April Term 1867

whole examination by the Counsel of both parties and further that he
Neff was one of said jury of inquisition; And the plaintiff further
proved by Henry S Bancord a competent Witness by him produced
that he said Bancord was also one of the Jury of inquisition that he
S Bancord was in Frostburg in the spring of 1859 about the 10th of
April and saw Tracy Jeffries and Instleep together and heard Tracy
say that it was time clover seed was sown that he Bancord thought it
was too late then and further by said S Bancord that he heard the
testimony given before said jury of inquisition by Ins Sleep who testified
that he heard Tracy say to Jeffries that he should go and sow clover
and timothy seed and should keep the place and remain and untie
to and reap the benefit of the clover and timothy seed that Instleep
did not state the time of this conversation positively but that it was
in Frostburg in the spring of 1859. And the plaintiff further
proved by Thomas G McCulloch a competent Witness by him produced
that he said McCulloch was one of said jury of inquisition and that
he remembers that said Ins Sleep now deceased as aforesaid testified
before said jury in substance that he Ins Sleep was present when a
conversation took place between said Tracy and said Jeffries that
he heard Tracy say that Mr Jeffries should have the benefit of the
sowing of the clover and timothy seed but does not remember that
he testified whether it had been already been sown or not, that
Ins Sleep further testified that said conversation took place at one
of the stores in Frostburg, but Witness does not remember
that Ins Sleep fixed the time of said conversation that the above is the
substance of Ins Sleep entire testimony to the best of Witness
recollection, that before said Jury of inquisition said Jeffries was
represented by Thomas Devecmon Esquire as his Counsel and the said
Cumberland Coal and Iron Co was represented by George A Thompson
Esquire as its Counsel and that said Ins Sleep was examined and
cross examined by the said Counsel of both parties and the said plaintiff
further proved by Nelson Beall a competent Witness produced by him
that he said Beall was the foreman of said Jury of inquisition that
met on the farm that said Jeffries and said Cumberland Coal
& Co were represented by Counsel as above stated that Henry

Ins Sleep now deceased was sworn before that Jury, and examined
and cross examined by Counsel as aforesaid to the best of Witnesses recollection
said Ins Sleep testified that he was present at a conversation in Frostburg
between Mr Tracy and Mr Jeffries that Jeffries accosted Tracy about
the farm and that this time would be out at April next and that the timothy
and clover seed should be sown; that Tracy told Jeffries to go on and
sow the seed and he should have the benefit of it Witness thinks
these are the identical words to the best of his recollection And the
plaintiff further proved by James Jeffries his son that he said
George Jeffries the plaintiff did sow or relief or after April 1859 about
three 28 acres of clover or timothy seed on the farm that during
the year from April 1859 to April 1860 the plaintiff Jeffries rented and
repaired part of the fences on the farm The defendant then prayed
the Court to instruct the Jury as follows.

Defendants 1st prayer

The defendants by their Counsel ask the Court to instruct the Jury
that there is no sufficient evidence in the cause from which they can
find that any lease of the premises described in the written lease
offered in evidence in the cause after the written lease was granted
was made by the Cumberland Coal and Iron Co to the said
George Jeffries of the premises hereby demised nor any evidence
from which they can infer that the term of one year for which said
written lease was made was ever extended for any time beyond said
year as provided by the said Cumberland Coal and Iron Co
to said George Jeffries to which prayer the plaintiff by his
Counsel objects. Objections by Plaintiffs Counsel
after the first prayer of the defendants had been offered as inserted
in this said first Bill of exceptions the plaintiff by his Counsel
objected to the granting the said prayer for the following reasons viz
To the granting of the said prayer the plaintiff objects assigning among
other reasons that the said Prayer assumes questions of fact which ought
to be submitted to the Jury and also submits questions of law to the
Jury which ought to be determined by the Court.

The Court refused to grant said prayer and to said refusal
the defendants prayed leave to except and that the Court immediately