December Term 1856.

S. Mitchell may fully upon his corporal oath answer the several matters and things hereinbefore stated as fully as if the same were repeated, and more especially that he may answer and say whether this complainant did not institute her bill in Chancery to recover the aforesaid sum of five thousand dollars by charging the same as said Myrtle Grove Farm and whether each and every allegation herein before made in regard to the prosecution and termination of said Chancery suit do not true in point of fact and that said Henry S. Mitchell answer particularly whether your Orator is not the sister of said James D. Mitchell of the whole blood and whether the said James D. Mitchell left any descendants or any other sister or brother of the whole blood, and that he may answer each and every allegation herein before set forth in regard to his administration account as and may discover what assets he now has remaining in his hands as such administrator and more particularly the number and names of the negroes in his possession and that an account may be taken under the direction of this Court of the administration of said Henry S. Mitchell in the premises and that your Orator may be paid the amount which shall be found due to her upon such accounting, and that all necessary and proper orders and decrees may be passed for that purpose, and that she may be decreed the relief hereinbefore especially prayed for that such other and further relief as to your Honor may seem just and right. May it please your Honor to grant unto your Orator the writ of subpoena against the said Henry S. Mitchell of Ch. County commanding him to appear in this Court at some certain day to be therein named to answer the premises and abide by and perform such decree as may be passed therein and as in duty bound your Orator will ever pray.

Robert J. Brent.
Solicitor for Complainant.

The Answer of Henry S. Mitchell administrator de bonis non of James D. Mitchell deceased to the Bill of Complaint of Sarah E. Mitchell against him, in Chancery exhibited. This Respondent now and at all times hereafter saving and reserving to himself all and all manner of benefit and advantage of exception that may or can be had or taken to the manifold errors, uncertainties, and imperfections of said Bill, for answer thereto or to so much and such parts thereof as he is advised it is in any wise necessary or material for him to answer unto he answers and says that he admits that James D. Mitchell in said Bill named departed this life at the time in that behalf in said Bill stated and that Exhibit A of said Bill is a true copy of his last will, and he also admits that Elizabeth A. Mitchell in said Bill named the widow of said James D. Mitchell obtained from the Orphans Court of Charles County letters testamentary on his personal Estate and that she afterwards departed this life at the time in that behalf in said Bill stated without having fully administered the Estate of said testator and that after her decease letters of administration de bonis non with the will annexed of said testator to this letters annexed were duly granted by the said Orphans Court to this respondent and that this Respondent as such administrator returned the two inventories of which exhibits B & C are copies, and that this respondent as such administrator settled in the Orphans Court aforesaid the several accounts of which Exhibits K L and M of said Bill are true copies.

This respondent further answering admits that said James D. Mitchell at the time of his death was seized and possessed of a large Real & personal Estate, that he died without issue leaving the complainant his sister

December Term 1856.

of the whole blood and leaving this respondent his brother of the half blood and leaving no other sister or brother.

This respondent further answering says that he does not admit that the Complainant is a creditor of said Testator upon the grounds in said bill stated or upon any other grounds in any amount or upon any account and if upon any ground of claim said Complainant can justly be considered as a creditor he is respondent insists that her claim is a mere legal demand recoverable at law and not a matter proper for suit in this Honorable Court, and he relies upon the objection and hopes he may have the same benefit thereof as if the same had been taken by demurrer to said Bill and he further insists that the said claims if any ever existed is an old and stale claim, which accrued from her own shown many years since and he therefore pleads and relies upon the statute of limitations and the great lapse of time as a bar to any relief in this suit in respect of said claim. This Respondent, nevertheless further answering says, that he admits that Francis S. Mitchell (who was the father of said James D. Mitchell of said Complainant and of this Respondent) departed this life, at or about the time in that behalf in said Bill stated, seized and possessed at the time of his death of a large real and personal Estate and that Exhibit B. of said Bill is a true copy of his testament and last will and of the codicil thereto and that Exhibit G is a true copy of the bond given by said James D. Mitchell at the time he obtained letters testamentary on the Estate of his said father, which this Respondent admits were granted as shown by Exhibit F. This respondent also admits it to be true that said James D. Mitchell accepted the several devises and bequests made to him in his own right and for his own benefit by said testament and last will of which said Exhibit E is a copy. And as respects the said pretended claim of five thousand Dollars in said Bill asserted, this Respondent further answering says that in a Bill heretofore filed by the now complainant on or about the 16th day of February 1838 in Charles County Court sitting as a Court of Equity against said Elizabeth A. Mitchell in her lifetime as Executrix of said James D. Mitchell the said complainant amongst other things claimed and demanded the same amount of Five thousand Dollars as against the Estate of said James D. Mitchell and which said Bill was afterwards, on or about the 21st June in the year 1839 duly removed to the High Court of Chancery to be there heard and determined. that said Elizabeth A. Mitchell duly filed her answer to said Bill but afterwards and before the said cause was heard departed this life, that this respondent was thereafter made a defendant to said Bill and answered the same in his capacity of administrator de bonis non as aforesaid and that upon issue joined in said cause and upon proofs taken the said Bill was by the chancellor dismissed and upon appeal from his decision taken by the now Complainant the said decree of the Chancellor was affirmed by the Court of Appeals as will fully appear from the record of said cause in the Court of Appeals a copy of which this Respondent begs leave hereafter to file as a part of this answer and to be marked when filed as Exhibit X. And this respondent is advised and respectfully insists, that said decision is a formal and final adjudication on the precise point, and is conclusive against the now complainant in this suit as to said pretended claim for the sum of five thousand dollars and he relies upon said decree in bar of this suit, as to said amount claimed. And as further ground of objection to said alleged claim he insists upon all and singular the various objections thereto which are set forth and stated in his said former answer found in said Exhibit X.