Commissioners Oath to Amshaw according to the best of ymes Skill and Knowledge truly faithfully and impartially to any or either of the parties last the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the within Commission upon the interrogatories hereunto annexed or may hereafter before the said Commission is closed be produced to and left with ymby either of the said parties or their agents Dod

Andrew K Sypester Trustee of Benjamin Cushwa an Insolvent debtor

vs

David Brewer & Elizabeth his wife et al

No 1216 Equity In the Circuit Court for Washington County sitting as a Court of Equity. At the execution of the said annexed Commission issued out of the Circuit Court for Washington County sitting as a Court of Equity and to me directed on emergency to take examine and receive the answers of the defendants in the cause depending in said Court between Andrew Sypester Trustee of Benjamin Cushwa an insolvent debtor as complainant and David Brewer and Elizabeth his wife and others as defendants I William McKeppeer the Commissioner therein named having met on the 14th day of September A D 1864 at my office in Hagerstown pursuant to proceedings in the same cause had to the said parties and taken the oath required by the said Commission did thereupon and then and there in the presence of R H Alvey Esquire Solicitor for the Complainant and of William J Hammellen & J Clagett and George W Smith Esquires Solicitors for the defendants to take the following depositions to wit Jacob Poules a witness of lawful age produced on the part of the Complainant being examined and examined to the interrogatories filed with the Commissioner by the Complainant and sworn hereto doth return depose and says as follows to wit To the 1st Interrogatory That he knows Andrew K Sypester and David Brewer has been Mr Brewers wife but is not particularly acquainted with her Knows William Cushwa Sarah Evans and Isaac B Cushwa that he did know the other parties to this suit since that he has resided here as known for a number of years. To the 2d Interrogatory That he knew the late John Cushwa and Benjamin Cushwa deceased was not acquainted with them both, rather better acquainted with Benjamin than with John had dealings with Benj that he knew them both several years before they died and any & all when they died that John Cushwa and Benjamin Cushwa were brothers at least so they were commonly reported to be only knew it from common report they both lived close to each other adjoining lands. To the 3d Interrogatory That he was present at the trial of the allegations against Benjamin Cushwa an insolvent petitioner in Washington County Court but cant say as to the year in which the case was tried that he was one of the jurors that tried the case, sat for three days in the case, that John Cushwa was present at the trial sitting beside Mr Test the Attorney for Benjamin Cushwa Mr Price was for the allegations and he was for Benj Cushwa cant say that John Cushwa was represented on said trial that he was called by Mr Price as a witness, was called several times cant say that John Cushwa fraudulently on the trial he was called several times a witness, Defendant recollects one circumstance in the trial reproved which is this John Cushwa was sitting on a chair in the witness stand and Mr Price was addressing the jury but whether it was his opening or closing speech cant say now, when he stopped suddenly and said Mr Cushwa I will ask you a question Mr Price asked the question and Mr Cushwa answered it, but what the question or answer was cant say Mr Price then turned to the jury and said gentlemen of the Jury I have been trying to get this answer out as a witness & can't have been able to get it until now it just popped out. To the verbal Cross Interrogatories of the defendants propounded by Mr Hammellen defendant answers and says that if lives until January next he will be seventy five years old. That he does recollect any thing more about the trial than what he has already stated unless his mind were refreshed by questions

asked him. And knows that he knows any thing more. There being no other witnesses present for examination and to the parties desiring further time for the production of further evidence Commissioner adjourned until Wednesday next the 21st day of September instant to meet at his office in Hagerstown on that day both parties being present and hearing notice of said adjournment Wednesday September 21st 1864 Commissioner met at his office in Hagerstown pursuant to adjournment but neither of the parties appearing nor their Witnesses the Commissioner adjourned until further notice. Friday January 27th 1865 Commissioner met at his office in Hagerstown pursuant to foregoing notice thereof given to the parties and did proceed then and there in the presence of R H Alvey and A K Sypester Esquire Solicitor for the Complainants and of William J Hammellen and George W Smith Jr Esquire Solicitors for the defendants to take the following evidence viz. Mr Alvey for the Complainant filed with Commissioner to be returned by him as evidence taken under his Commission a certified transcript taken from page 66 of the minutes and proceedings of Washington County Court at the March Term 1859 marked Exhibit No 1 which is accordingly herewith returned. Mr Alvey for the Complainant filed with Commissioner to be returned by him as evidence taken under his Commission a record of the insolvent proceedings in the application of Benjamin Cushwa marked Exhibit No 2. There being no other witness present and no other documentary evidence to be offered and further time being desired for the production of other evidence the Commissioner adjourned until further notice. Saturday April 8th 1865 Commissioner met at his office in Hagerstown this day and did proceed then and there with presence of A K Sypester and R H Alvey Esquire Solicitor for the Complainants and of J J Clagett Esq Counsel and for one of the defendants and of George W Smith Jr Esquire Solicitor for the defendants to take the following evidence by agreement of all the Solicitors present, it being agreed that Mariah Cushwa is the widow of Benjamin Cushwa deceased and that she is still living that she was his wife prior to the execution of the deed from the said Benjamin Cushwa to John Cushwa dated 14th day of November A D 1826 which deed is filed in this cause. That after the death of the said Benjamin her husband had taken out letters the said Mariah became interested in the monies coming in said deed to the said John as shown by Equity papers No 1291 in the Circuit Court for Washington County sitting in Equity and that the said Mariah did enjoy her said dower interest and that Benjamin Cushwa died in the year 1847 or the early part of 1848. which agreement is in writing filed with Commissioner to be returned as evidence and which is returned herewith. There being no other witness to be examined and neither party desiring further time for the production of other evidence the Commissioner closed the said Commission and herewith returns the same under his hand and seal this 8th day of April A D 1865

Wm H McKeppeer Com

Mr Smith for the defendants then filed with Commissioner the papers in the case of Mariah Cushwa vs John Cushwa, David Brewer and Elizabeth Brewer No 1291 Equity in the Circuit Court for Washington County sitting in Equity to be returned as evidence in the cause and which is returned herewith

Here follows the Interrogatory filed before the Commissioner by the Complainant viz. Andrew K Sypester Instituted Trustee of Benjamin Cushwa

vs

David Brewer and Elizabeth his wife et al

No 1216 Equity In the Circuit Court for Washington County as a Court of Equity. Interrogatories on the part of the Plaintiff to be propounded to Jacob Poules 1st Are you acquainted with the parties to this suit? And if so about how old of them and for about what length of time. 2d Were you not acquainted with the late John Cushwa and Benjamin Cushwa deceased? And if so for what length of time before their death? And if you know the relationship existing between them if any state what it was,