distance on the road. I had nothing to do with them.

Q You had nothing to do with driving and no control over them?

A No sir.

Q At the time you commenced shipping

660.

cattle - tell the Court when was the first cattle brought on the Broadlands farm, commonly called Texas cattle.

a In 1868.

q Was the first cattle after you was there?

a I think it was in the spring of 1867.

q In 1867?

a Yes sir.

q What number were brought there in 1867?

a About 500.

q What time of the year were they brought?

a They arrived on the 4<sup>th</sup> of May

q 4<sup>th</sup> of May 1867?

a Yes sir.

q How long did they remain there?

a They remained there the most of the time until late in the fall - the following fall & winter - late in the fall.

q What became of them then?

a They were shipped to New York or Chicago, or to both places perhaps - shipped off the farm.

q Please state to the Court if any

diseases followed these cattle in 1863?

a No sir, none whatever that I am aware of; we had no more disease on the place that year than is usual; we had only our usual percentage of deaths.

q Had any of this disease subsequently known there as Spanish fever, or Texas fever, in 1863?

a No sir.

q None at all?

a No sir.

q In 1868 tell the Court in what degree you were instrumental in bringing that class of cattle known as Texas cattle, on that farm?

a In the year 1868 I purchased at Solon a number of Texas cattle or so called Texas cattle that were unloaded there by Mr Hastings & a portion of them were driven to the farm under my directions - by men under my directions. A portion of them were purchased to be delivered on the farm.

q What portion of them were purchased to be delivered on the farm?

662. a There was about 1500 head - between 1400 & 1500 head.

q Who were they to be delivered by?

a By the party of whom I purchased them.

q You purchased them and they were to be counted and delivered at the farm?

a Yes sir.

q At the time you purchased the Texas cattle state to the Court if you had knowledge that they would communicate disease to the Texas cattle?

a None whatever - not the least suspicion.

q You didn't suspect such a thing?

a No sir.

q At the time you brought these cattle on the farm how many native cattle had you there?

a At the time the Texas cattle began to arrive there, I can't exactly remember the number, but I think we had as many as 1500. Although we shipped away about one-half about the time the Texas cattle were arriving, we shipped the native cattle

- away & make room & pastures for the Texas cattle.
- Q Subsequently & that time did you bring while the Texas cattle were there, or during the season, any more native cattle?
- A We brought in the course of the spring, I think some - I am certain some came during the time the Texas cattle were coming & going - several lots of native cattle.
- Q What number in all?
- A I should think about 400 or 500. I think we had about 500 native cattle left on the farm when the disease made its appearance. That was a number we brought there during the spring that were not taken away previous.
- Q How did you keep your Texas & native cattle? did you permit them to have contact with each other before you knew about the disease.
- A They were mixed promiscuously through the pastures. There was no attempt made to keep them separate.
- Q Where was Mr John & Alexander

reside?

a Morgan County,

q Was he on the farm during the season of the importations of these cattle?

a He was there once, I think, during the season, about the time we were receiving the cattle. I don't think he was there at any time while there was a lot come on the farm; he was once only, I think.

q At what season did the cattle come on the farm from Harmer?

a June & July,

q Do you recollect about the dates?

a I think one lot came about the 25<sup>th</sup> of June and the other about the 1<sup>st</sup> of July.

q What number of cattle was there in each lot?

a There was about in the neighborhood of 500 in each lot, - 400 & odd.

q You stated this morning that you were not present & didn't know the exact route they traveled from?

a No sir I didn't see them brought.

on the farm; I wasn't at home when one was received & the other lot I was on the way out from Homer, but didn't see them go on the farm.

Q After these cattle commenced dying tell the Court if you were notified by these persons who have testified here, or any of them, to attend meetings at the school-house?

A Yes sir I was notified, & I think in rather a presumptory manner.

Q Do you recollect who the notice was conveyed by?

A The notice came to me from a committee, a party of gentlemen representing them selves as a committee appointed to a meeting of citizens; I don't know but Mr Insley acted more as spokesman of the committee than any other gentleman, I think he had more to say, perhaps than any other.

Q Did you attend the meeting?

A Yes sir.

Q Where was it held?

A At the Baynond school house.

- Tell what occurred at that meeting - what was said by persons there and by yourself, as near as you can recollect it, giving the language of the persons, & your own language as near as you can recollect it, & when you can't recollect the precise words give the substance.
- Where do you want me to begin at: the meeting or before I went there?
- If there was anything that occurred before you went - the peremptory manner - what were the words used, if you recollect?
- When this committee invited me as they called it - an invitation to attend the meeting, I considered it rather a demand to attend and I felt a little as though I wouldn't go, from the fact that it was rather a peremptory demand for me to go, and I so stated to them, that I didn't feel like being taken there in duress, as it were - & Mr Insley - I didn't know of any of the

other gentlemen stating so to me, but I recollect very distinctly of Mr Insley advising me for my own good to go, & he thought I had better hide my feelings, and sacrifice my feelings some. That he thought it would be better for me to come, that there was such a state of feeling existing that it would be unsafe for me not to go. And I was advised afterwards by other friends who were talking about the matter to go, & sacrifice my business and every thing else to go, and attend that meeting, that meeting occurred about the time - I went to ~~Home~~ in the morning of the day the meeting occurred, & attend to some business & was coming home very hastily to dinner, to attend the meetings in the afternoon, when I met a carriage containing Prof. Gamage & two or three other gentlemen, who had been out to my place to see me & make some investigations about this

cattle disease, so they said. I invited them to turn around and come back to the house; they were coming along towards Homer, looking for me, and they went back with me to the house. We got a hasty dinner, and I told them I would have to attend this meeting, apologizing with them for having to go away, but at the same time inviting them to go with me, as the best way I could entertain them. They finally consented to do it - I go along to the meeting, and they went with me to the meeting. And when we got there myself or some body else - I think the meeting was organized. Perhaps, when we went in, and myself or some other person perhaps mentioned to the Chairman that Prof. Garje was there, who had been sent out by some Commission in Chicago to investigate the disease, and perhaps the meeting would like to hear from him. Whereupon the Chairman called

upon Prof Gamage to make a statement. He got up to make a statement, & he seemed to have made some remarks not very agreeable to the meeting, & caused considerable excitement, and after he got through there were a good many, what I thought very inflammatory speeches made.

Q Can you recollect what was said?

A I think I recollect very distinctly that Mr Raymond in making the first speech that was made after Prof. Gamage - there was a speech made by Mr Milliken and he spoke so rapidly -

Q Was this plaintiff there - Mr Gazel - at that meeting?

A I can't say he was there, I think Mr Milliken made the first speech in reply, or after Mr Gamage had spoken; if I am not mistaken he made the next speech, and spoke so vehemently & so rapidly that it was difficult for anybody to remember but it was a very inflammatory speech, one calculated

to excite the people very much. I thought, Afterwards Mr Raymond made a speech, & I recollect very distinctly in his speech -  
 9 Tell what he said.

a Mr Raymond made a speech & amongst other things I recollect very distinctly that he said, that he was a man of peace & that he would counsel the people to be peaceable & quiet and commit no depredations - something to that effect; but turning around and looking towards Genl. Sullivant & myself, he said "but I would advise these gentlemen to do something about settling with these people, and do it rapidly, or do it quickly; if they don't I wouldn't like to be responsible for the consequences." That is what he said; I am confident of that. I took very particular attention  
 ✓ 9 Did you hear any other remarks that you can recollect with sufficient accuracy to state them, made at that meeting?

