New Comer; as did the mountain tract; And so remained in his possession up to the time of his death without interruption. The other parts that were sold off also, were in Andrew New comers possession after they were sold off. Andrew New Comer and his son Christian the Defendant farmed the lands. Andrew occupied the large Stone house and Christian the Log House. Andrew held possession of this as all other men held possession of their farms, and Witness looked upon it as his farm.

To the Sixth. Knows nothing.

To the Seventh.

Cannot say of his own knowledge whether or not John Funk had any money at the time of the Execution of the said Deeds "A" & "B". He had no real estate however. He had Personal property consisting of a Stock of Horses and hogs and farming implements. He was industrious. He was a small farmer with a good stock. He was farming about 80 acres of land. He had a team of five or six horses, but can't say what they were worth. Cannot say whether he was able to pay Andrew New Comers debts or not.

To the Eighth.

Does not think Christian New Comer was able to settle up his fathers debts without aid and help. Does not know whether he assisted in any body else or not or whether he was under the control of John Funk.

Christian New comer has mind enough to be an honest man, is capable of doing the work on a farm and attending to the ordinary business of a farmer; but as for settling up business like his fathers he could not do it without assistance. This is Witnesses opinion and knowledge of his mind. He could buy and sell.

To the Ninth, Tenth and Eleventh, respectively this Deponent says he knows nothing.

To Cross Interrogatories filed by Complainant and herewith returned marked "D. W." and propounded specially to this Witness. He deposes and says.

To the First.

The fact of an undivided interest being in the said lands of Andrew New comer would affect by depreciating the price if put up at Sale. Of said lands would be worth $40. as an Entirety without the undivided interest witness would not give more than $30. for the three fourths of it. If another fourth was held by another, would be unwilling to be subjected to the interference of another in the Control and Management of the Farm. An undivided interest in the land would affect the price of the interest purchased by the buyer ten Dollars an acre in that proportion. This is the opinion of this Witness; other men may entertain a different or contrary one.

To the Second.

Knows of a purchase of land in the said neighborhood by John Horine in the year 1826. and about the same time when this Witness purchased his own lands — and he (Horine) paid about $28. per acre as well as Witness recollects. The said land was purchased by Horine of Wiest as Trustee of Spielman's heirs. It was an un-

improved farm and lies about a mile North East of Deponents residence and about two miles from the residence of the late Andrew New comer and about one mile from the out lines of this (Andrews) tract as it then was. Then is a farm lying between the farm owned by this Witness and that owned by Spielmans heirs formerly. The land was inferior to that bought by Witness about the same time, both naturally and in cultivation and is so now; but is regarded as good Beaver Creek lands. It had an old Log House and Log Barn on it, and was well watered and contained 150 acres. Witness' lands lie between Andrew New comers tract and the said farm purchased by John Horine.

To the Third.

Knows nothing of his own personal knowledge of any interruption of Andrew New comers possession of the said farm by John Funk the Complainant or any one else.

To the Fourth.

Knows that John Funk a good while before the execution of the deeds "A" & "B". farmed a small farm for his father. Witness does not know the terms but supposed he was at work as other tenants. He also before the execution of the said deeds owned 80 acres of land. It was considered by this Witness and others that he owned it. He farmed it for a good many years. The same land was afterwards sold by the New comers to John Funk; the sale was negotiated by the New comers, and the land was sold for the purpose of releasing John Witmer father of Witness from his Suretyship. And the New comers got the money. Witness gets his information from the fact that his father was connected with the whole transaction and Witness was with his father and assisted in this business.

John Funk had a Miller for a long time before that but whether he was successful or unsuccessful witness cannot say.

To the Fifth.

John Funk has been a very industrious economical and hard working man. He has been prosperous since he lives at his present place of residence. Witness cannot say any thing about his business and success before he went to live where he now lives. He is at this time a man of very considerable property and pecuniary means.

To the Sixth.

Christian New comer is a man of family; and has provided for his family. He has been appointed Trustee of a primary School. Thinks it likely he may have been appointed Trustee of a primary School in the neighborhood as every person in the neighborhood has been appointed a Trustee in rotation; but does not know of his own personal knowledge that he was.

To Special Cross Interrogatories to be propounded to the said Witness filed by Solicitor for Defendants and herewith returned marked "S. D. W."

To the First

The Witness says that if he bought the three fourths as an undivided interest and owner at the same time that he could secure the other fourth that fact would make a difference in the price. It would affect the price some but not much below its full value. In the year 1825 Christian New comer, Andrew New comer's father