Waived as to the rest of the Intg. to the 23d.

To the 23d Intg. He answers and says, that Thomas Berry is the reputed father of the defendant William F. Berry and is a wealthy man, with only one legitimate child.

C. C. Magruder one of the solicitors for defendant, and a witness of lawful age, after being sworn on the Holy Evangely of Almighty God, and examined to Intg. filed with me by the defendant and herewith returned, deposes as follows.

To the 1st Intg. He answers and says, He knew Elisha Berry for many years before he died, that he knows more of the children of said Elisha, that he knows Robert W. Brooke and also the defendant.

Waived down to the eleventh Intg.

To the 11th Intg. He deposes, that he designates "R. No. 26 as a check given him by the defendant, it was for a fee for professional services rendered Elisha Berry.

Waived as to the other Intg. to this witness.

There being no other witness to be examined on this day I adjourned the within commission, and at the request of Jno. B. Brooke Esq. one of the solicitors for the complainants appointed Monday the seventh day of November of the same year at the hour of 12 O'clock as the day on which to reopen the Commission at Dunlap's Tavern Lower old Fields, Prince Georges County previous notice thereof having been given to the defendant and his respective solicitors, when and where I attended and in the presence of Jno. B. Brooke solicitor for complts. and Robert W. Brooke one of the complainants and the defendant and C. C. Magruder one of his solicitors — I proceeded to take the following depositions to wit.

Samuel Cecil a witness of lawful age produced on the part of the complts after being sworn on the Holy Evangely of Almighty God and examined to Intg. filed with me by the complainants and herewith returned as complainants Intg. deposes in manner and form following to wit.

To the 1st Intg. He answers and says, he has known Elisha Berry and the defendant for nearly 12 or 14 years, Robert W. Brooke about two years he has also known all the children of Elisha Berry for a long time.

To the 2d Intg. He deposes and says, He knows nothing personally of Elisha Berry's mental capacity at any time.

To the 3d Intg. He answers and says, that the defendant William F. Berry was half brother of Elisha Berry, and that about the time mentioned in this Intg. the defendant became the agent and Trustee of said Elisha but he does not know how long it continued.

To the 4th Intg. He answers and says he knows the lands upon which the defendant now resides, he does not know the number of acres or their value, nor does he know, what time the possession of defendant commenced but that he is now in possession of them.

To the 5th & 6th Intgs. He knows nothing.

To the 7th Intg. He deposes and says, he does not know more of his pecuniary condition now before or since the time of said conveyance.

To the 8th Intg. He says, he believes that the defendant had no property at the time he became agent for his brother Elisha Berry, nothing more than a horse and two or three small negroes, part of which negroes

belonged to Elisha, as the said Elisha told him.

To the 9th Intg. He says, he knows nothing.

10th Intg. Waived as to this witness.

To the 11th Intg. He deposes and says, He knows nothing more than what he has stated. — The Testimony of this witness having been gone through with by the complt. C. C. Magruder Esq. one of the solicitors for defendant exhibited his cross Intgs. to be put to the said witness, which are herewith returned marked defendants Cross Intgs. and the said witness being thereto examined, deposes and says in manner following to wit.

To the 1st Cross Intg. He answers and says, He has resided in the State of Maryland since the year 1836 the time mentioned in this Cross Intg. he also says, he was born in Prince Georges County, and moved to Anne Arundel County in the year 1814 where he has resided ever since.

To the 2d Cross Intg. He deposes and says, that about the first of the year 1836 he knew nothing of the defendants pecuniary circumstances in the year 1834, he the witness states, that he was at the defendants house and saw nothing more than at a common mans house what his pecuniary circumstances have been since he does not know.

Owen Cecil a witness of lawful age produced on the part of the complainants, was now examined to Intgs. filed with me as commissioner by the complts. solicitor Jno. B. Brooke Esq. and after being sworn on the Holy Evangely of Almighty God deposes as follows.

To the 1st Intg. He answers and says, He knows all the parties to this suit, he has known Elisha Berry and the defendant since the year 1828, and some of the children since their births he has also known Robert W. Brooke about two or three years this winter.

The 2d 3d & 4th Waived.

To the 5th Intg. He deposes and says, He does not recollect seeing Elisha Berry at all in the year 1839, but prior to that, he saw him, and considered him unfit for business, and a half fool.

Sometime in the year 1831 or 1832 he witness heard William F. Berry say that his brother Elisha was a poor fool and let Judson Somers, and the family of Somers manage his the said Elisha's business just as they pleased — these conversations with defendant were frequent and much to the above effect, he the witness agreed with the defendant in his remarks, as they related to the management of the place and property generally of the said Elisha Berry, and also as regarded his being a man of feeble intellect.

The other Intgs. Waived as to this witness.

This witness was now examined to cross Intgs. filed with me as commissioner by C. C. Magruder Esq. one of the solicitors for Defendant, and herewith returned as defendants cross Intgs. to which he deposes in manner and form following.

To the 1st Cross Intg. He deposes and says, that Elisha Berry married the daughter of Mr. Nathan Somers of this County.

To the 2d Cross Intg. He answers and says, that Judson Somers was the brother of the lady whom Elisha Berry married, and she was the daughter