671.

a I don't know that I can - any remarks made by individuals. I remember very distinctly of hearing all kinds of language used by a number of persons there, but there were so many of them talking -

q Now state to the Court what you said with regard to your idea of this disease having been communicated by these cattle, or any cattle, or what you said about it at that time.

Objected to.

Objection overruled.

Exception by Plaintiff.

a I was called upon to make a statement at that meeting, & I must confess that I was talking a little to quiet the people.

From the state of my own feeling when I went there I felt really apprehensive of trouble, & I was guarded in what I did say, to say nothing calculated to irritate the people, but to quiet them.

q State if you talked perfectly free as you would if you had been

672,

under no apprehension;  
a I don't think I did by any  
means,

9 State what you said & the best  
of your recollection,  
a That I looked upon this as a  
great calamity; that it was a  
great mystery; we were all in  
doubt as to what the trouble was,  
And I stated, I think that the  
preponderance of evidence  
seemed to be against the Texas  
cattle, as we had it then; the  
thing was new, also I think I  
stated that I thought that their  
movements in this matter were  
premature; they were pressing  
us then very hard to pay us at once  
for their cattle; they even went so  
far as to make propositions, or  
make this demand of us that Col,  
Sullivan, Mr Alexander & Mr  
Sidell should at once pay for all  
the cattle that come into the country  
as fast as they died, no matter  
where they died - I mean should  
pay for all the cattle that

did die in the country, without  
 regard to where they died at all,  
 that the matter of whose cattle  
 killed theirs should be adjusted  
 hereafter; they wanted pay for  
 their cattle, and wanted it  
 at once; that was the drift of  
 their demand, and I said to  
 them - I may have said to them -  
 I think I did - that the preponderance  
 of evidence seemed to be against  
 the Texas cattle as causing this  
 disease, from the fact that I  
 knew they were dying in our own  
 pastures & in other places; and  
 I told them at the same time  
 I thought Mr Alexander would  
 be willing to do whatever was right  
 in the matter, that he was always  
 willing & ready to pay any legal  
 liabilities, or any he was bound  
 for.

9 If at time you made any statement  
 acknowledging any certain  
 liability, you may state it, &  
 if you didn't you may state  
 it. And if you did state what  
 you stated, & if

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not state the facts,

Objected to,

Objection overruled,

Exception by Plaintiff,

a In speaking at that time I was always very careful to preface my remarks with the statement that I didn't consider that Col. Alexander was legally bound in any way for any damage in the matter, and in any remarks on that subject I was always very particular to preface my remarks with that statement, but at the same time expressed the willingness, as far as I was concerned, & the opinion that Col. Alexander would be willing to settle this matter amicably & for the sake of peace in the neighborhood.

9 Had you any authority from Col. Alexander to make any admissions in regard to that matter?

a No sir I can't say that I had,

9 You had had no communication with him at that time?

675 a At that time I had had no com-  
munications with him at all  
on the subject.

q Do you recollect now sir, the time  
referred to by witnesses when  
Col. Sullivant & the Committee  
composed of Mr Porterfield & several  
other gentlemen - I am not certain  
if Mr Porterfield was with them  
- the committee came from Col.  
Sullivants house, & Mr Sidell  
also came to your place - I think  
Mr Porterfield wasn't along - do  
you recollect the time?

a Yes sir I think so.

q State to the Court what occurred  
at that time - what you recol-  
lect about it - who came when  
they came - what conversation  
occurred between you & these  
gentlemen?

a I stated before the conversation  
we had at that meeting, that  
that was a committee that  
came to invite us to the  
Raymond school house in their  
polite manner, & the conversation  
that we had at that.

Trine,

Q That is the conversation you heretofore repeated?

A Yes sir,

Q Do you recollect of being notified & attend a meeting of the committee - a meeting & he had between the committee & your self, Col. Sulloant & Mr Sidell at Danville?

A Yes sir my recollection about that matter is that the first I heard about that meeting & he held at Danville come & me incidentally from somebody that had nothing whatever to do with the meeting, I don't think I was at any meeting, or any place where there was any arrangement made to meet at Danville - I haven't any recollection,

My recollection is that the first I knew of being called to meet at Danville, that I feel as though it was - that the arrangement had been made without consulting me, that I was called upon & go without

being consulted at all, & it was very inconvenient for me to go. Although, when I learned the reason why Mr Sidell couldn't leave I consented to go, of course.

9 Do you recollect what occurred at that meeting at Danville?

a Yes sir

9 State when it was, and when, & what transpired, as near as you can recollect,

a It was some time in August, that the meeting was held there. Leol. Sullivan & I went up in the carriage across the country and these other gentlemen came there in the morning; we met Mr Sidell there; he suggested that we should meet - he went off himself in the morning to find a place to hold the meeting; he proposed to have a meeting at the hotel in the first place, but there didn't seem to be any convenient rooms, and he then suggested that there was a larger room in the rear of Judge Davis's office that

678.

he offered, and that we might go over & meet there. We went over there and had the meeting there. Judge Davis & Judge Berry were present.

Q State what was said and who said it, at that meeting - state first the persons that you recollect were present, on both sides;

A Mr Postersfield, Mr Raymond, Mr Insley, Mr Hazel; I believe that was all - all the members of the committee - all I remember just now.

Q Dr Conkey was there, wasn't he?

A Yes.

Q Who else?

A Mr Sullivan, Mr Sidell, & myself; Judge Berry & Judge Davis were present at the meeting also.

Q Tell us what was said now by the respective parties.

A There was so much said that it was pretty difficult to remember it all, or a very considerable portion of it.

Q Tell what you recollect with reference to the matter of the disease, of these cattle, the

adjustment of the difficulty with those who had lost, and those who owned the cattle state what you recollect about it;

2 My recollection is that the first statement that was made in the meeting was made by Mr Postersfield, who was called upon by other members, or some of the other members of that committee & make a statement, as to the object of the meeting, and he made a statement as to the object of the meeting, and that seemed true & I remember, as being new & true a good deal.

3 State what he said the object was, & my recollection of it was that he stated that the object of the meeting was to adjust some mode of arriving at the value of these cattle; he seemed to assume in his statements that we had agreed to pay him for the cattle, and the only question to be settled was as to the mode of getting at the value of them. That seemed to be new & true

680, 9 Tell the court whether in point of fact it was new - had you ever agreed?

a Certainly not, I never had agreed to pay for them at all.

