

Supplemental answer of M.C. Rogers to the Bill of complaint exhibited against him and others in the Chancery Court for Sevier county in the State of Tennessee by William K. Love, Preston A. Love and James T. Love Complainants

This respondent having filed his separate answer to the said Complainants bill on the 12th day of April 1841, considered he had fully answered; since which time his several co-partners have filed their Separate answers and to which this respondent wishes to reply-

Nothing could have been more astonishing to this respondent than certain parts of his Co-partner answers- 1st They all disclaim ownership to Sweden Furnace lands &c- 2nd They all charge this respondent with making false representations to them as to the nature of the Pig Iron engagement with complainants- 3rd. All are willing that this respondent and complainants may settle their own affairs in their own way, but that the said Andrew Smyth and the members of the late firm of D. & M. Shields & Co. will resist to the utmost of their ability any claim set up against them by the complainants on the fact of the contract made between the Complainants and the said M.C. Rogers.

It is painful in the extreme for this respondent to have to differ with his Co-partners in any thing, but he feels that it would be a dereliction of duty to himself and family to quietly submit, and tamely and calmly to yield to that which is unjust and become the Scape Goat even to Screen partners from a share in just responsibilities which properly belong to them- In a bad contract in which all have been worsted no one partner should bear more than his just responsibility- It is perhaps true that had it not been for this respondent that the said Andrew Smyth and the members composing the late firm of D. & M. Shields & Co. would never have entered into the disastrous Iron Business at Short Mountain or Sweden furnace; and it is equally true that this respondent would never have been in the Iron Business at any time had it not been for his co-partners and particularly the advice he received from David Shields Deed in whom he had implicit confidence both as a man of business habits, forecast and indomitable exertion and untiring perseverance. When this trade was first proposed to this respondent by complainants he wrote to David Shields informing him of the proposition and the loud boastings of the Complainants about the great quantity and Superior quality of their ORE, the convenience of the same to their Furnace &c &c and that if he was to go into business he knew of no man he should prefer to him &c. As well as now recollected in August 1836 the said David Shields came over as requested and he and this respondent went to Short Mountain Furnace then in blast, or the blast was just over, or the furnace Stopped up, respondent does not now recollect- We saw Complainants, told them our business- went to their ore banks with them- heard them puff much about the great value of their establishment and left them without making any proposition for a trade- We came to this Respondents house in Sevierville- the said David Shields spent the night with him, and told him that the price asked by the complainants was out of the question and gave it as his opinion that we could make money there if the place could be got for \$4000 or thereabouts- And told this respondent as they were owing him he got it, what terms a partnership could be formed upon- Respondent made the purchase went to Holston Paper Mill- found the said David

Shields quite unwell and confined to his room and his brother Doct. Saml. S Shields with him- The partnership was formed as previously Stipulated and the said David Shields though unwell drew the rough draft of the Articles of agreement and this respondent drew them off which were then and there signed on the 8th day of December 1836 by the said David Shields on the part and for D.&M. Shields & Co., and this respondent and then he went on from there to Bright Hope Furnace in Green county to see Andrew Smyth who then closed the same by adding his signature- Under this state of facts how was it just or equitable for all the other respondents to charge this respondent with having misrepresented the quality of the ore, when the fact is this respondent had no knowledge of the Iron business, had wrote to David Shields in whom he had implicit confidence, and who he knew had previously been engaged extensively in the Iron Business- had got the said David Shields' opinion after having examined the premises, ore breaks &c and on which opinion, this respondent did much rely in making the purchase of said Furnace and lands; though at that time he had not dreamed of fraudulent intentions on the part of Complainants and for a long time afterwards- These being the facts, this respondent with much more justice could have entered his complaint as being led into a fatal error and great losses, by the advice of one of the firm of D.& M. Shields & Co. and who had he lived to this day this respondent has the fullest confidence would never have attempted to have shrank from his full share of all just responsibilities- The whole contract being a gross fraud practised upon all the members of the Firm of Shields, Smyth & Co by complainants. As two of the letters of this respondent have been made exhibits A & B. in the answer of Milton Shields one of the partners of the firm of Shields Smyth & Co. he is hereby called upon to exhibit this respondents letter in 1836 to David Shields now Dec. inviting him to come and inspect said furnace &c before the purchase was made as he is now the legal representative of his deceased brother.- He is here also interrogated as well as all the other members of the firm of D. & M. Shields & Co. as to what were the opinions of said David Shields relative to said purchase after he returned from this tour of inspection- This respondent at no time ever had any intention of putting a "pig in a pok" upon any of his said partners; for common sense would have told him that it would have been ruinous to himself also-

