And now although application has been made for payment of said four thousand dollars and all Interest thereon yet they have not paid the same and your orators are not only unsatisfied in that respect but are yet as executors aforesaid Concerned in reference to said mortgagee debt said Brown having asserted to hold said Executors and said David Barnums Estate harmless from said mortgaged claim but no formal Covenant to that effect having as yet been executed.

All which is to your Orators serious grievance, In tender consideration whereof and for as much as they are remediless in the premises save in Equity.

To the end therefore that said Catherine M Raborg and Catherine M Mc Clellan may on oath answer the premises and that said Land may be decreed to be sold for a sum to embrace said mortgage indebtedness and so as to be clear of said mortgage claim and that out of the proceeds of sale said mortgage debt be paid and the said four thousand dollars and Interest as aforesaid and that your orators may have such further and other relief in the premises as to your Honour may seem proper May it please your Honour to grant to your Orators the State writ of subpoena to said Catherine M Raborg and Catherine M Mc Clellan of Baltimore County commanding them by a certain day to be in this Court to answer the premises and thereon to stand to and abide by such Decree as to your Honor may seem right.

Charles F Mayer Sol^r for Plff^s

And thereupon a writ of subpoena was accordingly issued against the said defendants to Baltimore County returnable to the next Term of the said Court Towit March Term 1845

And afterwards Towit on the 24th day of May 1845 a writ of subpoena was renewed against the said Defendants to Baltimore County returnable to the next Term of the said Court at which next Term Towit July Term 1845 the Sheriff of Baltimore County made return of the said writ of subpoena thus endorsed "Sum^d"

And afterwards Towit on the 28th day of July 1845 the Chancellor passed an Interlocutory decree in the said Cause against the said Defendants in the words following Towit:

Ephraim K Barnum and Zenus Barnum vs Catherine M Raborg & Catharine M Mc Clellan } In Chancery July Term 1845.

In this Case the Defendants above named having been returned "Summoned" and having failed to appear or answer according to the rules of the Court

It is thereupon this twenty eighth day of July 1845 by Theodorick Bland Chancellor and by the authority of this Court adjudged ordered and decreed that the Complainant is entitled to relief in the premises But in as much as it does not sufficiently appear to what relief the said Complainant is entitled, It is further adjudged and ordered that a Commission to take testimony on behalf of the said Complainant issue to Frederick Pinkney of the City of Baltimore according to the act of assembly &c.

Theodorick Bland Ch^r

And thereupon a Commission Exparte was accordingly issued in pursuance of the said Interlocutory decree to Frederick Pinkney Esquire of the City of Baltimore to take testimony in the said Cause

And afterwards Towit on the 7th day of August 1845 the Commissioner aforesaid made return of his said Commission with his proceedings under the same in the words following Towit.

Maryland Ss The State of Maryland to Frederick Pinkney of Baltimore County Greeting, Know that we have appointed you to be our Commissioner to examine evidences in a Cause depending in our High Court of Chancery between Ephraim K Barnum and Zenus Barnum Complainants and Catherine M Raborg and Catherine M Mc Clellan defendants. We therefore require you 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 evidences as shall be named and produced to you by the plaintiffs and that you examine them on their Corporal oaths to be by you administered upon the Holy Evangely of Almighty God touching their knowledge or remembrance of anything that may relate to the Cause aforesaid and that you cause notice to be given to the Complainants 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 send the same with this our Commission close under your hand and seal to us in our High Court of Chancery with all Convenient Speed.

Seal Witness the Honorable Theodorick Bland Esquire Chancellor this 28th day of July Anno Domini 1845.

Test Louis Gassaway Reg Cur Can

Commissioners Oath, You shall according to the best of your skill and knowledge truly faithfully and without partiality to any or either of the parties take examinations and depositions of all and every witness and witnesses produced and examined by virtue of the Commission hereto 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, The above oath was administered by me this first day of August in the year eighteen hundred and forty five to Frederick Pinkney the Commissioner within named

T Hanson Belt

A Justice of the peace of the State of Maryland in & for the City of Baltimore

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 Commissioners named in the commission hereunto annexed as far forth as you are directed and employed by the said Commissioners to take write down and transcribe the said depositions or any of them, So Help you God

Ephraim K Barnum & Zenus Barnum agt Catherine M Raborg & Catherine M Mc Clellan } In Chancery

Interrogatories to be propounded to Witnesses to be produced on the part of the Complainants.

1st Are you not acquainted with the parties