9 Go on and state what else was said,  
a That proposition led to some remarks from myself, as to that being new & true, and that of course brought forth remarks from them; we just went through a general conversation on the subject, and in the course of the conversation, I think perhaps that Mr Sidell may have made the remark that Judge Davis represented him, or perhaps both the gentlemen, or that they would speak for him, or something to that effect, and the matter was discussed pretty generally, the members of the Committee I thought got a good deal excited - they seemed to be very much excited.

9 What was said about the law - do you recollect - by

Judge Davis or Mr Sidell, or  
any body else?

- a That matter was talked over some;  
the legal gentlemen talked about  
the law, as I understand it, being  
void, or of no avail; that they had  
no chance to recover under the  
law, they thought, and they advised  
us, - I understood they were  
giving advice to all of us to  
settle the matter amicably in  
some way, or another, in the  
course of this conversation a  
proposition was made by these  
parties to arbitrate it.
- q What did Mr Sidell say about  
having consulted with some body  
with regard to the validity of this  
law, before bringing his cattle?
- a My recollection is that Mr Sidell  
made no remark of this kind.  
Before he had hauled any Texas  
cattle he had taken the opinion  
of an eminent lawyer, or a  
lawyer, at any rate I don't  
know whether

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he used the word eminent -  
a good lawyer, one he had con-  
fidence in, as to the validity of  
the law, and he had been advised  
that the law was not in the way  
at all of his handling those cattle  
so that he hadn't - I don't know  
whether - I think he made the  
remark perhaps that he had gone  
into the matter - that he had not  
gone into the matter without  
investigating it. That was the sub-  
stance of what he said.

Q He had taken the opinion of the  
lawyer as to the validity of the  
law?

A As to the validity of the law.

Q Did he state where the lawyer lived?

A I don't think he did sir.

Q Just stated that fact, as you  
recollect?

A Yes sir

Q What if anything else was said  
by these parties that you recollect  
of - go on and state.

A There was something said  
about

arbitration: I think there was a proposition came from those gentlemen to arbitrate this matter, each party should select one man, and let the two select a third of our own citizens there, and let them decide the matter. We thought that would be rather a one sided affair; particularly in the then state of feeling in the country, & we declined a proposition of that character.

Q You declined on account of thinking it was unfair at the present state -

A Oh yes we would have had no show, taking people from our country.

Q Did you attend any meeting after that at the school house - after this meeting at Danville?

A I don't think I did. I think I attended one other meeting after the meeting at the Raymond school house, and I think that was prior.

Q Was you present at the meeting held at the Block

schoolhouse, at which Mr Stogden was present representing Mr Sidell?

a No sir, I was never at a meeting where Mr Stogden was present,

q Do you recollect the meeting at the school house attended to by Mr Postersfield, in which he said that you proposed that there, there should be a Commission appointed by the Governor or the Judge of the Circuit Court— Judge Dalloghen to settle this matter.

a My impression is that I made a remark similar to that either at the Baymond school house or at the Black school house I think perhaps it was at the Black school house that I suggested it. It was merely made in the form of a suggestion, I didn't make any proposition,

q Was any agreement of that kind made at that time?

a No sir, I think the meeting didn't seem to entertain the proposition at all. It was merely a suggestion that came

into my mind that it would be the better way to settle the matter as there was a great deal of ill feeling, & bad feeling in the neighborhood, that it had better be settled by appointing some authority. I think I stated that I didn't know as any such commission could be appointed that would give it legality, but if there was I thought it had better be done.

Q Was there any property during the time of this excitement destroyed on Broadlands farm?

A Yes sir.

Q What property was it?

A About 200 tons of hay.

Q How?

A By fire.

Q Are you able to state from your own knowledge, how the fire was communicated?

A No sir I am not.

Objected to as immaterial.

Q At what time did this destruction occur?

Objected to.

Objection overruled.

Exception by Plaintiff.

- Q What was the quantity of hay burned at that time?
- A In the neighborhood of 200 tons.
- Q About what time in the summer was it burned?
- A Well sir I can't say now, I haven't any minutes, I didn't bring my minutes with me. I think I have them at home.
- Q As near as you can recollect,
- A I think the first lot of hay was burned some time in August. My recollection is that the first lot was burned in August, and the second lot some time later, - a week, or two weeks. I think,
- Q Were there any of these meetings held after this hay was burned?
- A I can't say that there was, I don't think that I attended any meetings after that; the meetings I understood they were holding constantly; I don't know of my own knowledge that any were held.

Q Were any of these interviews with the witnesses who have testified & having interviews with you after this hay was burned;

A The interviews at these meetings you speak of;

Q At any other place, about this question, that they have spoken about at this trial in their testimony.

A I think I had interviews with a member of the witnesses after the hay was burnt.

Q Where was this hay located with reference to the buildings - the house & barns;

A They were west of the house, of our headquarters, where the principal houses & barns were, - a little over a half a mile.

Q Do you know whether any fire had recently been used by any persons on the farm or the vicinity of this hay - recently before the burning;

Objected to

Objection overruled.  
Exception by Plaintiff.

a These had been none; there was that we know of no possible chance of these taking fire, except from spontaneous combustion. It was in a meadow, field where it was not possible for any fire to come on the grass; Had any fire come from any other direction running over the surface of the ground to this hay?

a No sir, there was no possibility of it. It was green grass - a green meadow, & would like to make this remark, that when the first stack was burned I was very much in hopes it would prove to be spontaneous combustion, though I never heard of such a case, and I didn't know that it was possible at all.

Q Didn't suppose this to have been;  
a I don't know that, but other circumstances led me to suppose it was not.

Q Was this hay burned after, or before the meeting at Danville between the owners of cattle and

- The committee who had represented those;
- a I couldn't fix the date near enough  
 q couldn't fix it by reference to that circumstance, whether it was prior or subsequent?
- a No sir, I don't remember whether it ~~was~~ or not.
- q At what time did cattle commence dying on the farm then - on the Broadlands farm of the disease, which you in your letter to Col. Eaton; introduced yesterday - I believe you have stated the dates, though there -
- a Yes sir, I have; I think those dates [referring to letter] are about correct.
- q What number of cattle died in all on the Broadlands farm, from what was supposed to have been a disease contracted during the years 1868 - of native cattle?
- a My impression is that the number is in the neighborhood of 250, perhaps nearer 300 than 250, I don't remember, 250 or 300;

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a Yes sir,

q What portions of the Texas cattle died during the same season - what number?

a My impression is that our whole number of deaths of Texas cattle during that summer was about 30. But this - I'd like to qualify that a little.

q Well sir do so.

a The larger portion of these cattle were expected to die when they came on the farm.

q They expected to die?

a In purchasing these cattle at Solons there were a good many of them that were badly crippled and bruised from being transported; generally in buying a lot of cattle there the persons from whom I bought would insist upon my taking all the cattle; he didn't want to have a lot remaining of 3 or 4 crippled cattle, & in many cases I would buy the lot, & he would throw in a half a dozen, or a dozen crippled & bruised cattle, & I would take them home & take the chances of

their living; I expected the most  
to die, but I thought that enough  
might live to pay me for my  
trouble.

Q The cattle called Abilene cattle  
were driven from where?

A From Homer.