2d. It seems passing strange that this respondent should be charged with having made false statements to his partners as to the nature of the Pig Iron Contract with Complainants- Can human ingenuity devise a motive that could have induced this respondent to have done so? The Co-partnership of Shields, Smyth & Co. was formed on the 8th day of Dec. 1836 and as early as the 19th day of March 1837 this respondent anxious that all things should work well, and buoyant with hope in the heavy business undertaken sends to Andrew Smyth a copy of the Pig Iron Contract to the end that no mistake might take place in faithfully fulfilling the contract as he was the active partner at Bright Hope Furnace then in Blast and as the other would not be in blast by the time the firm would be liable to be called upon for metal- The answers of Andrew Smyth that he did not understand the Pig Iron Contract until in the month of Nov. 1840 near 3 years after it was in his possession is unaccountable. See Milton Shields answer Exhibit B for the copy of the contract- All this was done before Shields, Smyth & Co. had incurred any expense at Sweden Furnace worth naming. And on the 3d July 1837 this respondent wrote to David Shields on the subject of the Pig Iron contract with a copy of the

Contract annexed which letter is made Exhibit A to Milton Shields answer but but the Copy of this Pig Iron Contract is torn off, by whom this respondent does not know, and yet the Surviving partners of the firm of D. & M. Shields seem to be ignorant of the nature of that contract, these assertions were strange and new to this respondent.- This was also done while the expenditures of Shields, Smyth & Co. were very trifling.

3. As to the title to Sweden Furnace and lands being made and so understood by the other partners, to this respondent by complainants, how they ever fell into that error this respondent is at a total loss to understand- He is sure he never so informed them, but did exhibit Complainants bond to make the title in fee simple within six months from the 1st day of Nov. 1836. which said Complainants never has done nor has said complainants yet made said title though requested to do so, and a deed for that purpose was presented to Wm. K. Love the active partner of the firm of Complainants; nor has complainants removed the incumbrance of the deed of Trust to Wm. C. Roadman, who has applied for an order of Sale of said furnace and lands a copy of the Bill being served on this respondent as a defendant recently.

4th. How any of the partners of the firm of Shields, Smyth & Co. ever came to understand that this respondent ever intend to release any or all his co-partners from the responsibilities of a contract all had agreed to fulfil is more Surprising still- If this were the fact of the case, it would seem that this respondent was fond of "assuming responsibility"- Respondent at no time said so nor did he at any time ever intend to do so- It is true that on the Settlement with Complainants on the 14th day of June 1838, this respondent and Andrew Smyth, did agree that it was right to Stop the matter until the Complainants paid for what Pig Iron they received; and if that can be tortured into an admission on the part of this respondent, that he released the balance of his co-partners from their just portion of liability, then indeed are they released, but not otherwise.- And as proof how Milton Shields one of the partners wished to manage that point, this respondent will here make a Statement- In the months of September and October 1840, this respondent was confined to his house with Sickness about 40 days, and in that time the said Milton Shields came to see respondent and conversed much with him on the subject of the business of the firm of Shields, Smyth & Co; and then and there drew up an instrument which he said would put an end to our law suits, if I would sign it- I requested him to read it over and after hearing it I told him I was very weak and would not then sign it, but would keep it and on better reflection and advice of council if it was thought best I would then sign it- On being restored to health I looked it over and it looked so much like assuming all the responsibility myself I never asked the advice of council, nor have I ever been asked by the said Milton Shields what conclusion I came to- Said Instrument is herewith made an Exhibit marked A, (in his own hand writing). Now if this respondent did release his co-partners in June 1838 why ask an another release in Sept. or Oct. 1840? which it was said would put an end to all the law suits.

