also David Waddle of the same County of lawful age being first duly sworn as hereinafter certified Deposes as follows.—
ans to the first interrogatory, I know the Lefts in this suit, dont know the Plff, they reside in Allegany Co. Md.—
ans to 2d Interrogatory, I know nothing about the paper marked E, do not know whether it is a copy or not.—
ans to 3d Interrogatory, I know nothing about the matter enquired of in this interrogatory.—
ans to 4 Interrogatory—I know nothing of it.—
ans to 5 Interrogatory, I have had frequent conversations with Meshack, Isaiah & Josiah Frost, and they always each claimed one third part of the coal out & in the land owned by Josiah, and which he afterwards sold to John Neff and I suppose it was for the protection of those rights that the agreement above spoken of was entered into.—
ans to 6th Interrogatory, I left Allegany Co. Md in the year 1824, and have been there from time to time since that up to February 1844, and there was never but one bank open on the land in question up to that time.—
ans to 7th Interrogatory, The mine called "Frosts old mine" was opened long before the death of old Mr. Frost, and a great deal of coal taken therefrom.—
ans to 8th Interrogatory, John Neff knew that each of the boys Meshack & Isaiah had one third part of the coal out & in the land he bought from Josiah he has told me so himself.—
Ans to 9th Interrogatory, I have heard Mr. M'Mains testimony and can but say that I know about the same things and would confirm & corroborate the same fully in all its part.— David Waddle.—
The following agreement was filed July 17th 1845 by the parties in this cause by their solicitors in the words following to wit.—

John Young vs. Meshack Frost, Isaiah Frost, George Laymans & others.— } In Allegany County Court.— sitting as a Court of Equity.— In this cause we agree that a commission to take testimony shall be issued to John Marshall Esqr. said testimony to be taken & returned into this Court on or before the fifteenth day of September next.— Samuel M. Semmes.— Thomas J. M. Kaig for defendants.

17th July 1845.—
and afterwards to wit, on the 17th day of September 1845 the said parties filed in Court here another agreement by their solicitors in the words and of the tenor following to wit.—

John Young vs. Meshack Frost, Isaiah Frost & George Laymans & others.— } In Allegany County Court, sitting as a Court of Equity.— We agree that a commission shall issue to John Marshall, to take testimony in this cause.— Thomas J. M. Kaig atty for Defendt. A. C. M'Culloh atty for Plff.—

Whereupon Commission issued in form following to wit.—
Maryland, Allegany County Set.— The State of Maryland to John Marshall of Allegany County, in the State of Maryland Greeting.

Be it known that you are appointed commissioner to examine witnesses in a cause depending in Allegany County Court, between John Young complainant and Meshack Frost, Isaiah Frost & George Laymans & others Defendants, Therefore, you are requested, having first taken the oath hereunto annexed, and also administered the annexed oath to the person whom you shall appoint as Clerk to attend the execution of this commission, that at such time and place as to you shall seem convenient, you cause to come before you all such witnesses as shall be named or produced to you, by either the complainant or defendants and that you examine them upon their corporal oaths, to be by you administered on the Holy Evangely of Almighty God touching their knowledge or remembrance of any thing that may relate to the cause aforesaid, and that you cause notice to be given to the parties or their attornies, of the execution of this commission, before you execute the same and having reduced the depositions of the witnesses so taken by you into writing, you'd send the same, with this commission closed under your hand and seal to the said Court, with all convenient speed.— Witness the Honorable Robert N. Martin, Esquire, Chief Judge of our said Court, the 21st day of April 1845. Issued the 17th day of September 1845.— Henry Bruce, Clerk, Allegany Co'ty Court, Md.—
Commissioner's Oath.— You shall according to the best of your skill and judgment, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every witness and witnesses produced and examined, by virtue of the commission hereunto annexed, upon the interrogatories now or which may hereafter, before the said commission is closed, be produced to and left with you by either of the said parties, So help you God.—
Clerks Oath. You shall truly, faithfully, and without partiality to any or either of the parties in this cause take, write down, and transcribe the depositions of all and every the witness and witnesses, produced before and examined by the commissioner, named in the commission hereunto annexed, as far forth as you are directed and employed by the said commissioner to take, write down and transcribe, the said depositions or any of them, So help you God.—
and afterwards, to wit, on the 21st day of September 1846, the commissioner named in the foregoing commission, made return of the said commission to the Court here together with his proceedings under and in pursuance thereof, which proceedings are in the words, and of the tenor following, to wit.—
The execution of this commission appears by a schedule hereunto annexed.— J. Marshall, Commissioner. (Seal)
To the Commissioners oath was added in writing the following words, to wit.— Sworn before.— John Heckrotte. (Seal)
East, Commissioner No. 6.— At the execution of the annexed commission issued out of Allegany County Court as a Court of Equity, and to me directed, and empowering me to examine evidences in the cause depending in the said Court between John Young complainant, and Meshack Frost, Isaiah Frost, George Layman and others defendants, I John Marshall Commissioner therein named, on the 17th day of September 1845 at my office in the town of Cumberland