Q Were all your cattle you brought  
from Homer what you call in  
your letter to Dr Johns  
Abilene cattle?

A Yes sir.

Q They were all Abilene cattle?

A Yes sir.

Q In the experience that you had  
upon the farm was there any  
distinction as to the communi-  
cating of disease between the  
cattle called Abilene cattle &  
the other Texas cattle, or the other  
cattle called Texas cattle,  
shipped from Texas?

A Well sir I think there was  
very marked distinction.

Q What difference did you observe in  
your experience on the farm?

A My experience there led me to think  
that the Abilene cattle communicated  
no disease whatever.

I was strongly of that opinion,  
 Q It led you to the belief that the  
 Abilene cattle communicated no  
 disease whatever?

A Yes sir.

Q Please tell why you came to that  
 conclusion - what was your  
 experience?

A These Abilene cattle were grazed  
 in a pasture where we had a lot  
 of oxen - a lot of native oxen  
 that had grazed with them awhile  
 and those oxen were taken out  
 of that pasture & put into a fresh  
 pasture during the summer &  
 all the oxen that were left in the  
 fresh pasture escaped any sick-  
 ness; we had no sickness  
 amongst them at all; but a few  
 of the same lot of oxen taken out  
 of the pasture & put into a fresh  
 one, were subsequently taken out  
 of the fresh pasture and put into  
 a pasture where others of the  
 Texas cattle had been grazing.

Q Those shipped from Solon?

A Yes sir, and they sickened & died -  
 that was the circumstance.

Q Exactly, but none of those that were subjected to the Abilene cattle did die?

A None of those subject to the Abilene - no.

Q To those last?

A No. It was only those taken out of the fresh pasture subsequent to being put in there.

Q What length of time were those that stock subject to the influence of the Abilene cattle, or subject to their trail, or to the pastures that they had seen upon?

A I think not a great while, I forget now exactly what time, without looking at the letter.

Q If your letter states it accurately there is no need of making any fresh reference to it. Do you know of any other experience - that is, with the Abilene cattle?

A Another circumstance that led me to think that this Abilene cattle did not communicate any disease was that they were driven from the cars at Homer, and driven over the commons at

694.

Homer, which was grazed over by a large number of cows - all the cows belonging to the town and driven out to the road to the farm; there was no disease that I ever heard of that originated at Homer at all; I heard since I came here that there was one or two cows died there, but they were one or two cows supposed to the trail of the cattle that came in the other direction, that was another circumstance.

Q You know of no deaths at Homer nor along the trail of the Abilene cattle that season?

A No sir, none at all.

Q Do you recollect how the year 1868 corresponded in temperature with the year 1865, 1866 & 1869?

A I think it was the warmest, hottest season that we have had since I have been in the country - unusually hot.

Q How was the temperature of the season of the greatest fatality amongst the native cattle?

A It was at very high temperature

excessively hot during the whole time.

Q Since 1868 have you had any cattle called Texas cattle or Chewkee cattle upon the Broad-lands from there, that you have been moving?

A Yes sir, in 1868, we had some 2000 or 3000 - 3000 perhaps,

Q 2000 or 3000 cattle?

A Yes sir,

Q State to the Court sir whether any disease followed those cattle?

Objected to as being subsequent to the time the cause of action is laid, Objection overruled. Exception by Plaintiff.

Q You did state that you knew of no trouble in 1868, - was it 1868?

A Yes sir, 1868;

Q You had a lot, you have already stated in 1868,

A Yes sir,

Q Did you know anything about them before 1868?

A About their being diseased;

Q No, no did you have any experience shipping them - handling

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them?

a I hadn't had in this state; I had a good many years ago; I had with this class of cattle,

9 Where?

a In Ohio,

9 How many years ago?

a About 39 or 40; I had no experience in this state prior to 1860. I think in 1866, the fall of 1866, perhaps we had a few Texas cattle on the place, but it was only a few mixed with the native cattle that came in from Missouri & other parts of the west. I think there were a few in the summer in the fall & summer of 1866. We had a few Texas cattle come in, or at least cattle like these long-horned fellows,

9 Leveled Texas cattle?

a Yes sir, we had a few intermixed with some natives that came onto the farms - not a great many #

9 Did you know the road leading from this road that run on the north - run from Tolono on the north side of the herding

ground, that was occupied by Mr Thompson in 1868, - or to Mr Sanduskey's?

a Yes sir, I know. I have been through the country there a number of times; I know the route.

q Where would they leave this road running east from Solons - at what point?

a They would leave the road -

q Turning north there, say, within a few rods of Mr Leongois, as stated by him;

a Turning north at his place they would go north one mile, & thence due east, they would perhaps continue due east on that road, 6, 8, or 10 miles, and then bear a little to the north-east and go to Mr Sanduskey's place.

q Whereabouts does he live?

a Near Leatlin, Vermilion Co.

q What direction from the Brooklands farm?

a North east.

q Pursuing the line of road that you have indicated as the road to

688.

Mr Sanduskey's, did you pass the house of Mr Insley, turning from Mr Leongais?

a Yes sir, you would pass on the west side of Mr Insleys farm,

By Mr Smith: West or north?

a On the west side.

By Mr Smith: I got the impression that it was on the north?

a No.

Q Did you see those cattle called the Sanduskey cattle?

a I saw them at Tolond.

Q You saw them at Tolond?

a Yes sir.

Q When?

a I saw them at Tolond a number of times during the season; they were there about Tolond for a month or 6 weeks before they were sold, I think I looked at the cattle a number of times with a view of purchasing them; they were offered me a number of times, I went out and looked at them several times; I had a good many conversations with the owner & the agent of them who was trying to sell them.

Q What number were there?

A There were about 100.

Q There were about 100?

A Yes sir.

Q What quality of cattle were they?

A Do you mean as to the -

Q What they were commonly called - Texas?

A Those same cattle.

Q Those same kind of Texas cattle that had been shipped at Tolono?

A Yes sir.

Q What quality of that kind of cattle were they?

A They were rather an inferior lot, they seemed to me what you would call a lot of culls.

A I mean that they were the poorest ones of several lots, thrown together, they looked as if a man had selected them out of several lots, or one large lot, the very poorest of the lot.

Q Do you know of your own knowledge, what time Mr Sanduskey had them driven away from there - of your own knowledge?

A No sir, I do not, I only know

that the cattle were there - They were there I am certain after the middle of June; it was after the middle of June - I think it was near the 1<sup>st</sup> of July.

Q State to the Court if your cattle were shipped from Homer - if the cattle - the Texas cattle shipped from Homer down to your farm?

A Driven down.

Q Driven to the Broadlands farm - and driven after or before these Sandusky cattle left Toland;

A I don't know that, because I don't know the exact time that the Sandusky cattle did leave Toland.

Q Do you know of your own knowledge anything about Mr Judah, having any Texas cattle at Toland;

A Yes sir. I saw Mr Judah there in possession of Texas cattle.

Q When was that?

A That was through the summer there. I think he was there a considerable length of time, had perhaps

more than one lot, I think he had as many as three - two or three lots.

