Seal In testimony whereof I hereunto subscribe my name and affix the seal of Washington County Court this 4th day of October AD 1838.

O H Williams Clk

Maryland . Allegany County Set.

I hereby certify that the foregoing is a true copy taken from Liber A.B. No W folios 178. 179 and 180 one of the Land Record Books of Allegany County aforesaid.

Test Aza Beall Clerk.

"Exhibit E"

D 1270.- Cumberland June 21st 1839.

On the first day of April 1840 I promise to pay to Mr Philip Wingert or order twelve hundred and seventy dollars with interest from date.

Lewis Howell.

Thereupon a subpoena issued as follows towit

Maryland Allegany County towit.

Seal The State of Maryland to the Sheriff of Allegany County Greeting: You are hereby commanded to summon The Maryland and New York Iron and Coal Company that all excuses and delays set apart it be and appear before the County Court of Allegany County, on the first day thereof, to be held at the Court house in the Town of Cumberland on the second Monday of October next to answer the amended bill of Complaint of Philip Wingert in our said Court exhibited against it. Herein it is not to fail, and fail not at your peril; and have you then and there this writ. Witness the Honorable John Buchanan Chief Judge of our said Court, the 17th day of April 1843 — Issued the 22d day of Septr 1843.

"Price"

Aza Beall Clk

At which said second Monday of October, the Sheriff of said County made return of said writ of subpoena thus endorsed

Summoned Normand Bruce Shff"

And afterwards towit on the 8th day of July in the year 1845 The Complainant aforesaid by his Solicitor aforesaid, filed in the cause his exceptions to the answer of the Defendant in the words following towit:

In Allegany County Court sitting as a Court of Equity

Between Philip Wingert Complainant and The Maryland & New York Iron & Coal Company Defendant.

Exceptions taken by the Complainant to the insufficient answer of the Defendant to the Complainants bill and amended bill of Complaint.

1st For that the said Defendant hath not answered and set forth whether the paper writing exhibited by the Complainant in his said amended bill and marked exhibit C is not the original agreement between the Complainant & the said Lewis Howell for the sale to him by this Complainant of the tract of land in the proceedings mentioned.

2d For that the said Defendant hath not answered and set forth whether although by the said articles of agreement it was provided that a good and sufficient deed for the said property should be executed to the said Lewis Howell, on the payment of the six thousand dollars payable by said agreement on the 1st day of October 1839 at which time also the said Lewis Howell should execute a mortgage of the said lands for the security of the residue of the said purchase, yet for the sake of

convenience the deed from the Complainant to the said Howell was in point of fact executed by him on the 23d day of May 1838 and the mortgage for the said lands to your Orator on the 28th day of May 1838 and that the said deed and mortgage were by the parties placed in the hands of a certain Wm M Marshall of Hagers Town, to be delivered by the parties respectively by him on the payment of the said sum of six thousand dollars on the 1st of October 1839.

3d For that the said Defendant hath not answered and set forth, whether at the time of the said agreement and purchase and also at the time of the execution of the said mortgage and bonds to the said Complainant, the said Lewis Howell was not the mere agent of the Defendant, and whether the said purchase was not in fact made by the said Lewis Howell acting in conjunction with a certain George McCulloh of Allegany County also an agent of the defendant? and whether in fact the said purchase was not in fact made by the said Defendant, acting thereon by its said agents the said George McCulloh and the said Lewis Howell?

4. For that the said Defendant hath not answered & set forth whether any part of the said mortgage debt was paid to the Complainant at the time of the execution of the deed, to the Defendant by the Complainant exhibited by him & marked Exhibit B and whether the whole of the said mortgage debt was not at that time a lien on the said lands by virtue of the said mortgage? and whether the whole of the moneys paid to the Complainant from first to last were not paid by the said defendant?

5 For that the said Defendant hath not answered and set forth, whether the payment of the sum of six thousand dollars due by the agreement and mortgage on the 1st of April 1839 was not delayed beyond the day so appointed for its payment was not occasioned by a misunderstanding between the said parties in relation to the quantity of land contained in the said farm, and a refusal on the part of the defendant to pay the said sum until the said dispute should be adjusted?

6th For that the said Defendant hath not answered and set forth, whether in September 1839. the said dispute about the quantity of the said land being still unsettled the said Defendant by its Counsel did not propose to the Complainant with a view to an arrangement of said difficulty, that the Complainant should take the note of the said Lewis Howell for twelve hundred and seventy dollars, and at the same time execute a release on each of the bonds of the said Howell for two hundred and fifty dollars? And whether in carrying out the said arrangement, the said releases were not made on the said bonds and dated 21st September 1839? And whether the said note of the said Lewis Howell although given on the same day was not with a view to adjust the said abatement with the interest to the actual deficiency and other portions of the said arrangement antidated to the 20th June 1839? from which day it was to carry interest?

7th For that the said Defendant hath not answered and set forth whether at the time of the said arrangement and the making of the said note by the said Lewis Howell, he was not utterly and hopelessly insolvent? and whether any part of the said note has been paid to the Com-