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Claims and pretences of both parties may more plainly and undeniably appear to the Court and Jury: Therefore you the said Surveyor in the presence of you the said Sheriff are hereby commanded expressly to resurvey and lay out as much the said lands in dispute or any other land and adjacent thereto which shall be thought necessary by the said plaintiff or defendant to be laid out for the better illustration of the matter according to the claims and pretensions of the plaintiff in the presence of the defendant, of he being summoned thereto to be present and inform any interruption of him the said defendant or of absent notice to be left at his place of residence or last place of abode and to resurvey and lay out the same lands in dispute as aforesaid according to the claims and pretensions of the defendant in the presence of the plaintiff of he being summoned thereto to be present inform any interruption of him the said plaintiff or of absent notice to be left at his place of residence or last place of abode And you the said Sheriff are hereby empowered to examine upon oath any witness or witnesses that by either of said parties shall be produced in relation to the same and you the said Sheriff are hereby ordered to give to the said parties thirty days Notice of the execution of this writ And you the said Surveyor are hereby commanded to return herein fair certificates and plots thereof drawing the pretences of the plaintiff in black lines and the pretensions of the defendant in scarlet lines as well under the hand and seal of you the said Sheriff as you the said Surveyor to the said Court to be held at the Court House in the City of Cumberland, in and for Allegany County on the 2d Monday of October next that the said Court and Jury being regularly informed of the truth of the premises may further proceed therein as to justice appears and forth

Witness the Honorable Thomas Perry Judge of said Court the 9th day of April 1867. Issued the 18th day of August

H. Resley Clerk

And thereupon the same day is given to the parties aforesaid then and there and forth.

And thereafter to wit Court Monday of October being the 8th day of the same month in the year of our Lord 1867 on the day of the return of the



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aforegoing Warrant of resurvey came again into the Circuit Court here the said Richard Roberts as aforesaid by his Attorney aforesaid as the said John Davis by his Attorneys aforesaid, And the Sheriff and Surveyor of the County aforesaid to whom the said Warrant of resurvey was in form aforesaid directed make return thereof to the Court here with four plots and Certificates thereto annexed with the following depositions taken before them to wit.

Samuel D Furlow vs John Davis. } Testimony on the part of the Plaintiff taken on the ground on the execution of the warrant of resurvey issued out of the Circuit Court for Allegany County in the last above cause,

Richard Wagner a Witness of lawful age being duly sworn deposes and says That Witness lived in Allegany County Maryland for about 9 years successively the year 1847 at which last time he removed to the State of Virginia where he has ever since resided and now resides. That Witness was present in the year 1845 when Henry M Pettit as Surveyor run the lines of the land now in and claimed by Samuel D Furlow, John Herye and John Daniels, when both along John Daniels cut the letter H on the White Oak on the low hill pointed out to the Surveyor at Heryes request Hereon was scored from the White Oak down small branches but there was gaps in it lying upon in places In 1848 Witness came down the ballone Catawba is undisputed and thereon was scored therefrom the Spring down to the Sycamore Old Chestnut Log the present fractures field which is undisputed was lying upon there was some sort of a brush fence in places and at other places there was nine Witness frequently rode and passed through it and stuck of all Kinds and grass and down as they pleased, In the fall of 1846 Herye and Pat came to Daniels house to go with me over to Virginia to survey some land I had bought from him (Herye) Hereon at Mr Daniels House Herye and Mr Daniels had some conversation about the land in dispute Mr Daniel told Herye that he has been rooting it from the Bank as is his property but that he was pretty enough it did not belong to the Bank Herye said it did not, that it belongs to him They were talking about the property now in dispute and had been running out either Heryes land or the Bank land