

thinks, that if it had been known, at the time of said sale, that the right of Isaac Tyson Jr. to divert & use the water flowing through said farm, and referred to in the Petition of Henry Carter as stated the said property would not have sold for as much as it brought by \$1000 to 1200. witness thinks that the said right to divert, and use said water by said Tyson, detracts from the value of said property, sold for its full value to that amount, witness thinks the said property sold for its full value free of the incumbrance of said right to divert & use said water in the spring of the year 1852. the said Tyson caused a race or ditch to be dug to divert said water from the original channel, where it was then flowing Francis S. Jones, a witness of lawful age duly sworn deposes and says, that he was present, at the sale of the Real Estate, of Dennis Howard, mentioned in the testimony of Allen Payne Jr, which he witness has heard - That Thomas Carr was the auctioneer, that said Carr stated that said Property was offered free & clear of all incumbrances, except some growing crops, and that the Public Roads running thro the farm were to be included in the quantity of land, to be sold when it should be surveyed - That the Property was offered for sale on those conditions, and clear title would be given The Trustees Dennis H. Maynard & Dennis W. Hammond were present That thereupon Henry Carter, became the highest bidder, and purchaser of the Farm at 50¢ per acre. - Thomas Carr a witness of lawful age, deposes & says that he was employed by Dennis H. Maynard & Dawson W. Hammond as auctioneer, at sale of the Real Estate of Dennis Howard! Do? on the 6<sup>th</sup> day of August 1851. That when the farm which was purchased by Henry Carter, was offered at Public sale, this deponent announced to all persons present, that the said property was offered clear & free from all incumbrances, and would so be sold, and that there would be no difficulty, or dispute about the title, and that a deed would be given, clear of every incumbrance. That this deponent was emphatic, in his declaration - That the said Property was to be sold free of all incumbrances, or disputes, except some growing crops. That thereupon Alexander Payne, and the said Henry Carter became the bidder, for said property, and were the only bidders, and Henry Carter was the highest bidder, and became the purchaser of said property at \$55 per acre; At the time of said sale, this deponent intended to sell said property wholly unincumbered of the right by Isaac Tyson Jr. to divert & use the water flowing through the Farm & designed to make the impression upon the bidders that no such, rights existed, he was not aware that such a right did exist & certainly conveyed, and intended to convey to the bidders for said property the belief that no such right did exist The said Trustees were present at said sale, and heard the statements made by this deponent, deponent may, and most probably did apply them for confirmation of his statements in the presence of bidders, But he does not at this time distinctly remember He is satisfied, that the said Henry Carter, became the purchaser of said property, under the thorough conviction, that no such right as is not claimed by Isaac Tyson Jr, or any other incumbered on said property existed - Basil Dorsey, a witness of lawful age duly sworn, deposes & says, that he was present at the sale of the Real

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