Witness — Thomas L M Kaig —

And the said commissioner also returned with the aforesaid commission to the Court here one other paper as follows to wit,

John Young, — vs. — Meshack Frost, Isaiah Frost George Layman & others — } No. 585 — Ch'y. — It is agreed and admitted in this cause that due and diligent search has been made both by the executor and Jacob Spiker the son in law of the late Benjamin Vaughan among the papers of the said Vaughan and that the original agreement between John Neff, Meshack Frost and Isaiah Frost cannot be found. — Thomas L M Kaig, atty for defts. Sept 19th 1845. — Samuel M Semmes, Sol'r for Compl't.

And afterwards to wit, on the 29th day of September in the year 1846, the following agreement was filed in this cause, in the words and of the tenor following to wit —

John Young, — vs. — Meshack Frost Isaiah Frost & George Layman — } In Allegany County Court, sitting as a Court of Equity — In this cause it is agreed by the parties that a survey shall be made & plats thereof prepared as soon as the same can be conveniently done, and that the person making the same shall fulfill the instructions of both parties, and that testimony in support of the views of either party may be taken on the ground or elsewhere before said person to whom a commission for that purpose shall be issued by the Clerk of Allegany County Court We do hereby agree that James L Armstrong shall be the person to make the survey &c and that a commission to take testimony be issued to him. — S. M. Semmes, Sol'r for Young. Thomas L. M'Kaig, Sol'r for defendants.

Whereupon a commission was issued to James L Armstrong Esq'r of Frostburg Allegany County Maryland, and afterwards the following papers were filed in this cause to wit —

John Young, — vs. — Meshack Frost, Isaiah Frost & George Layman — } In Allegany County Court sitting as a Court of Equity — Instructions on the part of the complainant to James L Armstrong special surveyor & commissioner. —

First, Survey and lay down the lands devised by Josiah Frost deceased to his three sons Isaiah Frost, Meshack Frost, and Josiah Frost Jr. by his last will & testament of which the paper marked "Exhibit B" is a true extract. —

Secondly, Locate the "coal mine" mentioned & referred to in said will and all other coal openings together with the roads & houses appertaining thereto which have since been made on that part of the land which was devised to Josiah Frost Jr. —

Thirdly, Show if you can upon the plots, or if it can't be done upon the plots take testimony to show how much of the coal that is supposed to lie in said lands could be got out conveniently or profitably by having access through the said "Coal mine" and none other, and show how much of the coal could be got out from

each of said shares by entering through said coal opening and none other. —

Fourthly, Show if you can upon the plots, or if it can't be done upon the plots take testimony to show what would be the benefit, if any to Isaiah Frost and Meshack Frost the other devisees in said will, to have the privilege of making coal openings and of making and using roads, tunnels &c over, on, through or upon that part of the land devised by said will to Josiah Frost Jr. with a view to get out the coal from said part as well as from their own shares of said land. —

Fifthly, Locate the tract of the Rail Road, now about to be constructed by the Frostburg Coal Company wherever the same occupies or touches any part of said lands, or if the main track of said contemplated rail road does not occupy or touch any part of said land, locate all lateral ways thereto which must necessarily do so, in order to make said rail road available to the proprietors of said land for the transportation of the coal to come therefrom. —

Sixthly, Locate all parts of the said Josiah Frosts share of said land which are at present used and occupied by Isaiah Frost & Meshack Frost whether for roads, shanties, coal openings or any other purpose whatsoever, connected with the coal trade. —

Seventhly, Lay down by way of illustration the lands owned by Isaiah Frost and Meshack Frost on the 27th day of October in the year 1828, other than the lands devised to them by the will aforesaid. — Samuel M Semmes, Sol'r for Compl't. —

A Book containing the courses of all the land owned by Josiah Frost deceased and lots No. 3626 & 3627 belonging to Mr. Geo. M'Culloh and that part willed by Josiah Frost dec'd to his son Josiah, made out for Mr. William Young by James L Armstrong Jan'y 18th 1845. —

Lot No. 3626 Beginning at a bounded white oak marked 4458 standing at the end of 25 perches on the first line of lot No. 3620 and running 1 — N. 32° W 140 p's. 2 N 80° E 75 p's. 3 S 33° E, 86 p's. to a bounded white oak, at the end of the 1st line of Lot 3620, then by a straight line to Begg. containing 50 acres. —

Lot No. 3627, Beginning at 3 bounded white oaks standing at the end of the 1st line of Lot 3620 and running 1 S 75° E 34 p's. 2 N 44° E 67 p's. 3 N 36° W 62 p's. 4 S 80° W 98 to the end of the 2nd line of lot No. 3626 then by a straight line to the beginning containing 50 acres. —

Lot No. 3630 Beginning at a bounded tree, marked 4461 standing at the end of the first line of Lot No. 3629 and running, 1 north 40 p's. to a bounded black oak, marked 4466 then 2 S 80° W 216 p's. 3 S 20 E, 40 P's. to a bounded chesnut, marked 4460 then by a straight line to the Beginning containing 50 acres. —

Lot No. 3628 Beginning at the end of the 1st line of lot No. 3626 and running, 1 S 80° W 18 p's. 2 N 30, W 94 — to a bounded chesnut oak mk'd 4460 then 3 N 80° E 90 p's. 4 S 30° E 94 to the end of the 2d line of Lot 3626 then by a straight line to the Beginning containing 50 acres. —

Lot No. 3629 Beginning at the end of the 3d line of Lot No. 3628, and running, 1, N, 80 E 110 p's. to a bounded Sugar tree, marked 4461. —