To the third Interrogatory, He deposes that he told the defendant William F Berry as Counsel during the pendency of the suit that his rights could be maintained against all claiming under Elisha Berry but that the conveyance might not be good against the creditors of said Elisha. He says further he told William F Berry that he ought to answer the bill which was accordingly done the defendant told him witness he had no desire to keep the property from Elisha's children but that he only wished to prevent Marshall from having any controul over it. This deponent saith further, That the answer was drawn in the manner it was from his advice as Counsel for said defendant, the said defendant always saying he did not wish to keep it from Elisha or his children but to prevent Marshall from having any thing to do with it, this was said during the progress of the cause. The defendant disclaimed all idea of claiming it the property in his own right, This Defendant has no recollection of defendants stating this to be put in his answer.

The above Interrogatory was specially excepted to by Complainants solicitor Jno B Brooke Esq. upon the ground of its making the defendants declarations evidence for himself which objection is herewith returned to your Honour.

Richard H Marshall a witness of lawful age examined at former meetings on part of the Complainants was now after being sworn on the Holy Evangely of Almighty God again examined on the same side to additional interrogatories filed with me as Commissioner and herewith returned as Complainants additional Interrogatories to his witnesses to which he deposes in manner following.

To the sixth additional Interrogatory, He deposes, That he looks at paper marked X herewith returned as one of Complainants exhibits and says he was one of the Complainants in said proceedings.

To the seventh additional Interrogatory, He deposes, That he looks at paper marked Y. herewith returned as one of Complainants exhibits and that he was grantee in said paper.

To the eighth additional Interrogatory, He deposes, That the said suit spoken of in his answer to the sixth additional Interrogatory was compromised between himself and William F Berry he this deponent paying the most of the costs the order for dismissing the bill was given by this deponent, The suit was dismissed because the defendant agreed to reconvey the property mentioned in said paper Y. before referred to, to him this deponent in trust for Elisha Berry and his children.

To the ninth additional Interrogatory, He deposes that said deed referred to in his answer to the seventh additional Interrogatory was executed for the purpose of carrying into effect the agreement mentioned in his answer to the last preceding Interrogatory.

Overton C Warner, another Witness of lawful age produced on part of the Complainants after being sworn on the Holy Evangely of Almighty God was now examined to an interrogatory filed with me as Commissioner herewith returned as Complainants interrogatory to him the above witness to which he deposes in manner following.

To the tenth Interrogatory, He deposes that he was one of the Justices of the peace before whom the deed referred to in this interrogatory was executed and acknowledged Elisha Berry was not before him when said deed was executed and acknowledged.

After the above witness was examined to this tenth Interrogatory of Complainant C. C. Magruder Esq. one of defendants solicitors filed with me as Commissioner the following Cross interrogatories to be put to him which are herewith returned as defendants Cross interrogatories to the above O. C. Warner and to which he answers as follows.

To the first Cross Interrogatory, He deposes, That he looks at paper marked "M" herewith returned as one of defendants exhibits in the present commission and that it was acknowledged before him by Elisha Berry.

To the second Cross Interrogatory, He answers and says that the second deed marked N and herewith returned as another of defendants exhibits was signed by witness as a justice of the peace, That Elisha Berry was not present at the time of said signature by this deponent but the first deed marked M, before referred to was brought before this deponent and Elisha Berry acknowledged it to be his deed, He further says that the deed marked M herewith returned was supposed to be defective, no written acknowledgment being on it and the second deed N being for the same property embraced in deed M, he this deponent conceived there was no impropriety in his signing it as a Justice of the peace altho Elisha Berry was not then present he is inclined to think Elisha Berry was out doors seated on his horse, having come there with the defendant William F Berry this second deed N was acknowledged at his school room deponent at that time keeping school, these facts he states to the best of his recollection, His deed N. had the signature of Elisha Berry the party grantor attached to it which this witness was acquainted with and was therefore induced to sign it as aforesaid.

To the third Cross Interrogatory, He deposes, That the papers M and N were the same papers acknowledged before this deponent as aforesaid and upon examination they contain the same property The paper N was acknowledged as aforesaid because of a supposed defect in the first one marked M which N was designed to remedy the paper M, having no written acknowledgment attached to it.

Mathew Somers another witness of lawful age produced on part of Complainants after being sworn on the Holy Evangely of Almighty God and examined to interrogatories in behalf of the Complainants herewith returned as such deposes as follows.

To first Interrogatory, He says he knows all the parties well and has known them all since they have been in being except Robert W. Brooke whom he has known for three or four years. Elisha Berry is the father of all the Complainants except Robt W. Brooke who married one of his daughters, His deponent is the grand father of Elisha's children.

To the second Interrogatory, He answers and says, that he was well acquainted with Elisha Berry's condition of mind about the time