tion as prayed for in and by the said bill and they will ever pray &c.

John Scott, Sol. for pet.

And afterwards to wit on the same day was passed the following order - On considering the within petition bill and exhibits, I have ordered an injunction to issue as prayed according to the act of Assembly in such cases made and provided - Feby. 19th. 1839 -

J. Stephen -

And afterwards to wit, on the 24th. day of July 1839 the defendant the Baltimore and Susquehanna Rail Road Company filed in the said cause their answer in the words following.

To the Honourable Theodorick Bland, Chancellor of Maryland - The seperate answer of the Baltimore and Susquehanna Rail Road Company to the bill of complaint lately filed against it and others in this Honorable Court by a certain Anne Hooker and a certain Thomas Dye Hooker of Baltimore County - This respondent saving to itself all exceptions to said bill whether for form or substance for answer never the less thereto or to so much thereof as it is advised it is material for it to answer unto doth answer and say - That it admits itself to have been incorporated by the General Assembly as in the said bill is set forth with sundry powers particularly specified in the act creating it and the supplements thereto for the which it refers to the printed Statute Book more fully to inform in this behalf the conscience of the Court praying that by such reference the same may be deemed and taken to be part of this its answer and that in the legitimate exercise of those powers it obtained from the complainant Anne and the Testator of her co-complainant Thomas their sealed contract for the grant as well of certain materials which it might require in the construction of its road as of certain rights and privileges in and to a certain tract or parcel of land lying in the County aforesaid of which the said testator subject to an estate for life in the said Anne was seized in fee and through which said tract or parcel of land it was at the time of executing said contract probable from the surveys then making that said road would pass but for more particular information herein this respondent herewith files a copy of said contract marked defendants exhibit A. taken from the original now and always in its possession and admitting that the said contract is the only one relative to the same subject matter which was ever executed in its favour by the parties sealing it and that none of the kind hath ever been executed by the complainant Thomas) prays that the same with all other exhibits to be filed by it may be deemed and taken to be parts of this its answer subsequently to the execution of which said contract this respondent having finally located its road through said tract or parcel of land proceeded to construct and to the extent of twenty six feet or thereabouts in width at its surface which is all that it at present proposes to itself to make hath actually constructed its said road in that portion of it which passes through the said land of the complainants and hath laid down and is now using a single track of railway thereon but this respondent though therein at this time actively engaged hath not yet completed the residue of its said road and the works necessary and proper for the same - And this respondent further answering admits that though a part of said tract or parcel of land is valuable as arable ground, yet its

great and especial value consists in immense strata or bodies of limestone, but it doth not admit that before the project of Rail Roads had been thought of in Maryland the said limestone (if thereby be meant every part and particle thereof) was of great value in the bowels of the earth even although some of it had before that time been used for the burning of lime in two kilns erected on said land (which fact is admitted) and though some also had been the subject of traffic and sale in its natural state of which last mentioned fact however this respondent doth put the said complainants on their proof, it having no knowledge or information touching the same except from the bill itself - And this respondent further answering admits that for the construction of its road upon the said tract or parcel of land to the extent hereinbefore specified it became necessary to remove an immense quantity of said stone the line and level of said road carrying it through the same at a depth of several feet below the surface of the ground and that the stone so removed was after its removal of great value (for the further information of the Court in which behalf this respondent avers that the simple excavation of said stone cost it, ten thousand seven hundred and fifty dollars in addition, where to it paid a large sum of money for clearing away many thousand yards of superincumbent soil) but this respondent denies that said stone before it was touched and if the Baltimore and Susquehanna Rail Road Company had never been formed and the said road had never been made was or would have been of great value and charges on the contrary that the said stone up to the period of its excavation as aforesaid hidden as it was in the bowels of the earth was of no value whatever and but for such excavation by this respondent would have so continued to this day the said stone in its natural bed lying so far from any feasible means of transportation that its quarrying and carriage would have cost more than it could have sold for, there being upon the same tract or parcel of land "an immense body" as the bill hath described it or as the same parties have elsewhere admitted on oath "an almost inexhaustible quantity" of the same kind of stone much more convenient for quarrying and transportation: And this respondent further answering admits that its only source of title to said stone is to be found in the contract made as aforesaid with the said Anne and the Testator of the said Thomas and it further admits that in the exercise of its rights so derived it hath used large quantities thereof in the various modes by the bill set forth not only on but off the said tract or parcel of land and it further admits that much yet remains on said tract or parcel of land unused and that it claims the same under its titles aforesaid for the construction of its road and works in any part thereof where it may find said stone necessary or convenient averring that it still requires for such construction if not the whole (the demand of the work in this behalf not being susceptible of an exact estimate, yet certainly so much of that is left, that it would not feel itself safe from the necessity of resorting elsewhere for a similar material if any portion of the unused remnant were put beyond its reach: And this respondent further answering says that the whole quantity of such stone excavated by it as aforesaid was nineteen thousand seven hundred and fifty cubic yards which it gathers from the estimates returned to it by its engineers and believes to be true having paid according to those estimates but that it cannot answer how much of the same hath been used in the construction of its road