was, to facilitate his conveyance of the same when he should from time to time make sales thereof, as he frequently did. That when the said Hoye would make sales of his lands that were patented to him, he frequently found difficulty in prevailing on his wife to join him in the deeds, so as to perfect the title in the purchasers. Therefore, to prevent this inconvenience & trouble he so arranged the matter with his said brother as to have the surveys made and patents issued in his name, with the understanding and on the trust that he would, whenever required by the said John, convey the whole or part of said lands so granted to him the said William, to such person or persons as the said John might designate, and no event to hold and claim said lands as his own but to hold them for the said John and subject to his control and as his lands. That there were numerous tracts of land, which were so taken up and paid for by said John Hoye, and owned by him, but patented to the said William which the said John afterwards sold to different persons, to whom the said William unhesitatingly conveyed the same on the request of the said John never pretending that he owned the same. That the said John Hoye frequently, when he had purchased lands from other persons, and paid the purchase money, had them conveyed to his brother William for the reason and purpose aforesaid, and then when he sold them the said William always conveyed them as directed by his said brother John, and the purchasers paying the purchase money to said John. And this defendant here exhibits two bonds executed by the said William W. Hoye and his wife, the one on the 24th day of March 1828, and the other on the 16 September 1828, in and by which they bind themselves to convey to the said John Hoye the lands therein specified, amongst which is the said tract called "Western Canal Convention" the said bonds are marked Exhibit A. & Exhibit B, as a part of this answer, and this defendant says that he always heard the said John Hoye for the last twenty- and up to the time of his death, speak of the last said tract as owned by him. There were other tracts of land which were surveyed and the cautim or purchase money paid to the State of Maryland, as also all fees in the Land Office and other expenses, by the said John Hoye, and which he had patents for issued to his said brother for the same purpose and on the same trust and confidence as herein before stated. The said tracts, as far as this defendant can ascertain are: a tract of land called Western Territory granted on the 3 June 1831 for 239 7/8 acres, "Williamsburgh" patented on the same day for 355 1/8 acres, "Shepherds Tent" granted June 6th 1832 for 656 3/4 acres "Under drop" granted May 8th 1833 for 159 acres, one

hundred acres of which has since been sold, and a tract called "Levicus" granted March 10th 1835 for 100 acres. The patents for all which said several tracts of land are now in the possession of this defendant who found them among the title papers of the said John Hoye, who has held them from the time they were issued from the Land Office to the time of his death. That the said patents have all been issued since the date of said bonds of conveyance, and some of them not long before the death of said W. W. Hoye, and therefore were not embraced in said bonds. But the said lands were, and are as much & as bona fide the property of said John Hoye, and subject to the same trust and confidence on the part of the said W. W. Hoye and his heirs at law, as hereinbefore stated in reference to other lands patented to him and held for the use of said John Hoye and which he conveyed to the different persons or to the said John Hoye himself according to the provisions in the bonds. And this defendant has no doubt that if the said W. W. Hoye had lived but a day longer than he did, he would have conveyed the whole of said several tracts of land to the said John Hoye whom he knew was the true owner thereof, and had caused the legal title of the same to be conveyed to him merely for the purposes aforesaid. And this defendant further says in support of this belief, that the said William W. Hoye on his death bed, expressed great anxiety to reconvey said lands to said John Hoye, saying that though the legal title was in him, that they did not belong to him, but were owned by the said John Hoye or words to that effect as will more particularly appear by reference to a letter written to the said John Hoye by Singleton Townshend who was present and heard the declarations of said W. W. Hoye, as set forth in his said letter herewith exhibited marked Exhibit (C) and which this defendant prays may be taken as a part of this his answer, and which shows that, so far from his seeking to hold said lands for the use of his family although the same were patented to him, he declared on his death bed his anxiety that he might be spared long enough to make a will directing the said lands to be conveyed to the said John Hoye as the rightful owner thereof, and this defendant therefore insists that both in law and in equity that the said lands form no part of the real estate of the said William W. Hoye, decd and therefore ought not to be divided amongst his heirs at law, or sold for their benefit but that they properly form a part of the real estate of the said John Hoye, decd, and pass under his will to his devisees. And this defendant further answering refers to the last will