of his statements in the presence of the bidders but he does not at this time distinctly remember He is satisfied that said Henry Carter became the purchaser of said property under the thorough conviction that no such right as is now claimed by Isaac Tyson Jr or any other encumbrance on said property exists
Paul Dorsey a witness of lawful age duly sworn deposes & says that he was present at the sale of the Real Estate of Dennis Howard decd made by Dennis A Maynard, and Dawson V Hammond Trustees, on the 6 day of August. 1851
That when the farm which was purchased by Henry Carter was offered, at sale Thomas Carr who was the auctioneer at sale, gave notice that the Property was to be sold, free & clear of all encumbrances except the growing crops & that the same would be conveyed to the purchaser free from all encumbrances of every kind That the title was free and clear & wholly undisputed, and Thereupon he the said Carr turned to the said trustees, and asked them whether he was correct in giving these assurances who replied, in the presence of all the bidders, that he was correct. That thereupon Henry Carter became the highest bidder & purchased at $55 per acre. That the said sale took place at the Town of Liberty, about one mile from said farm That said Carter went into possession of said farm immediately after said sale That in the month of May 1852 some persons came upon the said farm professing to derive authority from Isaac Tyson Jr & commenced cutting a ditch in the Meadow on said farm. That at that time the water flowing through said meadow was flowing in its ancient channel, and there was no indication by the appearance of the surface of the ground, or otherwise, that the said Tyson water had ever been diverted from said channel, into any other.
That immediately after said sale witness was on said farm, and that at that time the water was flowing in its ancient channel, and there was no indication whatever that the said water had ever been diverted therefrom. That the said Henry Carter, prohibited said persons from proceeding to cut said ditch through the said meadow. And that they thereupon refrained from so doing That in a short time thereafter the said persons produced to said Carter the paper filed with the Petition of Henry Carter, and marked exhibit A and now shown to witness & claimed the right thereunder to proceed to divert said water from its present channel, and did thereupon proceed to cut a ditch through the said meadow about 110 feet in length, and to clear out another ditch from the end thereof, about 30 yards in length, which last mentioned ditch runs along the edge of said meadow and a piece of wood land belonging to said Carter That they thereupon erected a dam in said Meadow in the said stream of water, and caused thereby the said water to run through, and along the first mentioned ditch about 110 feet as aforesaid to a hemp gate, and then through, and along said last mentioned ditch, the whole extent thereof, and thereby they