Q How many cattle of your own knowledge can you state Mr Judah had there?

A I looked at one lot in the neighborhood of 100, it seems to me he culled them 4 car loads, and I know of his having another lot, it seems to me a hundred or two.

Q Where were those cattle grazed & headed when you saw them?

A Grazing on the prairie in the vicinity of Golond.

Q In what direction?

A I think one lot when I ~~saw~~ ~~them~~ was rather north east of Golond, I recollect that lot particularly, & the other lot I don't remember now where they were grazing, there is so many cattle grazing all about there it's difficult to remember the particular spot.

Q Do you know of Johnson Ross having some cattle there that season?

A I don't know of my own knowledge.

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Q Do you know in what direction Mr Judah drove his cattle, of your own knowledge?

A No sir, I don't of my own knowledge.

Crop-Examination  
By Mr Smith

Q You say in 1867, you had some Texas cattle;

A Yes sir,

Q Where did you buy them?

A I don't know where; I didn't buy them at all; they were sent upon the farm,

Q The first you saw of them was upon the farm?

A Yes sir,

Q I will ask you - I don't know whether I understood you or not - did I understand you to say in your direct examination that all of those 4,552 cattle - I believe that is the number you had on the farm that year - were of the class of cattle known as the Abilene cattle?

A Oh no, sir, only the cattle that were unloaded at Horner that

were the Abilene cattle; there was one other lot I think I stated in this letter perhaps that was unloaded - purchased in California, they were called more particularly perhaps, Cherokees, I think I designated them here as Abilene; they were about the same class,  
 Q Do you know of your own knowledge where these cattle were really brought from;

A Eh?

Q These two lots that you call now Abilene cattle, & that you called so in the letter,

A No sir, I don't know;

Q You have no information of your own as to where they came from?

A No sir,

Q This fact of their being Abilene cattle is from information from other people?

A Yes sir,

Q You don't know whether that is true or not,

A No sir,

Q I will ask you if they looked of

The same quality as the other cattle you denominated Texas in your letter?

a There is a difference in the cattle,

q Any substantial difference?

a Oh, yes, a very marked difference. Almost as much difference between them & other classes of cattle as between Devons & Durhams - something similar to that.

q Where there any cattle died on your route from Homer down - on the road from Homer, down on the way these cattle were brought down to your farm?

a Any native cattle?

q Yes sir,

a After we got out 3 miles, say from Homer, & think some of the neighbors along there lost cattle? & helped pay for some cattle.

q Aw that trail?

a That lived there, but the cattle I understood from them - I know myself, the cattle run out on the prairie, I know that myself.

q They run at large, wasn't it time

that they run on the trail of these cattle that you brought down from Homer?

a A portion, & a portion on the trail east of there - on the prairie east of there.

q Some run on your trail & some on another trail?

a Yes sir.

q You paid for a part of these cattle that was claimed & have died on your trail?

a I paid a portion.

q I understood you to say that a part of these cattle - some 1500 of the Texas cattle which you bought at Golow, were bought there to be delivered by the party of whom you purchased, at your farm, and that they were delivered on your farm?

a Yes sir.

q Were they sent there on your farm by your direction, or order?

a I don't know that I understand that question?

q Did you direct him to deliver & take those cattle to your farm?

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- Those 1500 you bought at Tolous?
- a I don't know that I gave any special orders, because the contract was that they were to be taken to the farm, they were driven there by the parties I purchased of.
- q That is the question - were they taken to the farm by your direction - did you tell him where to take them?
- a We expected to keep them on the farm, because they were bought to be delivered there;
- q Were they bought for the purpose of being taken to the farm; bought by you for that purpose, and with that understanding by the other party?
- a They were bought of course to go on the farm, or else they wouldn't have been bought to be delivered there; that was the contract, that they were to be delivered on the farm.
- q Is it not true that when what you call the Texas cattle, as distinguished from Abilene cattle, in your report - is it not the

truth that these several classes of cattle were intermingled in different pastures on your farms;

after they got there, that they were changed from one pasture to another and were in several pastures;

sometimes the Abilene cattle being in one pasture & sometimes in another, that both Abilene & Texas cattle pastures were changed;

a In some instances they were, perhaps, but as a rule when we put a lot of cattle in a pasture in the spring, we let them remain there,

g If I recollect your report rightly - if I don't you will correct me of course. - that states they were changed from the sectional pastures - from one pasture to another, sometimes put in one pasture over night,

a The changing is about this: Our rule was when cattle were brought onto the place they were put into a small pasture, convenient to the house, until they were branded, and then taken

out into the pastures where they were expected to graze during the summer, although there might have been some changing - I don't recollect particularly about that, but as a rule when we put a lot of cattle into a pasture we let them stay there until they got fat.

Q Did any of the Abilene cattle die of this disease?

A Never sir.

Q Did any native cattle die in the pastures, - did any of your native cattle die in the pastures, or on the trace of Abilene cattle after they were placed on the farm?

A Oh, yes, on the route they were driven over, they were driven there - a number of other cattle.

Q In those pastures where the Abilene cattle were the native cattle died as well as in the others?

A Yes sir, they were driven through pastures where there were other

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Texas cattle,

Q Can you tell now which commu-  
cated the disease, the Texas or  
Abilene cattle?

A No sir, I can not, I don't know  
whether any of them did, we  
haven't got as far as that yet.

Q Did any native cattle die on the  
trail of those Texas cattle that  
were brought down from Yalons;  
down that trail - & if so, how many?

A I really don't know how many,  
there was a large number died  
along the prairie through which  
we drove.

Objected & do not being  
Cross-examination.

By Mr Smith, I do not care anything  
about it, I will withdraw the  
question.

Q You have already stated in your  
direct examination that in  
these several meetings there seemed  
to be a general complaint against  
these Texas cattle, and you  
stated also that you made statements  
prejudicial to those Texas cattle commu-  
nicating the disease, & that the evidence  
appeared

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very strong against their communicating the disease, that you made those admissions & those statements, whether at one or two, or ~~at~~ more times, at those meetings, but at those meetings there was more or less violence, Now I will ask you to state if that statement was not true at that time, strictly true, that the evidence then & now was not very conclusive against the Texas cattle communicating this disease in your judgment?

Objected to.

Objection sustained.

Exception by Plaintiff.

Q State whether or no statements you made then with reference to the Texas cattle communicating <sup>this</sup> disease, were true?

A I don't know whether they can be considered untrue or not, but I think that my statements, Jeshop, would have been very different, if they had been made under different circumstances,

Q That is not my question, it is now, without any reference to what your statements would have been under other circumstances, were those statements true?

A In making them I tried to get them as near the truth as I could, and to save my neck and my property,

Q That is still not my question, it will admit of a short answer,

A Well, what is the question?

Q The question is now, whether those statements you made at the time were true, true with reference to the disposition of Texas cattle to communicate disease?

A I don't know that I made any statements with reference to their disposition to,

Q If you did make any of that kind were they true?

A The statements I made were, I think that the preponderance of evidence seemed to be against the Texas cattle,

Q Now, I will ask you if that statement was true at that time?

