made and exhibited and the seal of said Circuit Court certified vc

Jos. M. Palmer Sol. for Deft.
Wm. P. Maulsby, Sol. for Compt.

Thereupon, was also filed in the said Court then, the order of the said Court, on the Petition of William Tabler of L. as follows to wit:

(Circuit order on Petition of Wm Tabler (of L.))

John A. Castle vs William Tabler of L. } No 2539 Eq. In the Circuit Court for Frederick County sitting as a Court of Equity, July Term 1865

In this case, the Court having read and considered the Petition of William Tabler the Defendant in this case, filed, It is therefore this Fourth day of October eighteen hundred and fifty five, ordered and adjudged that John A. Castle, by his Solicitor appear before this Court on the tenth day of October instant to show cause if any he have why the Enrolment and decree passed in this case on the Seventeenth day of August eighteen hundred and fifty five, shall not be opened and the decree vacated as prayed. And it is further ordered and adjudged that William P. Maulsby Esq. the Trustee appointed by the said decree in this cause be discharged from all further proceedings in this case as such Trustee, until the further order of the Court in the premises, and it is further ordered and adjudged by the Court that the said William Tabler of L. cause a copy of the said petition and this order to be served on William P. Maulsby the Solicitor and Trustee in this case, by leaving with him a copy thereof, immediately.

M. Nelson

A copy whereof as required, by the order of the Court aforesaid, was duly served, by the Sheriff of the County of Frederick aforesaid within the time required therein upon the said William P. Maulsby Esq. Solicitor & Trustee aforesaid, as appears by the copy of said order filed, and the return of the Sheriff thereof of "Served, P. C. Wheat Shff." And at the same term of the said Court, it was filed as a part of the proceedings aforesaid, the answer and cause shewn to the Petition of William Tabler of Lewis and Exhibits vc as follows to wit:

Answer and cause shewn to Petition vc)

To the Honorable Madison Nelson Judge of the Circuit Court for Frederick County sitting in Equity, John A. Castle the Complainant in the cause No 2539 on the Docket of your Honorable Court in obedience to the rule and order of your Honor passed on the Fourth day of October instant (eighteen hundred and fifty five) on the Petition of William Tabler of Lewis, the defendant in said cause, shews for cause why the decree passed by your Honor on the Seventeenth day of August, eighteen hundred and fifty five, should not be opened and said decree vacated, and states by way of answer to said Petition that it is not true as stated in said Petition that said decree was obtained by mistake or surprise

on said Petitioner, and he further states that the Bill of Complaint in said cause was filed on the Thirtieth day of January in the year eighteen hundred and fifty four, and that the subpoena directed to the said Petitioner and commanding him to appear and answer said Bill of Complaint was issued in said day, and delivered to the Sheriff of Frederick County and was on, or before the fourth day of February next ensuing by Joseph M. Ebbert a duly qualified deputy of the said Sheriff served on the said petitioner William Tabler of Lewis by distinctly reading the said subpoena to the said petitioner and thereby informing him of the contents and object and command thereof, as shall appear from an affidavit of the said deputy Sheriff herewith filed and marked Exhibit A. with cause shewn which with all other exhibits herewith filed this Respondent prays may be taken and considered as parts of this his answer or cause shewn. This Respondent by way of answer and shewing cause further states that it will appear from the proceedings in said cause No 2539 that the interlocutory decree in said cause was not applied for and obtained until the twenty sixth day of August in the said year eighteen hundred and fifty four, and that a final decree was not applied for and obtained until the Twentieth day of August in the year eighteen hundred and fifty five, so that the said petitioner had about eighteen months given to him, within which to appear to said Bill of Complaint and file his answer if he desired to do so, and therefore this Respondent states that he cannot justly be charged with an attempt to surprise the said Petitioner, as he did not proceed to obtain a final decree in said cause within any thing like the expedition which the rules of Law and your Honorable Court warranted him in doing.

This respondent for further answer and cause shewn denies that the said Peter Tabler in his life time paid to this Respondent or to anyone for his use the sum of money mentioned in said single bill filed with said Bill of Complaint or any part thereof or that the same was settled and satisfied in any manner whatsoever, and he states that at the death of the said Peter Tabler the same was due to this Respondent, and he further states that since the death of the said Peter Tabler, this Respondent instituted an action at law in the Circuit Court for Frederick County on said single bill against the said petitioner who is the executor of the last will and testament of the said Peter Tabler, and also devisee, and on the Twenty second day of February in the year eighteen hundred and fifty four obtained a Judgment in said Court for the full amount of the principal and interest of said single bill as will appear from a copy of said Judgment herewith filed marked Exhibit B., with cause shewn, and he further states by way of answer that the entry in a suit of which Exhibit A. filed with said Petition is a copy, was not