Truman Tyler Commissioner in the said Commission annexed having met on Saturday the fifteenth day of November in the year of our Lord one thousand eight hundred and forty one, at the office of C. C. Magruder Esquire at the hour of 12 O'Clock in the Town of Upper Marlbro in the County aforesaid, pursuant to previous notice thereof given to the said parties, and previously taken the oaths annexed to the said commission, did proceed then and there in the presence of the complainant Robt. W Brooke and his solicitor John B Brooke Esq. and of the defendant William F Berry and C. C. Magruder and Thomas G. Pratt Esquires the solicitors of the said defendant, to take the following depositions to wit,—

Benjamin Duvall, a witness of lawful age produced on the part of the defendant after having been duly sworn on the Holy Evangely of Almighty God, and examined to interrogatories in chief filed with me the said commissioner, by the defendant, and herewith returned deposes and says.—

To the first Intg. He says, that he knew Elisha Berry well about this period, and before and since, and had full opportunities before 1836 and since of Judging of his capacity for business, except for the last two years, whenever this deponent dealt with him, which was frequent, he found him close to his own interest, and capable of protecting and Judging of his own interest - he does not know whether the said Elisha Berry could be imposed on or not, He was in his pecuniary transactions pretty close, and would get the worth of his money, as far as witness, could Judge from his dealings with him.—

To the third Intg. He answers and says that he has known the defendant William F Berry from childhood and always thought him upright and honest, and he forms this opinion from his own knowledge and dealings with defendant.—

The complainants solicitor Jno. B Brooke Esq. objected to this interrogatory on the ground of irrelevancy.—

The 4th, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, waived as to this witness.—

To the 17th Intg He says, That he knows all the lands mentioned in this Intg and knew them well before 1836 and up to the date of the sale to Elisha Berry by witness, which was in February 1833, In 1836, he says, he knew the lands sufficiently well to Judge of their value, and deems their said value from $20 to 25 $ per acre, He says 180 or 90 acres of this land, are of good soil, the residue he looked upon as barren land, this price of $20 or $25 per acre, he estimates the whole land at — since 1836 as witness thinks, he offered Elisha Berry $25 per acre which he refused, Witness owned and worked this land about five years, but had not been on it, from the time he sold it to Elisha Berry, except riding along the main road, and from the road to the house of said Elisha.—

To the 18th Intg. He says, they did, he purchased it of Nathan Somers in 1827 or 28, 180 or 90 acres at 7 dollars per acre 11 acres at 30 dollars per acre and the balance at $5.96 cents per acre, He sold it to Richard H Marshall as Trustee or agent of Elisha Berry early in the year 1833, and sold it on the following terms four thousand dollars if witness gave immediate possession, and three thousand seven hundred and fifty dollars, if he kept it for a year, he did keep it for a year and got

the latter price.—

Enos D Ferguson Sen. a witness of lawful age, produced on the part of the defendant after having been duly sworn on the Holy Evangely of Almighty God, and examined to Intg. filed with me the said Commissioner by the defendant and herewith returned, deposes and says.—

To the first Intg. He says, that he has known Elisha Berry, William F Berry and the children of Elisha all their lives, and Robert W Brooke since he came in the neighborhood, he the deponent, is uncle to Elisha and William F Berry.—

To the second Intg. He says that he was sufficiently acquainted with Elisha Berry, up to the period of one year before his death (which occurred in April 1841) to Judge of his mental capacity for business, He thought Elisha Berry was always capable of attending to his own interest from his transactions with witness, which were frequent but trivial in the amount Witness never thought he could be easily imposed on, in any transaction that he had with any one when sober, and witness forms this opinion from transactions with the said Elisha Berry, which were frequent but trivial in their amount, This witness always thought the aforesaid Elisha close and careful in his own interest, he never could purchase any thing from him, because, he asked more than it was worth.

To the third Intg. He says he has had some dealings with the defendant William F Berry, and always deemed him upright and honest.—

"Objected to by Jno. B. Brooke Esq. solicitor for Complt, on the ground of irrelevance".—

To the fourth Intg, His deponent says, he saw Elisha Berry sign the paper marked No. 1, and he the witness was a subscribing witness to it.

To the fifth Intg. He says, this paper referred to in the last Intg was attested by deponent, and that Elisha Berry was sober at the time of its execution, he (this deponent) considered him in good health and heart, this paper was read by witness to Elisha Berry prior to its execution, and the said Elisha, said, when he executed the same, that he understood it.

To the sixth Intg. He deposes and says, that he the witness attested the paper marked No. 2, herewith returned, and that it is in the handwriting of Elisha Berry.—

To the seventh Intg. He answers and says, the paper referred to in the last Intg was signed by Elisha Berry, and attested in the presence of Berry by this witness, it was read to Elisha Berry, prior to its execution by witness, the said Elisha said he understood the intent and meaning of it before he signed the same, the paper marked No. 2 was drawn by witness at the request of Elisha Berry, he stated that his brother William F Berry had advanced the money to him, and that he wished witness to draw the receipt as that paper was drawn.—

Eighth Intg waived.—

To the ninth Intg. He deposes and says, the paper now shewn him marked No. 8, and herewith returned was signed by Elisha Berry in the presence of him the witness, and attested by witness, this paper was also read by witness to Elisha Berry prior to its execution, and the said Elisha then said he understood the purport and intent of said paper,

To the tenth Intg. He deposes and says, that he was present at the