of the said Company requiring payment of the same, and if the interest of the said bonds or any of them shall be in arrears and unpaid for the space of three calender months, then the principal mentioned in said bonds shall be considered as immediately thereafter due and payable and the trusts and powers of this deed may if the Trustees see fit be thereupon forthwith enforced for compelling payment of both principal and interest of said bonds. And it is hereby further declared that the receipts in writing of the said Trustees or Trustee for the time being shall be effectual discharges for all monies therein expressed to be paid to such Trustees or Trustee and that they shall not be responsible for any loss happening to the trust funds by the failure of any Banker, Broker or agent or for the inadequacy or failure of any security or fund in or upon which the trust funds may be laid out or invested and that in case any vacancy shall happen by the death, resignation or unwillingness to act of any Trustee for the time being of this security such vacancy as often as it shall occur may be supplied by some person to be nominated by the surviving or continuing Trustee for the time being or failing such by the Committee of Management for the time being of the bond holders in England and that every such nomination shall be indorsed upon these presents and be signed by the person or persons making the same or otherwise be signified by some writing under the hand and seal of such person or persons and in case of any nomination by the said Committee the signature of any three of them to be sufficient evidence of such appointment. And lastly it is hereby declared and agreed that all monies which shall come to the hands of the Trustees or Trustee for the time being of these presents as the proceeds of any sale or sales to be made by virtue of these presents or as the consideration for the grant of any lease or leases shall so far as such monies shall be distributable under or by virtue of these presents be first applicable to the discharge of the said bonds dated the fifth day of December in the year eighteen hundred and forty six and numbered from 1 to 19 inclusive, secondly to the discharge of the said bonds dated the first day of July in the year eighteen hundred and forty two and numbered from 1 to 206 inclusive, thirdly to the discharge of the said bonds dated the fifth day of December in the year eighteen hundred and forty six and numbered from 20 to 300 inclusive, and forthly to the discharge of the said bonds dated the first day of July eighteen hundred and forty two and numbered from 301 to 2094 inclusive and that whenever the sum in the hands of the said Trustees or Trustee for distribution shall be insufficient for the discharge of the whole of the bonds having the same order of priority the said Trustees or Trustee shall apply the same in and towards payment of such bonds rateably so far as the same will extend. And this Indenture further witnesseth that the said Maryland and New York Iron and Coal Company hath constituted and appointed and doth hereby constitute and appoint James Murray Howe of Allegany County aforesaid to be its lawful attorney for it and in its name and as its act and deed to acknowledge this Indenture before any person or persons having authority by law to take the said acknowledgement in order that this Indenture may be duly recorded. In testimony whereof the said Company hath caused its common seal to be hereunto affixed on the day and year first above written. Attest J. M. Howe Secy (Seal)

Sealed & delivered in presence of us Geo W Devecmon Ins Heckrotte

State of Maryland Allegany County towit

Be it remembered and it is hereby certified that on this seventh day of December in the year of our Lord one thousand eight hundred and forty six before the subscribers two Justices of the Peace of the State of Maryland in and for said Allegany County personally appears James Murray Howe he being known to us to be the person who is named and described in the letter and power of attorney contained in the foregoing Deed or Indenture and by virtue and in pursuance of the power and authority thereby granted doth acknowledge the said Indenture or Instrument of writing to be the act and deed of the Maryland and New York Iron and Coal Company the party of the first part thereto. In testimony whereof we hereunto subscribe our names on the day and year aforesaid.

Geo. W. Devecmon J.P.
Ins. Heckrotte J.P.

True Copy Test Henry Bruce Clerk.

There being no further witnesses to be examined and neither party desiring further time for the production of evidence the Commissioner closed the said Commission and returns the same herewith under his hand and seal this seventh day of September 1848. A Topham Evans (Seal) Commissioner.

And afterwards towit on the twenty seventh day of September in the year last aforesaid the Complainant by his solicitor aforesaid files in the cause his exceptions to the Defendants testimony in the words following.

Philip Wingert
vs
The Maryland & New York Iron and Coal Company

The Complainant excepts to so much of the answer of Samuel M Semmes a witness of the Defendant as refers to transactions or understandings between witness and parties in England and to all conversations and transactions between the said witness and other parties or persons as being res inter alios acta.

The Complainant also objects to so much of the said answer as states the impression of the witness as to the character of the said arrangement by which the Complainant agreed to receive the note of the said Howell and deliver the bond or single bill of the said Howell. The Complainant insisting that the character of said arrangement must depend upon upon the facts of the case and not upon the impressions of either party as to the effect of these facts

The Complainant further excepts to all the statements made by the said witness to the second interrogatory including the minute Book a book of proceedings of the Defendant as res inter alios acta and otherwise not pertinent to the matters in dispute between the parties

The Complainant further excepts to the testimony of the said witness in relation to entries on the margin of the land record book of Allegany County and also to the entries themselves. The said entries and the testimony of the witness in relation to them, not being legal evidence between the parties to this suit. And also to the evidence of the said witness in regard to the conveyances of the Defendant as detailed in his answer to the 4th