5th. As to the subject matter generally, this respondent avers that David Shields in his life time must have understood the responsibilities of the said Andrew Smyth and the members of the firm of D. & M. Shields & Co. very differently to what the Surviving partners now do- And this is the reason when complainants send upon the Pigeon Contract for the first year, it w became necessary and proper for the firm of Shields, Smyth & Co. to file a

bill to injoin said contract and to obtain an injunction to suspend the suit at law until Complainants had paid for what pig iron they had received, they having in the first year received a large amount and had paid a very trifling consideration in part toward it- For that purpose David Shields and this respondent was to have met at Dandridge on the 2d Monday of Dec. 1838. This respondent had business to transact at Knoxville which prevented his getting to Dandridge before the following Tuesday evening or the morning following- When he got there the said David Shields had been there and had been compelled to leave again, but he left a memoranda of the outlines of what he thought ought to embrace part of said Bill in the hands of Robert J. McKinney Esqr. in his own proper hand writing but not dated, signed, directed to this respondent, which was handed to him on his arrival at Dandridge. From it, it will be seen that the said David Shields did not understand matters as do the rest of the Surviving partners now. He considered the obligations of the partners of the firm of Smyth, Shields & Co. mutual, and that all were bound to fulfil the obligations of the said Pig Iron contract, or to defend the wrong and injury done, when, where &c- And he took the true ground that Complainants had failed on their part to comply with their contract and was for applying the rules of equity to them until they did perform- There is no intimation on his part that he wants this defendant to fight the battle for the rest of the Co-partners on his own footing, but that justice and the principals of equity were upon the side of the respondents in this suit- The said David therein particularly alludes to the "Language" of the Pig Iron contract, and says "remember the articles of agreement to supply them with metal is in part consideration of the purchase and is recognized as such by its own language and must be blended in the bill with the other considerations to be received from them FOR THE METAL FURNISHED AND THE ~~xxx~~ \$1665 paid" which memoranda is herewith annexed Exhibit B. This respondent cannot help here admiring the manly course taken by his partner, David Shields now no more, regretting and the course attempted to be pursued by his surviving partners-

6th. That, the object of the meeting of the partners at Sweden Furnace on the 20th day of August 1838 was to compel this respondent to take back the Furnace, lands &c in consequence of his not having complied with his engagements to the firm of Shields Smyth & Co, has forever remained a secret to him and all the world as he supposes and believes, and certainly never came to his knowledge until he found it divulged in the Separate answers of his co-partners to complainants bill- David Shields, Andrew Smyth & John Guthrie were all the partners present on that day, and he now calls upon the Survivors who were present on that day to say if a dissolution of the Co-partnership was named to this respondent at all then, or at any time when the said David Shields was living, or since that time except the the decree in Chancery which was mutual for the purpose of winding up the business of the dead as well as the living- On the day alluded to above David Shields in the presence of this respondent did offer to take cost for the interest of D. & M. Shields & Co in said business Andrew Smyth proposed to take Bright hope at cost, but no one agreed to take Sweden or let him have Bright Hope- The final conclusion was that Andrew Smyth believed he could do well at Sweden and John Guthrie the other partner differing in opinion with him was willing to change places and let him try? "The principal reason assigned by the said David Shields was that said Rogers had deceived him in the quality of the Ore" &c. The assignment of this as a reason is strange indeed, when it was on the judgement of the Said David Shields (who was a practical man in the Iron Business) that the purchase was made in and not from the judgement of this respondent (who from first to last professed

to know nothing of the Iron Business and relied on what the said David Shields told him to do, and on the great name given by Complainants to their ore &c.

