examination, could not recollect any fact or circumstance in connection with the size of the house, the amount of work or materials, and could not tell how his memory was so bad on all other points, and so good upon the conversation that he testified to.

George Short, for defense; I'm a coal dealer, and know defendant; defendant, at the time the house mentioned in the evidence was built, owned horses and carts, and hauled the bricks for the house - that is, the horses and carts were represented as belonging to him.

(This testimony went in subject to exceptions.)

Francis Waltemeyer, the defendant called in his own behalf, testified as follows: Am a son of Adam Waltemeyer; father died in May, 1859; mother died in 1872; I built the brick house mentioned in the evidence, and paid for it; father and mother always ceded the property was mine; my brothers and sisters knew I claimed the property, and offered to compromise before it was first offered for sale by giving me a deed for the frame house that I had then a mortgage on; I went to Mexico in 1846, and came back in 1848; when I came back, I lived in the old log house on the property, and continued to live there until I was married in 1855; then went to Altoona, and lived there three years and seven months; then lived in the brick house awhile; afterwards rented a house until '62, or '63, when I moved back into the brick house; my wife was then dead; I lived there continuously until 76, and kept the house the whole time; after mother's death my sister, Mrs. Schreiner, and husband, lived with me, and charged them no board; in 76 I went to Virginia, and left a

tenant in the house, and while I was away, my brother and sister put him out of possession; I left some furniture in the house and it is there still; I came back in '78, and found a tenant in possession, placed there by my brother and sisters; notified him to move, and he promised to do so; was busy at the time working for the B & O. R.R., living still in Virginia; this tenant said he knew the property was mine, and would give it up; he did not leave until Sept. '81, when I resumed possession, and have kept it ever since; until I went to Virginia, I paid the taxes and ground-rent; while mother lived I gave her the money, and she attended to the payments; I did not pay between 72 and 76, because of the dispute of the ownership of the property; I had the taxes last year; when I went to pay them, I found the prior taxes had been paid by somebody; I made and paid every dollar that went into the brick house; I was absent when the admr. sold the property.

(All this testimony went in subject to exception.)

Cross-Examined.

The house was built in 185' or 1852; I was living at home from '48, until the house was built, supporting my mother, father and sister; I did not live on the property from 58 to '62, and before that time, when I lived there, had a room up stairs; I did not live there from 1855 to 1858; I was the head of the home; my pocket paid for all; I was in a condition better than any of my brothers or sisters, and I helped them and supported them, and they took advantage of me; I had possession of the house from 1851 to 1855; I furnished the house and was at its head; part of the time my sisters were there; I always had possession of that house from