7/2. a I think it was substantially true,  
q & then if that statement was true at  
the time it didn't make very much  
difference did it, whether it was  
made to save what you call your  
neck & your property or not;  
Objected to.

Objection sustained,  
q State whether at the time this  
letter was written to Dr Johns  
there was any motive that influenced  
your mind to make the statements in  
the letter, except pure motives to  
communicate the truth to this  
commission;

a I don't know as there was,  
q At the time this letter was written  
was there any duress, or any  
fears raised, on your mind  
in order to induce you to make  
this statement, except upon the  
solicitation of Dr Johns?

a I don't recollect that there was  
anything particularly acting upon  
me.

q Was the letter written voluntarily?

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and did you state at the time what was true, & what is now true so far as you know?

a Yes sir, it was a statement of about what I supposed to be the truth, part of it made up from memory.

q Now, my purpose is to see if at that time you wrote this letter your purpose was to communicate the truth, and that you did attempt to communicate facts, as far as you knew them?

a Yes sir,

q Wasn't it true & isn't it true, that this was a terrible scourge, not only upon your own cattle but upon your neighbors?

a It was sir, a very great one.

q I will ask you if it wasn't a matter of fact notorious that these cattle would die, & that so far as all observation went these cattle did produce the disease?

Objected to

Objection sustained.

q I will ask you then, if any motive

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- of fear operated upon your mind at the time you wrote this letter;
- a I have answered that once;
- q Now, at these meetings of which you speak, the meetings having been boisterous - several boisterous speeches having been made did this Plaintiff make any boisterous speeches in those meetings?
- a I don't think I ever heard Mr Gazel make a speech at a meeting;
- q Was Mr Gazel at that Raymond school house meeting of which you have spoken?
- a I am not positive that he was; my impression is that he was there, still I am not absolutely certain that he was there.
- q Do you know that Mr Gazel was acting in concert with these people, or with any body else, or any body else acting in concert with him for unlawful purposes - do you know that to be true?

15. a I know nothing, except the meeting seemed to be a regular continuous organization, & the meetings seemed to have the same Chairman and the same Secretary, right along as though it was an organization to be kept up, that was the only knowledge I had of it.

g Do you know that the Plaintiff had anything to do with the organization of these meetings, or getting them up, - organizing them - or leading of them?

a I do not know it.

g Is it not true that this excitement extended over a great portion of the county, and that it grew out of this alone at the death of so many cattle, & that the meetings were not for the purpose, mainly - the first of them was not for the purpose of consulting, of either meeting together and consulting not only with you, but with these other gentlemen for the purpose of inquiring into the nature of this matter, & to make generally inquiry & to,

716.

toke counsel with each other about this disease?

a It seemed to me in all the meetings I attended that the sole object of the meetings were to compel us to pay them the full price of the cattle, that was the only object they seemed to have,

g That seemed to be the disposition on their part, - the demand set up by them, & resisted by you?

a Yes sir, resisted by us as far as we felt we dared to,

g You have resisted it, haven't you pretty successfully, so far, and received no damage as far as you know?

a We have resisted it to some extent, but we submitted to some extent.

g Now, I will ask you if this hay that you speak of as having been burned - if you was in the city of Springfield when you got the first information of that hay being burned, along in the fall late in September, after all these meetings had

Taken place?

a I don't remember about the second lot, - I might possibly have been in Springfield, I don't think I was in Springfield when the first lot was burned,

q Do you know anything at all about the parties - the Plaintiffs or any body connected with them or with these meetings, or with making these complaints - do you know that they had any thing to do with the burning of this hay?

a No sir, I don't know that any body; I hope that nobody had,

q I will ask you if it is not a matter of fact that this hay was burned after all these meetings were held?

a I can't remember sir, really; my impression is - I feel pretty certain it was after any meetings I attended.

q Was it hay harvested that year?

a Yes sir, I think it was,

q What time did you harvest your hay that year?

a In July & August, I think, but I

718.

Think it was not hay harvested that year,

Q Wasn't one stack & old stacks, fallen down & been put up again, once or twice?

A I am not so sure about the season of the whole of it. One stack was a stack that in putting it up the top had fallen & had been put up again, and not very perfectly put up, & that gave me to hope the hay had burned from spontaneous combustion; I knew it hadn't kept very well,

Q How many stacks were burned?

A Three.

Q How did they stand?

A The first burned stood by itself, and the other two stacks were in the same small inclosure.

Q Two fires, then, would burn the two lots of hay?

A Yes, there were but two fires.

Q Now, at the time you speak of this invitation having been given, you attended, which you speak of rather in the nature of a demand - who called

on you - Mr Insley I believe you stated called on you?

a Yes sir, and the members of that committee.

q State what was said by them, Le Colonel?

a I don't know as I can state the exact language; I was a little siled at the time, & a little excited about the matter; I was very busy at the time, my own cattle were dying, and I had a great deal of business on hand; they came there & made a pretty presumptory demand, I thought for me to go off & attend this meeting, & it siled me considerably, & I think I declined pretty positively to go, but my impression is now that it was Mr Insley - from some thing he said to me that I was induced to go.

q Who were they, did you state?

a That was Mr Insley; Mr Mitchell, I think was one of them, I forget the names of the Committee, now, really, all of them, I think Mr France was there.

q Is it not a matter of fact that

about that time there wasn't any of you gentlemen on either side that was feeling in any too good; you were all suffering pretty serious losses?

a We were all suffering losses, q there was not, to say the best humor amongst any of you,

a I was trying to feel in as good humor as I could and to keep my neighbors in good humor, that was my principal business I worked through the day, generally and laid awake at night, to see how I could manage to keep the neighbors quiet,

q Have you ever suffered any damage since those stacks of hay have been burnt?

a Not at all,

q Didn't these persons live all around you - haven't you fallen in daily contact with the majority of them since that time?

a Yes sir, a good many of them?

q Is it not a fact that you have treated them and they you courteously?

a I have always endeavored to treat

them so, and I can't complain of any very severe treatment on the part of them, latterly; I think some of them didn't treat me very well at the time,

Q Now, I will ask you this direct question, whether at the time you made these statements which the witnesses have detailed during this examination, or which you have spoken of, there was any such fear seized on your mind as to induce you to make statements that were not true, or statements being made where in point of fact, not true;

By the Court: He has answered that question I think well.

Re-direct examination

By Mr Schofield

Q Mr Smith asked you about the cattle, if you directed these cattle to be delivered on the farm, just state to the Court what the contract between you and the man from whom you purchased these cattle called Texas cattle

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at Golond, & be delivered on the  
farm, was,

Objected to,

By the Court: I understood him to say that  
was so,

Q With regard to the Abilene cattle  
Mr Smith asked if you knew  
of your own knowledge that they  
came from Abilene, You said  
not, Now, I will get you state,  
is it the same means by which you  
know that the other is the Texas  
cattle?

A Yes sir, that is so, - from the  
appearance of the cattle.

Q After these cattle were on your farm  
how did you keep them? did you  
let them go at large upon the  
commons, or did you keep them  
in inclosures?

