

At the execution of the enclosed Commission issued out of the Circuit Court for Frederick County sitting as a Court of Equity and to me directed and empowering me to examine evidence in the case depending in the said Court, between Joseph Eastday and Sarah Eastday his wife & others as defendants and Francis A. Knott, and Ruth to his wife and others as defendants being et^o 2556 in said Court - I Grayson Esq. being the Commissioner there in named having given previous notice to the Solicitors of the respective parties and taken the Oath - annexed to the Commission did proceed at my Office on the 10th day of November 1854 in the presence of Wm. Pellauky Esq. Solicitor for the Complainants & of Wm. Ross Esq. Solicitor for the defendants to take the following depositions to wit

Henry Boteler a witness of lawful age produced on the part of the Complainants, being duly sworn and examined to Interrogatories filed with me by the Complainants Solicitor, and hereunto returned, answers & says To first Interrogatory, he answers and says, I know all but the Cummings - I should know them for some years I know by reputation that Frederick Cunningham Edward & Cunningham and John M. D. Cunningham are the children of Elizabeth Cunningham who was a daughter of Frederick Schlagel decd and that they are Infants, under the age of twenty one years I know this from the statement of Edward Cunningham the father of said children & husband of said Elizabeth Cunningham To 2^d Inty He answers I did know Frederick Schlagel late of Frederick County, he is dead He died in April or May 1854 to the best of my knowledge he died intestate To 3^d Inty He answers I do know the children and heirs at Law Frederick Schlagel left at the time of his death - their names are Sarah the wife of Joseph Eastday - Ruth the wife of Francis A. Knott both of full age & residents of Frederick County He had one other daughter Elizabeth who had intermarried with Edward Cunningham and died before her father, leaving as her children & heirs at Law Frederick Cunningham Edward & Cunningham and John M. D. Cunningham the above named Infants, who reside in the State of Missouri

To the fourth Interrogatory he answers - I know that said Frederick Schlagel died seized of Real Estate - It is situated on the west of Catoctin Creek, in Frederick County It consists of the Stone Farm - containing about one hundred and ten acres also a small farm for some years in the occupancy of Francis A. Knott & containing about sixty or seventy acres also a smaller tract of land the number of acres of which I don't know -

To the 5th Inty He answers - The said Real Estate is not susceptible of advantageous division amongst the heirs at Law of said Frederick Schlagel - It would be most for the advantage of all said heirs at Law - that said Real Estate should be sold and the proceeds of said sale distributed amongst the heirs according to their respective rights My reasons for this opinion are - that the tracts or parcels of land, are so small & so situated and the Improvements are such - the three tracts or parcels lying separate and distinct, and the said Improvements being on the same place - that the said land cannot be divided with advantage To the sixth Interrogatory he answers I do not

know Kessler - a witness of lawful age produced on the part of the Complainants & being duly sworn deposes & says To the 1st Interrogatory He answers I know them all except Cummings - I have known them for many years To the 2^d Inty He answers I did know Frederick Schlagel He is dead He died in April or May 1854 He died Intestate To 3^d Inty He answers I do know the children and heirs of Frederick Schlagel - Sarah wife of Joseph Eastday and Ruth wife of Francis A. Knott both being - at the time of his death, He had - a daughter Elizabeth who intermarried with Edward Cunningham - and died before her father leaving children whose names I do not know - but I believe they reside in Missouri I know them to be minors To 4th Interrogatory He answers - Frederick Schlagel died seized of Real Estate, situated in Frederick County -