as complainants and William F. Berry as defendant, I the said Truerman Tyler commissioner in the said commission named after having taken the oath to the said commission annexed did at the hour of 11 o'clock A. M. on Wednesday the eighteenth day of August in the year of our Lord one thousand eight hundred and forty one at the office of Thomas F. Bowie Esq. in the Town of Upper Marlboro in the County aforesaid pursuant to notice before that time given to the solicitor for Complainants to attend for the purpose of executing said commission when said complainants not having produced any witnesses before me I adjourned the execution of the same at the request of Jno. B. Brooke Esquire, solicitor for the Complainants to the same place at the hour of 11 o'clock A. M. on Wednesday the twenty fifth day of August in the year of our Lord one thousand eight hundred and forty one when and where in the presence of the said solicitor for the Complainants and of one of the Complainants Robert B. Brooke I proceeded to take the following depositions to wit:—

Owen Beall a witness of lawful age produced on the part of the Complainants after having been duly sworn on the Holy Evangely of Almighty God and examined to Interrogatories filed with me the said Commissioner by the Complainants and herewith returned deposes and says,—

To the first Interrogatory, That he has known Elisha Berry one of the Complainants and William F. Berry defendant for about fifteen years and that he has also known the wife of Robert W. Brooke daughter of the said Elisha and the other children from their births with one of the Complainants Robert W. Brooke he has been acquainted for about two years and that the other Complainants with the exception of Robert W. Brooke are the children of the said Elisha Berry that Robt W. Brooke married his daughter and that they are all minors being under twenty one,

To the second Interrogatory, That he deponent has no particular knowledge of the mental capacity of the said Elisha Berry about the time alluded to in this interrogatory but his general impression is, that he was not capable of transacting his affairs in a proper manner at any time and that about the time alluded to in this interrogatory he was addicted to the habitual use of ardent spirits and from which he the deponent considered his mind was greatly impaired he also believes that the said Elisha was incapable of transacting his own business and might be easily imposed upon by an artful and intriguing person.—

To the third Interrogatory, His witness deposes that William F. Berry is reputed to be the natural half brother of the Complainant Elisha Berry he also says that the defendant acted in the capacity of overseer for the said Elisha about the year 1832 but that he the witness does not know how long he acted as agent, since the period before mentioned that he was upon the farm where the defendant William F. Berry then resided and now resides in the year 1839 and from the general tenor of his remarks he drew the inference that he acknowledged both the personal and real estate to be the property of

his brother Elisha and he also recollects particularly a remark about the negroes that he the defendant said they were extremely troublesome and he wished he had never been brought in contact with them.—

To the fourth Interrogatory, That this witness is acquainted with the lands now in the possession of William F. Berry and that they the same before alluded to in his answer to the third interrogatory but that he does not know the name or names of the land or the quantity of acres he does not consider himself a very competent judge of its value but should think it worth about twenty five or thirty dollars per acre and that the defendant William F. Berry has been in possession of it about three or four years.—

To the fifth Interrogatory, He the deponent says that he no particular knowledge of the condition of Elisha Berry's bodily health or mental capacity about the period mentioned in this Interrogatory but from his general acquaintance would not suppose that he was capable of disposing of an estate or to judge of any legal instrument that might be presented to him for execution in a proper manner and that he verily believes that he the (witness) if acting under the disguise of friendship might by the use of ardent spirits have induced him to do any thing.—

To the sixth Interrogatory, That witness has no knowledge of the matters embraced in it.—

To the seventh Interrogatory, His deponent says That from this witness knowledge of the pecuniary affairs of the defendant William F. Berry he does not hesitate to declare him utterly incapable of paying the amount contained in this Interrogatory, that he never knew him to possess more than a horse and saddle and his intercourse with him was frequent and intimate.—

To the eighth Interrogatory, His Deponent says that he knows of no property beyond what is stated in his last answer and that he had no employment about the time he became the agent of the said Elisha from whence he could derive any thing more than a support if that.—

To the ninth Interrogatory, His Deponent says not knowing the quantity of acres he cannot speak as to the amount of its full value.—

To the tenth Interrogatory,—His witness says he knows nothing,

To the eleventh Interrogatory, He knows nothing more than he has before stated.—

Richard H. Marshall another witness of lawful age produced on the part of the Complainants after having been duly sworn on the Holy Evangely of Almighty God and examined to interrogatories filed with me the said Commissioner by the complainants and herewith returned deposes and says.—

To the first Interrogatory, He deposes and says, That he has known Elisha and William F. Berry for twenty years and afterwards he has known the other Complainants except Robert W. Brooke from their births he has known Robert W. Brooke about two years all of the other Complainants except Robert W. Brooke are minors and