A We kept them in inclosures,

Q Never out?

A Never - no.

Q With regard to these cattle commu-  
nicating disease I believe you  
answered Mr Smith that you  
were not able to state how they  
communicated <sup>the</sup> disease, or  
any thing about it?

723. a No sir, I don't profess to arrive at that point; we have been trying to find out what was the matter with the bull for some time.

q Those Abilene cattle I understood you to say before I called your attention to the question, communicated no disease to the cattle which ran after them alone, which didn't run after any other Texas cattle but them - the lot of cattle that you had after the Abilene cattle which didn't follow the other Texas cattle contracted no disease.

a Yes sir, the statement was this what led me to first think that the Abilene cattle communicated no disease, or had nothing to do with it, was, that they were grazing in the pasture wherever had taken out some cattle afterwards that didn't die of the disease.

q Those cattle were exposed to the Abilene cattle?

a Yes sir.

q How were they exposed?

a They were exposed in the same

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pasture where the Abilene cattle  
was - all grazing together;  
subsequently taken out,  
q then not exposed subsequently  
to other cattle;

a That is it, sir,

q Were there any cattle that died -  
any native cattle that died expo-  
sed to the Abilene cattle alone &  
not exposed to any other  
Texas cattle;

a No sir, none whatever,

Re-cross examination

By Mr Smith's

q Is it not true that this name  
given to the Abilene cattle, as  
you call them, is merely another  
name, or an adjective for  
Texas cattle - these other Texas  
cattle, but that you call them  
Abilene cattle from the fact that  
they are gathered from a town  
in Kansas or Missouri?

a As a general thing that is the case,  
cattle coming from Abilene  
are usually rather a particular  
kind, differing from cattle

725, coming from other sources,  
Q Is it not true that Abilene cattle  
are in front of fact. Texas  
cattle?

A I suppose a great many of them  
are. A great many cattle coming  
from the Cherokee nation Ar-  
kansas, and other points in the  
far west, that are not Texas cattle  
a number - many came by  
way of Abilene; we get the  
name more from the fact that  
they are shipped from that point,

Q You say a great many cattle com-  
ing from that point are not  
Texas cattle, Is it not also  
true that a great many cattle  
coming from Arkansas & the  
Indian nation are Texas cattle  
also, which don't come directly  
from Texas?

A They may be, I don't know whether  
they are or not.

Q Don't they look like Texas cattle &  
have the same general appearance?

A Yes sir, I have seen Arkansas  
cattle that have the same appear-  
ance.

as Texas cattle; I couldn't tell  
the difference between them,  
And Thruspaw.

Samuel Mandeville, a wit-  
ness called out behalf of the  
Dependant, being duly sworn,  
was examined in chief by MR  
Schofield, and testified as follows;

- Q Where do you reside?  
A Champaign County,  
Q What is your business?  
A Farming principally;  
Q Do you live in the vicinity of where  
the difficulty occurred in 1868,  
with regard to the disease from  
Texas cattle, supposed to be?  
A No sir, I don't.  
Q Was you at a meeting at what is  
known as the Raymond school-  
house in Champaign Co. in  
1868, some time along in August?  
A I was there at the meeting,  
Q That has been spoken of by other  
witnesses here?  
A Yes sir,  
Q State to the Court if you witnessed  
any display of feeling there on the  
part of those composing the meeting?

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Q What kind of feeling?

A Ill temper towards the persons, or property of those who owned Texas cattle - threats; if you heard any thing said - tell the court what you witnessed in the meeting and what you heard said by the different persons?

A I can't say that I heard any threats that I remember of, but there was quite a meeting there, I just happened to be there, too, & there seemed to be quite an excitement there over this Texas fever.

Q How did the excitement manifest itself - by words, talks, or what - tell what it was that impressed you.

A By words & actions.

Q Did you hear any threats made by any persons, or any declarations with regard to the settlements for the lot of Texas cattle or anything of the kind, made by any of those at the meeting?

A I can't say that I heard any threats made - not that I remember of now. It was quite

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awhile ago, - there might have  
been threats, and there might not,

Q sir?  
A I couldn't testify that I heard  
any threats.

Cross examination

By Mr Smith

Q Is it not true that the confusion  
or what you seemed to think  
was the excitement there, was  
a disposition on the part of the  
parties who had lost & want  
pay for their cattle, and a  
disposition on the part of others  
who they thought had caused the  
injury to resist or delay the  
matter;

A For the defendants & resist.

Q Yes sir, I will ask you if they  
didn't want to delay it?

A I don't think they manifested  
any feeling of that kind; I thought  
they acted very fair about it,

Q Do you know whether Mr Gayel  
was at that meeting?

A I can't say whether Mr Gayel was  
or not; there was quite a number  
of the neighbors around.

There - several that I see here - quite a number, but I couldn't say whether Mr Yazel was there or not.

Q I will ask you now if you heard Col. Eaton make this statement at that meeting, that he had no doubt that these ~~depos~~ cattle that they had brought in there had caused this disease?

A No sir, I can't say that I did.

Q You don't recollect of hearing him make that statement?

A No sir, I heard him speak of the scourge, or whatever they called it, coming, and regretting it very much, that it was regretted very much that it was so.

And thereupon -

Olis W Cankey, a witness called on behalf of the Defendant being duly sworn, was examined in chief by Mr Schofield, and testified as follows.

Q Where do you reside?

A In Champaign County.

Q I will get you to tell the Court whether you were residing there during the summer of 1868?

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- a Yes sir, I was.
- q What is your business?
- a Well sir, I am engaged in different things: I have been farming, and merchandising &c.
- q Were you engaged in business there at that time?
- a Yes sir,
- q Did you know of any cattle dying at Homer, or in the immediate vicinity of Homer, in 1868, of this disease known as the Spanish fever, or resulting from Texas cattle?
- a I know of but two sir,
- q Where did they die at?
- a In the town,
- q In the town?
- a Yes sir,
- q What were they?
- a Cows,
- q Were there any cattle shipped to that point & unloaded during the season of 1868, of the cattle commonly called Texas Cattle?
- a There was during the early part of the summer season,
- q What number do you think?
- a I couldn't say.

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Q At how many different times, do you recollect of cattle being shipped there and unloaded?

A I don't know that of my own knowledge, I know of more than two lots.

Q Do you know of any cattle having been grazed there in the vicinity of Homer - known as Texas cattle - during that summer?

A Nothing nearer than upon the Broadland farm, that I know.

Q Where did those cows graze that died - those two cows that died?

A About the herding ground of Mr Thompson, that has been so clearly described.

Q About the herding ground of Mr Thompson?

A Yes sir.

Q How far is that from Homer?

A  $3\frac{1}{2}$  to 4 miles.

Q In Homer, nor in the vicinity, you knew of no cattle dying at all?

A Not any sir.

