

say they did not act as the agents, or with the consent or knowledge of *Gilbert Murdock*; that they together drove some sheep to

such ferry, or in carrying on a ferry at the said place, in case the said Edward shall think proper to provide for carrying on the same, on the said Samuel's refusing or neglecting to carry the same on jointly with the said Edward, or singly, allowing the said Edward one-half of the profits; and that the said Samuel be further enjoined not to change, or stop up, or obstruct the passage of any road, on either side of the river leading to the said ferry, without the consent of the said Edward; but that all access, as heretofore, shall be allowed by the said Samuel, to every person, carriage, horse or other animal, or thing coming to the said ferry, or which would come to it, in case there was no obstruction. And in case the said Samuel shall refuse, neglect, or delay to carry on a ferry jointly with the said Edward, at the place where the ferry aforesaid, first mentioned in the bill, was carried on, and the said Edward shall think proper to carry on the same for their joint benefit, he, the said Samuel, is hereby enjoined not to carry on without the said Edward's consent, any ferry which shall interfere with, or take custom from the ferry carried on at the said place. And in case the said Edward, on the said Samuel's refusal, neglecting or delaying as aforesaid, shall actually set up and carry on a ferry at the place aforesaid, he shall pay weekly to the said Samuel, one-half of the profits thereof, after deducting the expense incurred in so setting up and carrying on. And it is further *Decreed*, that the defendant pay unto the complainant, the costs by him expended, in the prosecution of his suit, amounting as taxed by the register, to the quantity of 18,220 pounds of tobacco.

On the fullest consideration of all the circumstances of this case, and of the principles established in this court, the Chancellor has, at length, passed a decree, which, independent of the consent of the parties, and of another tribunal, must be final. After much anxious thought he has satisfied his own judgment and conscience. His feelings will be much gratified if the parties shall be satisfied, that he has done neither more nor less than his duty required; but it appeared to him possible, without their consent, to place them precisely in the situation contemplated by their agreement. It has hitherto been his practice to consult, as far as possible, consistently with justice, the welfare of every person who has come before him; and therefore he has not unfrequently proposed to settle a controversy, and to save much further vexation and expense by a decree or consent. Whatever may be the prospect of success, he cannot forbear suggesting to the present parties an accommodation on such terms, as he conceives an enlightened arbitrator who should be equally a friend to justice, and to each of them, would prescribe. It is evident, that without a good understanding between them, the ferry cannot advantageously be carried on; and it must remain a constant subject of contention, supposing even that the foregoing decree is to stand. But in their causes there is a variety of difficult points; what will be the decision of the Court of Appeals is uncertain; and if, in the course of their lives, an end can be put to their controversies, neither can possibly so far succeed as to have been a gainer by it. He is certain then, that neither can be a loser by acceding to his proposal. Actuated by the principles of humanity, and partial to neither, he flatters himself, that neither can reasonably be offended by a proposition, which, he conceives, will appear reasonable to the friends of both, and to every unprejudiced, disinterested person. On the evidence in the cause, together with the information he has otherwise received, he proposes, that they sign and file in this court an agreement, to the following effect.

*First*, that the foregoing decree be set aside by another decree; *second*, that the new decree direct Samuel Norwood, on the first day of November next, to pay