office of E. W. Cotton in the Town of Mount Vernon in the County of Knox in the State of Ohio, and upon the interrogatories furnished by the parties, and in the presence of and by the examination of John Stockton Esq. commissioner named in the annexed commission, and taken on the 5th day of September A.D. 1845 as hereinafter certified.—

Josiah Frost of the County of Knox in the State of Ohio of lawful age being first duly sworn by me as hereinafter certified deposes as follows, answer to Interrogatory No. 1 of the interrogatory hereto annexed, I am acquainted with all the Deft. Dont know John Young

To 2nd Interrogatory, on production of paper marked letter E, I think the paper I hold marked letter E is a copy of an agreement entered into in my presence between the parties named in said interrogatory at Allegany County Maryland about the 27th of October A.D. 1828 the date named on said paper, in reference to coal, in which the parties were jointly interested, I think the paper above referred to is in substance, a copy of said agreement but cannot say whether it is exact or not.—

Ans. to Interrogatory No. 3. The inducement of the contract was that my brothers Meshack & Isaiah Frost, should have land sufficient to enable them to use & occupy their coal pits, I was owner of the land which was necessary for them to have & occupy in order to the full use of their coal pits and this agreement was intended to guarantee to them that right, prior to my selling my land, I was then about to sell to John Neff, The agreement related to land lying about the mouth the pits then open, and such as might afterwards be opened to the mines willed to them in Allegany Co. Md. by my father Josiah Frost dec.d to the amount of from four to five acres, to enable them to have free intercourse & enjoyment of their said coal mines & for any purpose, for which they might wish to appropriate it.—

Answer to Interrogatory No. 4, I think their conversation had reference to the land only which belonged to me by the will, and not to any other land.—

Answer to interrogatory No. 5, Meshack & Isaiah Frost, did claim each, one third of the coal, mentioned in said interrogatory and it was for the protection of their interest, as they then claimed, therein that the agreement aforesaid was entered into.—

Answer to Interrogatory No. 6 There was no opening for coal on any of said land at that time, but one, called Frosts old mine,—

Answer to Interrogatory No. 7, The mine spoken of in this interrogatory was open before my fathers death, called Frosts old mine, There was not any other opening on said land except on the land I sold to Neff.—

Answer to interrogatory No. 8, At the time that I sold to Neff, He did know that my brothers Meshack & Isaiah had each one third of the coal in said land.—

Answer to Interrogatory No. 9, and last, I do not know of any other matter or thing which I think would tend to the benefit of any of the parties, other than what is above stated,—

answer to Cross, Interrogatories, filed & furnished with interrogatories in chief.—

To Interrogatory No. 1, I have answered this interrogatory on my examination in chief, I think it in substance a copy but am unable to say what variations there may be, if any, dont know that it varies at all from the original,—

To interrogatory No. 2, There was, as evidenced by the article itself, my privilege attached only to the land devised to me, as mentioned in the agreement,—

To interrogatory, No. 3. There were (I suppose) equally interested in the coal belonging to the land that I owned, but not in that owned by Meshack & Isaiah, after the contract above alluded to, was made. The object of said agreement was to secure to each of them an equal interest in said property, that I owned.—

To interrogatory No. 4 and last, I know of nothing else.—

And further saith not.— Josiah Frost,—

Also William M'Nair Sen of the same County of lawful age being first duly sworn, as hereinafter certified, deposes as follows.—

Ans to Inty No. 1, I was some years ago well acquainted with the Deft. in this case, do not know the Plff John Young.—

To Interrogatory No. 2. I know nothing about the paper marked E, never saw it til a day or two ago, dont know when or where it was made,

To Interrogatory No. 3. I know nothing of the inducement of the aforesaid parties to enter into said contract nor what lands are therein referred to.—

To Interrogatory No. 4, Know nothing of any conversation as spoken of in this interrogatory.—

To Interrogatory No. 5, Do not know than they claimed nor what was the object & intention of the parties in entering into said agreement except what appears to me from the agmt. itself marked E.—

To interrogatory No. 6, I know nothing of the matters inquired of in this interrogatory.—

To Interrogatory No. 7 I answer as to No. 6, I know nothing.—

To Interrogatory No. 8, I know nothing.—

To Interrogatory No. 9 & last. I once occupied the coal pit called Frosts old mine, with Josiah Frost, I left that County in the year 1822 at that time there was no other opening for coal on any of the land in question than the one mentioned as called "Frosts old mine" I was back there 14 years ago, up to that time there had been no other opening made in any of the lands in question for coal, Old Mr. Frost (Josiah) dec.d never in his life time claimed but one hundred acres being the lot on which he lived the balance of land which was in his name was in part bought & all paid for by Meshack, Isaiah & Josiah. The boys just named for 21 years that I lived in that neighbourhood supported the old gentleman, he was unable to perform any labour, and the whole devolved upon the boys above named, and the titles were taken in his name for convenience, They cleared and farmed the farm.—

I am father in law to Josiah Frost I am not related to the parties in this suit, I have no interest in this suit, and further saith not.—

Wm. M'Nair Senior.—