Q What size were those two lots of cattle that you saw unloaded and

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- driven away from there - was there 50 or 100, or several hundred - just approximate it,
- a I should think there was, perhaps 200, or 300,
- q In each lot?
- a Yes sir, I couldn't say definitely as to the number,
- q State if cattle unloaded at Homer & passing down to the Broadland farm there that has been spoken of, onto this Thompsons herding ground, whether that in the vicinity of Homer they would pass over any commons visited by the cattle in the country there?
- a Immediately after leaving the shipping pens they go onto the commons, there was at that time probably some 20 to 40 acres of open ground that they would pass over, where the town cows were in the habit of sunning,
- q What number of town cattle were in the habit of feeding on these commons at that time?
- a I would suppose at least 50,

and perhaps more,

Cross-examination,

By Mr Smith

Q You say, I believe, that there was none of the town cows that died;

A Only the two,

Q Those were your own?

A One of them was ours & the other belonged to Mr Smith, those were the cows that I spoke of that had been running in the vicinity of the herding ground of Mr Thompson,

Q How many did you lose of your own?

A During that year?

Q Yes sir, 1868?

A There were three of my cows died but they were not immediately on this trail spoken of; they were not about town.

Q On the trail?

A On the trail running from Tolous into Mr Thompson's herding ground,

Q On that trail?

A Yes sir,

Q Did Mr. Donovan's cattle have

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this disease?

a Not to my knowledge; if there was anything of that kind I didn't know it.

q Do you know anything about any other cattle dying around Homer there?

a I do not.

Re direct examination.

By Mr Schofield.

q Had these cattle that died been subject to the trail of Mr Sanduskey's cattle - passing Mr Insley's whether they had been subject to that Sanduskey trail?

a I presume they would sir, they were in the habit of passing west to the lane, or to the road rather - spoken of that turned north.

q That Mr Sanduskey is described as having gone over?

a Yes sir.

Re cross. examination

By Mr Smith;

q Now, I will ask you if you know anything of your own knowledge

of these cattle of yours that died  
 summing on that Thompson trail -  
 if you know that as a fact, or if  
 it is a mere rumor?

a I know they saw there,

q Did you see them on the trail?

a I have,

q What time did you see them there?

a During the month of July sir,  
 there were three cows that I had  
 placed on the forms to be used  
 by a man who was summing  
 at boarding-house; he was in the  
 habit of letting them run on the  
 commons, and they passed out  
 into the herding ground,

q That form was down in the  
 neighborhood of the herding ground?

a Yes sir,

q You speak of cattle summing over  
 Mr Sanduskey's trail. Do you know  
 of your own knowledge of any  
 cattle summing over his trail?

a I know that this cow that I spoke of, of  
 ours summing in the neighborhood of  
 Havard's place, running on the trail  
 east about a mile, was in the habit of going  
 up into the road about the

- end of this road running north,  
 Q Was she a Town cow;  
 A Yes sir, a cow we had taken out of  
 the town onto the farm,  
 Q That is one of the three;  
 A No sir, that is another one, but  
 those cows I speak of didn't die  
 last year, but the year before,  
 Q Died in 1868;  
 A Yes sir,  
 Q This cow the last you spoke of -  
 when did she die?  
 A The same year,  
 Q That died near Horner;  
 A In Horner, it had been driven  
 in from the heading ground,  
 Q From Thompson's heading ground?  
 A Yes sir,  
 Q So then there was four of your cows -  
 four of the Horner town cows that  
 had been down on Thompson's  
 range. Three having died down  
 there, and one brought home died?  
 A Three died on the farm; one that  
 was driven into town died, after  
 it was brought home.

By Mr Schofield: Those were all more or less  
 exposed to this Sandusky trail

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Q Yes sir,

By Mr Smith:

Q Do you know that as a matter of fact - of your own knowledge, do you know that?

a I know that they had to run across this road over onto the herding ground spoken of by Mr Thompson.

Q Across which road?

a Running from Toland east, And Thompson

I B Stogden, a witness called on behalf of the Defendant, being duly sworn, was examined in chief by Mr Schofield, and testified as follows:

Q Where do you reside?

a I reside in Vermilion Co, Illinois,

Q How far do you reside from John Sidell, one of the Defendants?

a About 2 miles, sir,

Q How long have you resided that near him?

a Between 4 and 5 years,

Q During the year 1868 did you see cattle on Mr Sidell's farm?

a Yes sir,

Q How frequently and about what

times during the year did you see them?

a I passed through Mr Sidell's pastures every week or two during that summer, more or less.

q Did you see a lot of cattle commonly called Texas cattle and his form?

a Yes sir.

q Do you know about what time they were brought there?

a The first lot of cattle as near as I can remember came about the 1st of May, that is my recollection - about the 1st of May.

q When the second lot?

a The second lot of cattle must have been the fore part of June, the first days of June.

q About how many cattle were there in each lot?

a The first lot of cattle I think there was about 500 or thereabouts; the second lot I am not able to state.

q Approximate as near as you can,

a The impression I had of the entire number was some 1500 or 1800 head - the entire stock.

- Q At the time these cattle were brought on Mr. Sidell's place, did he have any native cattle, & if so about what number, and what character of cattle were they - were they native cattle?
- A Mr. Sidell had a lot of fat cattle that he had fed in the latter part of the winter - grazing them on his pastures; about 100 I think, as near as I can remember.
- Q About 100 fat cattle?
- A Yes sir, and he also had a lot of stock cattle.
- Q About how many?
- A I couldn't say, I should judge from 150 to 200.
- Q Any other cattle, cows or work-oxen?
- A That would include -
- Q This includes all others?
- A Yes sir.
- Q How long did he keep the fat cattle on his place - up to what time - on his farm there?
- A The fat cattle - if my memory serves me right - were shipped not far from the 20<sup>th</sup> of July.
- Q During the time that the fat

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cattle were there tell the least of you know whether they were exposed, and if they were, how exposed to those cattle commonly called Texas cattle?

a They run together on the same pastures - that is a portion of the Texas cattle run in the same pasture with the fat cattle.

q Were any of the other native cattle exposed there, & if so, how, to the Texas cattle?

a I saw native cattle, viz, and Texas cattle mixed up promiscuously, more or less, in all his pastures - in different pastures,

q State if any cattle that were exposed to the Texas cattle, died there on the farm of Mr Sidell?

a I can't say of my own knowledge that there was any cattle died there.

q Do you know whether there was or not - what do you know about it?

a That is, with the exception of one or two dead Texas cattle on the pastures in the spring.

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Q That road in the Spring?

A Yes sir.

Q Do you know anything about whether these native cattle did die or not?

A The only opportunity that I would have of knowing would be as I passed through the pastures - that is of my own knowledge.

Q Did you know of any dying?

A I saw no dead cattle - no native cattle dead.

Q Do you know of any body else native cattle there being exposed and if so, whose, & these Texas cattle while they were on Mr Sidell's place - what number they were, and what exposure there was?

A There was cattle - a few - a very few perhaps - a few cows and young cattle that were exposed on the south side of the farm - that is only so far as the fence is concerned; the Texas cattle on one side & the native cattle on the other; I don't know that they was ever on the trail of the Texas cattle.

Q Some cattle belonging to you and