who acted as Deputy surveyor at the time of making said survey is now dead he died on the eleventh day of July 1841.

To the fourth Interrogatory he answereth and saith that the said Edward M Brown deceased told him this deponent that Edward Johnston did not include the land now in dispute in his Resurvey called "Arundel Resurveyed" because John Hoye the complainant had included it in his Resurvey called "Flavia Resurveyed" which was made before Edward Johnston made his Resurvey called "Arundel Resurveyed" and that afterwards in July 1840 Edward Johnson took it up under a special warrant and called the survey "Fort Meigs"

To the fifth Interrogatory he answereth and saith that he does not.

James Smith, To the first Interrogatory he answereth and saith that he doth, and that he has known each of the parties complainant and Defendant for about eight years.

To the second Interrogatory he answereth and saith that Edward M. Brown was acting as a Deputy surveyor of Allegany County at the time when the last survey made for the Defendant called "Fort Meigs" was made and this deponent believes the said Edward M Brown was duly qualified as such and for the date of the said survey he this deponent refers to the certificate of the said survey.

To the third Interrogatory he answereth and saith that the said Edward M Brown departed this some time in the summer of the year 1841.

To the fourth Interrogatory he answereth and saith that the said Edward M Brown dec.d in his life time told this deponent that at the time when the said Johnston was about to make his said last survey under which he claims the land now in dispute he the said Brown was acting as Deputy surveyor for his father and that he mentioned to the said Johnson when he was about to run the lines and locate the warrant for said Johnston on the land now in dispute that it was already included in Hoye's survey but the said Johnston persisted in taking up and including the said land now in dispute in his said last survey the said deponent further saith that he called on the said Edward M. Brown deceased in his last sickness for the purpose of getting him to come to town to give his testimony in the caveat case between the parties in this suit that the said deceased was then much indisposed and the conversation turned on what he the said deceased could prove and that the above was the substance of that conversation that the deposition of the said deceased never was taken but Wm. Semmes and this deponent as the counsel of the respective parties afterwards entered into an agreement or statement in writing which was to be made evidence in the said caveat case a copy of which marked "Exhibit A. is hereunto annexed and which the said deponent wished to be considered a part of his present testimony.

To the fifth Interrogatory he answereth and saith that he doth not.

In Testimony whereof I hereunto set my hand and seal this tenth day of March 1842. George W. Devecmon, Commissioner (Seal)

Saml. A. Swartzwelder, Clerk.

Costs of executing Commission.

Commissioner 1 day	$4.00
S. A. Swartzwelder Clerk 1 day	2.66⅔
Denton Brown witness 1 day	1.00
James Smith witness 1 day	1.00
Magistrates Fee	6¼
	$8.73

Exhibit A.

Edward Johnston, vs. John Hoye, } Caveat in the Western Shore Land office vs. Flavia Resurveyed. It is agreed in this case that the tract of land called "Fort Meigs" as also the tract called "South Bar directed by the caveator to be laid down by the surveyor of Allegany County are located correctly on the plat filed among the papers the former of which tracts are located as the claim and pretensions of the caveator and the latter is laid down for illustration. It is also agreed that the tract of land called "Flavia" as also the tract called "Flavia Resurveyed" which are laid down as the claim and pretensions of the Caveatee in this case are correctly located on the said plat. It is also agreed and admitted that the caveator at the time when he made the survey of the tract called "Fort Meigs" was informed and knew that the Caveatee had already included the land now in controversy in the survey on tract called "Flavia Resurveyed and that the said Caveator was so informed by one of the Deputy surveyors of Allegany County when the lines of "Fort Meigs" were about to be run on the ground for the Caveator.

James Smith, attorney for the Caveatee,
Samuel M Semmes attorney for Caveator,

True Copy from the original filed the 5th of April 1841.
Test. George G. Brewer, Regr. Land off. W. S. Md.

And the said cause thus standing was continued until the next Term of the said Court at which next term to wit July Term 1842 the parties aforesaid by their solicitors aforesaid filed in the said cause the following agreement.

John Hoye vs. Edward Johnston, } In Chancery. It is agreed in this case that the plaintiffs tract called "Flavia" consists in part of the following lots to soldiers of the Maryland line of the continental army westward of Fort Cumberland in Allegany County to wit Lots No. 1226, 1232, 1235, 1229, 1230, 1231, as shown by the certificate of the Register of the land office herewith filed marked (A) as a part of this agreement.

And it is further agreed that an authenticated copy of the patent of the tract called "Flavia" may be filed to have the same effect as if filed and returned with the Commission. And it is further agreed that the complainants Exhibit (B) filed with his bill is a true copy of the agreement filed in the caveat case in the land office to which it refers and that the counsel who signed it were thereunto lawfully authorised by their respective clients. It is also agreed that the certificates of Ags Beall Clerk of Allegany County Court and of Richard W. Gill Clerk of the Court of Appeals marked D & E, may be filed and to have