said mistake and the obtaining said decree, your Petitioner has been taken by surprise, and greatly injured by the passage of said decree. Your Petitioner further states that he is advised that he has a good and complete defence to said pretended claim of John A. Castle, if he can be permitted to appear to said case, under the circumstances and file his answer setting forth facts in defence.

Your Petitioner states further, that the said Peter Tabler deceased, at the time of his death, did not owe to the Complainant John A. Castle the sum of money, or any part thereof specified in said single Bill dated on the first day of March eighteen hundred and forty three, exhibited by Complainant in this case marked No. 1 but that said single bill had been settled and satisfied during the life time of the said Peter Tabler, as fully appears by the disposition of an action instituted in the Frederick County Court as a Court of Laws, on the same identical note, in which the said John A. Castle was Plaintiff and Peter Tabler, since deceased, defendant, which stood for trial on the docket of said Court, at the February Term, eighteen hundred and forty six, of said Court, and on the third day of March eighteen hundred and forty six, of said Term said case, was by the Clerk of said Court entered settled: that the said note or single bill on which said suit was instituted, and the same note or single Bill now in dispute remained on file in the Clerk's office in the said case, or action, until after the death of the said Peter Tabler (to wit:) until the 5th day of August eighteen hundred and fifty two when the said note or single Bill was by the said John A. Castle taken from the files of the said case, and from the Clerk of the Circuit Court, under and by virtue of an order of the Hon. M. Nelson, without stating the cause for which it was wanted, all which fully appears from an extract of said case, the entry, settled, the order of the Hon. M. Nelson of the fifth of August, eighteen hundred and fifty two, and a copy of said note or single Bill so under the seal of the Clerk of the Circuit Court for Frederick County here exhibited marked A. to this petition, which your petitioner prays may be taken and considered as a part of this petition as if here inserted in words and figures; Your Petitioner further states, that he is advised that the final decree in this cause passed on the twentieth August, eighteen hundred and fifty four, if under the circumstances, is permitted to stand unrescinded and the enrolment unopened, the Complainant by the tenor and effect of said decree, has established the right to the receipt and collection of the whole amount of the eight hundred and forty three dollars and thirteen cents specified in said note, and the interest thereon, when in truth and in fact not one cent is due in said note or single bill, and when in truth and in fact the said decree was obtained by mistake, which greatly surprised your petitioner, and when in truth and in fact, the said

John A. Castle on the fifth day of August, eighteen hundred and fifty two, the day he was permitted to take said note or single bill, and to withdraw the same, from the said case and the files of the said office of the Clerk of said Court admitted by his affidavit on the back of said note that the whole sum specified in said note was not all due, but that certain credits, the amount of which is not known, ought to be allowed, (see the affidavit on said note) and the decree aforesaid in this case obtained by mistake and surprise as aforesaid, has deprived your petitioner from proving the actual credits which ought to be allowed on said note or single bill, when in truth your petitioner states that the whole note has been paid and overpaid by the said Peter Tabler deed. in his lifetime, as your petitioner verily believes he will be able to prove, if the said decree and enrolment is opened and he permitted to file his answer in said case and make such defence to said case, as he would have done if he had not been prevented from appearing to said case by that mistake aforesaid.

Your Petitioner is advised that according to the law of the land, and the practice of the Courts, your Honor has an absolute control of the records, judgments and decrees of your Honorable Court, during the whole term of the Court in which they were obtained and rendered, and the July Term of eighteen hundred and fifty five, of the Circuit Court for Frederick County sitting as a Court of Equity is now actually open and in session from day to day. your Honor has full power to open said enrolment and decree to promote the ends of Justice, and to relieve your Petitioner from the onerous effects, of the said decree, thus obtained by surprise and mistake and contrary to all the principles of Equity. Your Petitioner further states that he has faithfully paid all the debts and claims which have been presented to him in due form of law, due and owing by the said Peter Tabler at the time of his death, and your Petitioner verily believes that no person has any claim against him, as the Executor of the said Peter Tabler, except the pretended claim of the said John A. Castle and if there be any just claim not paid, your Petitioner is ready and willing to pay said claim or claims, whenever they shall be presented properly authenticated. Your Petitioner further states to your Honor that on the twenty eighth day of February eighteen hundred and forty three the said John A. Castle and the said Peter Tabler in his life time had a dispute in relation to their accounts about the purchase of some real estate of Tabitha Lecaunger and for the purpose of settling the said disputes they referred all their disputes to the award of John H. Worthington and S. R. Wales Esq. who on the first day of March eighteen hundred and forty