

to divert & use the water of the said stream on the said farm. about that time witness heard Dawson & Hammond, one of the said Trustees say at the Town of Daniel Root, in the Town of Liberty that he did not believe that there was any Contract whatsoever between his uncle Dennis Howards - deed to whom said property had belonged, and Isaac Tyson Sr. in regard to a water right on said farm, and that he was sure that there was any Contract at all it was only verbal. That he felt satisfied there was no written Contract on the subject, because his said uncle had often told him in his life time that he would not enter into any written Contract with the said Tyson, on the subject. Witness further says, that the sum of Fifty five dollars per acre was the full value of the said farm purchased by said Carter free from all incumbrances, whatever. That witness had desired to purchase said farm, and had examined the same shortly he fled the said day of sale with a view of purchasing it, and had rode over the said farm in company with said Dawson & Hammond, for the purpose of examining the same, and that said Hammond, who was at that time Trustee for the sale thereof, did not intimate to witness - that the said Tyson had any water right on said farm, or any other right - whatsoever, or that there was any incumbrance of any kind on said farm, and that at said time there was nothing visible from which witness could have discovered, that said Tyson had any such right whatever. It was not then in the course of enjoyment, or used by him, or any one else. That witness did not bid for said farm, at the said sale, as he had intended because the first bid made for it was \$50 per acre, and he had determined not to give more than \$50 per acre. That in the opinion of witness the said farm could not have brought at said sale by at least \$1000 as it sold for if it had been known that the said right of said Tyson - to divert & use said water, and to cut ditches through said land for that purpose existed. That the said right of said Tyson detracts at least one thousand dollars from the value of said farm, and that the said farm would not now sell for as much as Carter paid for it by at least 1000\$ in consequence of the existence of said right.

The undersigned Special Auditor, appointed by the Court, in the matter of the Petition N<sup>o</sup> 2351 Equity, of Henry Carter, in relation to the property purchased by him, from the Trustees of Dennis Howards &c. asking relief from the incumbrance discovered to be now held by Isaac Tyson Sr. to divert & use a water course in said farm, for the said Taysons benefit; Respectfully Reports that the foregoing Depositions were taken by the undersigned, on the promises that notice had been given to the attorneys of the Trustees of the time & place of taking the above Depositions. That from the above testimony, the undersigned Respectfully Reports, that said Henry Carter be allowed an abatement of the purchase money to the extent of one thousand dollars.

R. Wilson J. Sp. Aud<sup>r</sup>

Clemson. - } N<sup>o</sup> 2351 Equity In the Circuit Court for Frederick  
 } County July Term 1853.  
 The Petition of Allen Payne, Dennis H. Maynard & Dawson & Hammond Respectfully Shows that in the Report of sales filed - the trustees Reported that they had sold to your Petitioner Allen Payne, a tract of land, containing