was made

Answer. "I was present at the time"

Interrogatory. Do you know the nature of the oath you have taken in this case and your obligations to speak the truth."

Answer. I do understand the nature of the oath

Oct. 5th

Lucas Bender a witness of lawful age being first duly sworn deposes and says Witness lived near to the house in Controversy Witness has seen plenty of water in the cellar before Mr Hummer bought it The water was about four feet deep lived in that neighborhood 2 years witness thinks the house is damaged about $400 by the water

Cross Examined

Dont know exactly when Hummer bought the House thinks it was about a year ago saw the cellar 4 feet deep about 2 or 3 years ago Mr. Nicholas then lived there, afterwards some Dutchman lived there and then there was a great deal of water in the cellar after this a Shoemaker lived there and I think there was water in the cellar then Three or four months before he sold it Mr. Schott fixed the cellar and witness thought after that it was dry but does not know. as she did not see it witness is a newspaper carrier never has bought or sold a house Nobody told me the house was damaged $400 I think for myself I form my own opinion in this matter from my own experience in being without a cellar and the liability to sickness arising from a damp cellar witness means by fixing the cellar by Mr. Schott that he dug a well in the pavement and a trench from the cellar to the well so that the water could run from the cellar to the well. The well was afterwards covered over by the pavement.

John Y. Graham a witness of lawful age being first duly sworn deposes and says, witness has seen the condition of the cellar on the premises in controversy the condition was very bad while witness boarded in the house. the stench from it was so bad that we had to shut the windows down to eat. This was since Hummer bought the house. Witness thinks the house damaged to the extent of $300 or $350.

(Cross Examined)

Witness boarded there during June and up to the 11th of July 1860 witness is a stone mason never bought or sold a house witness has a very poor knowledge of the value of houses and is no judge at all.

Wm. Henry Myers recalled Cross examination resumed

Interrogatory "you have said in your former cross examination that you considered yourself released from liability on the note by the act of Schott having received payments which were endorsed on the back of the note, was there any other reason for which you considered yourself released from liability

Ans. "There was no other reasons"

Interrogatory. "Did not Schott after the payments that were

endorsed on the back of the note and before this suit was brought go to you and Hummer and propose to take a new note with your endorsement in proper form in place of the old note.

Answer. Schott after the note was due did propose to take a new note with witness endorsement and to tear up the old one He said that with witness name on the note he could borrow the money witness declined to accede to the proposition does not know whether it was before the bringing of this suit or not.

Did not tell Schott at that time that the note would be paid but said that Hummer would pay it in two or three weeks when he got his money from the society

The note was not paid when Hummer got the money from the society because this suit was bought, witness went security to the society otherwise Hummer would not have got the money because the society were afraid of losing the money by reason of this suit if it had not been for that he could have got the money on this house, what Hummer did with the money when he got it from the society. Did not advise Mr Hummer not to pay Schott

Testimony for Complainant Andrew Ferguson a witness of lawful age being first duly sworn deposes and says

Witness lived in the house in question as tenant to Schott at the time of the sale to Hummer. Lived there about two months. Dont recollect seeing any water in the cellar during that time was not in the cellar very often probably not more than three or four times, never had occasion to go there for any thing. Heard no Complaints of the cellar being wet from the members of the family. Witness is a carpenter. The house is worth in Witness' opinion $1200 if not more by this he means the improvements on the lot. The ground in the neighborhood brings about $3. a foot witness thinks.

Cross examined

When Hummer bought this property some wood belonged to witness was on the cellar door. It was there probably a month put it there because it was more convenient there than to go into the cellar for it. Did not tell Mr. Hummer that the cellar was muddy. Did tell him that ~~the floor would sink in it that it seemed to be quicksand~~ or mud or whatever you might call it.

Examination in chief resumed, Could not say there was water in this said it was damp or dampish.

At this point the Solicitor for the complainant proposed to the solicitor for the defendant to settle this suit the Complainant to pay the Defendant Hummer $1200 for the property mentioned in this suit $400 Cash and the balance in ninety days with interest. This proposition was declined by the defendant Hummer.

The solicitor for Defendant objects to the return of the above proposition in the testimony but consents that it may be read as if sworn to. Dr. Wm H. Baltzell a witness on the