said Trial at bar certain exceptions were taken at the ruling of the Court, which were signed and sealed by said Court, and an Appeal thereupon at once was prayed to the Court of Appeals; and further shows that since the trial and appeal aforesaid your petitioner was surprised to discover that said Trustee and insolvent have been using all effort to prevent the Clerk of said Court from making out the record of said appeal, and now threaten that if made out and sent to the Court of Appeals, they will sign an order directing the dismissal thereof, and for such course assign no just cause for your petitioner shows that he paid all the costs incurred in the trial at bar, or if there be any remaining unpaid, that he is willing to pay the same and further that he is most willing and ready to pay all the costs that may accrue by reason of said appeal, and is here now ready and willing to give such security for the payment thereof as the said Trustee or said Court may require, and this your petitioner hath offered again and again to the said Trustee, so as to avoid any possible loss that might accrue to him or to said insolvent, but the said Trustee hath altogether refused and insists that said appeal shall not be tried; and your petitioner shows, that if said appeal be not tried, it may be most injurious to his rights and interests for that the proceeds of the sale of the whole real estate will not be sufficient to pay said mortgage debt, and if dismissed by the recovery aforesaid the loss to your petitioner will be considerable; and further your petitioner is advised that said Trustee and insolvent conspiring together to wrong and defraud your petitioner, have agreed and determined that said appeal shall not be tried and that the judgment of the Court below shall stand, and that a suit shall be instituted against your petitioner as grantor aforesaid upon his covenants in said deed — In order therefore that your petitioner may have his just rights secured to him and that the Trustee of this Court may be —

required to discharge his trust faithfully.

To the end therefore that the said John Reichard and Jacob Newman may answer the premises and that they may be required to defend said suit by prosecuting said appeal and upon such terms as the said Court shall require, and that your petitioner may have such further or other relief in the premises as his case may require &c.

May it please your Honor to grant unto your petitioner the writ of Subpoena against the said John Reichard and Jacob Newman of said County, commanding them to appear in this Court at some certain day to be therein named to answer the premises and abide by and perform such order as may be passed in the premises.

William T. Hamilton, Atty. for Petitioner

State of Maryland, Washington County towit:

I hereby certify that the above and aforegoing is a true Copy of the original petition filed in No. 2330, Insolvents, and that the same was filed on the 11th day of September A.D. 1866.

In testimony whereof I hereunto subscribe my name and affix the seal of the Circuit Court for Washington County at Hagerstown this 10th day of June, 1867.

(Seal)

Lewis H. Nyman, Clerk.

But because the Court of Appeals here are not yet advised what Judgment to give of and upon the premises, thereupon this case was continued by regular continuances from term to term until the 1st Monday in October 1868.

And now at this day, to wit, the said first Monday in October being the fifth day of the said month, in the year of our Lord one thousand eight hundred and sixty eight come again into the Court of Appeals here, the parties —