7th. This respondent, thinks it strange that a man professing practical experience in the Iron Business as Andrew Smyth does should prosecute his business until all "the Capital Said Rogers put in the firm of Shields, Smyth & Co. ~~xxxxxxx~~ as well as the Capital of D. & M. Shields & Co. and this respondent in said firm of Shields, Smyth & Co. this respondent believes has been sunk and lost which is a great many thousand dollars"- It is equally strange that the said Andrew Smyth should charge that "he is very much injured, and also D. & M. Shields & Co. to the amount of Several thousand dollars in placing so much confidence in the statement of M.C. Rogers" and Stranger still that the said Smyth should "consider himself to have been greatly deceived and imposed upon and is not disposed to interfere between the complainants and the said M.C. Rogers." Now all these things can be passing strange. Agreeable to a previous statement, made by this respondent, the purchase of Short Mountain Furnace, now Sweden Furnace was made by the advice of David Shields now no more, after actual inspection on the premises Seeing every thing that could be seen by the eye- And the said Andrew Smyth is hereby called upon Specially to State all he knows about the said David Shields visiting Said furnace before the purchase was made- How any of this respondents partners were greatly injured in placing so much confidence in him is more than human ingenuity can explain. Had this respondent been disposed to complain of being greatly injured and deceived by the two active partners the said Andrew Smyth & John Guthrie who were relied upon as persons acquainted with the business they professed to follow, there might then have been some justice perhaps in the complaint for he had advanced of his means liberally believing it would be returned to him again with profit- and no for sooth the said Andrew Smyth comes out at his late day blaming this respondent with a total loss of all the capital of all the partners- By a settlement amongst the partners on the 16th day of August 1841 Signed by all the partners, it then appears that Andrew Smyth had Advanced in principal and interest \$19,009. ~~22~~ \$19,009.08- D. & M. Shields & Co. \$17,772.02 M.C. Rogers \$14,955.27 3/4 that is acknowledged by all and admitted and \$5,976.36 being principal and interest for the purchase of Short Mountain furnace paid to complainants by this respondent and rejected on the ground that the said William K. Love and Brothers the complainants had failed and refused to remove the deed of trust in favor W. C. Roadman and had even refused to make a deed to this respondent so that he might set up his claim in a legal way on settlement with his partners for all which see Exhibit C as to the settlement with the firm of Shields, Smyth & Co and for the refusal of the said Complainants to make a deed See Exhibit D. thereby preventing respondent from obtaining a credit which he was justly intitled to with his partners on the Books of Shields Smyth & Co of \$4665.

Now that practical men should follow any business until a capital of \$57,713.73 was a total loss, and then charge that ~~xxxxxxx~~ loss on a man (sic) partner who from first to last professed to have no knowledge of the business, and entirely relied upon those who were actively engaged, and had nothing to do at any time in said business except to hand out liberally while he had the means, is what the rules of common sense never can admit, and which this respondent is informed and believes can never be adopted in a Court of Equity-

8th That John Gutarie one of this Respondents Co-partners and one in whom I had much confidence should roundly assent in his answers that "This respondent considers himself and the other partners of the late firm of D. & M. Shields & Co. to have been greatly deceived and imposed upon and that the said M.C. Rogers in fact never put any capital into the firm of Shields, Smyth & Co. and respondent is not disposed to interfere between the complainants and the said M.C. Rogers farther than to resist any claim that the Complainants may make on this respondent" is truly astonishing and passing strange, and hard to reconcile when taken with Exhibit C. already made to this Supplement.- The whole error consist in a wish on the part of all the co-partners of this respondent to resort to Subterfuges to screen themselves from a just share in the responsibilities of this and disastrous co-partnership. This respondent has no disposition to Sculk or dodge from his just share of responsibility what ever it may be, and he feels mortified to find he has been associated with other partners who have Sculked in their answers & endeavoured to pack him with all the blame when from first to last in all he did he was solely guided by the advice he got from the lamented David Shields Dec., who this respondent never will believe intended or thought of taking the course pursued by the Said Andrew Smyth and the Surviving partners of the firm of D. & M. Shields & Co. This respondent hopes to live and die under the impression that the Said David had he lived would have Spurned the course taken by his Surviving partners, as may be Seen by a reference to his memorandum Exhibit B. This respondent, yet assumes and maintains the position taken in his answer to Complainants bill, that they had practised on all the members of the firm of Shields, Smyth & Co. one of the most stupendous frauds ever perpetrated since the first contract between men, he denies all fraud upon his part, or combination with any one to cheat and defraud these complainants, as charged be them nor does he believe that his said partners intended to cheat or defraud these complainants and he prays to be dismissed with his other partners with their costs in this behalf expended.

Certified before Wilson Duggan, C & M by M.C. Rogers, Sevier County, Tenn.,
1 Nov. 1841