the said Judgment, and this defendant refusing to admit the same, a commission
did issue to the City of Pittsburg to take testimony in regard to the genuiness of the said
receipt and under which said Commission a large volume of testimony was taken
the which fired and current of which was to establish beyond all doubt, the
spuriousness and falsity of the said pretended receipt, and this defendant admits
that after the return of the said Commission to Wit, on or about 13th of August
1856, the said Isaac Nesbett Clerk as aforesaid declined to act under the said
power to ascertain Credits as aforesaid and filed among the original papers his
declaration, a copy of which the said Complainant here files in the cause and
this defendant avers that the said Isaac Nesbett was never called upon or required
to act in the ascertainment and allowance of Credits on the said Judgment until
some time in the year 1853 or 1854 as aforesaid; and this defendant has no know-
ledge whatever that the said James B Dell ever claimed or pretended that the said
original Judgment was actually and in fact entitled to the Credit of the sum of
Ten thousand dollars, the amount of the receipt as aforesaid. And this defendant
further avers that it was the object and understanding in taking the testimony as
aforesaid under the said Commission that the same should be used to determine the genui-
ness of the said receipt of ten thousand dollars alleged by this defendant to be forged
as aforesaid. But this defendant avers that after the taking of the said testimony and
return of the said Commission and the filing of the same in the cause at the July
Term of the said Circuit Court for Washington County 1856 a Judgment Final was
entered against the said James B Dell and his Co-defendant William Dell
by confession without at all considering for the allowance of the pretended receipt
of $10000 alleged to be forged as aforesaid and which said receipt was not
allowed, but Judgment was entered on the 13 day of August 1856 for $40000
with interest thereon from the 4th day of April 1857 and this defendant avers
that after the rendition of the said Judgment as aforesaid the said William B Dell
and Isaac Nesbett two of the Complainants in this cause appeared in the said
Circuit Court and moved to have the said Judgment stricken out and set aside
and filed reasons therefor, one of which was that the said William Dell the Co-defendant
and under whom the said William B and Isaac claimed was dead at the time of the
rendition of the said Judgment against him, And this defendant avers that such
proceedings were had on such motion that the said Judgment was stricken out and
set aside, and as this defendant avers has caused them, to obviate difficulty and
embarrassment in the proceedings suffered the said Scire Facias to be quashed or
rather procured the said Scire Facias and all the proceedings thereunder to be quashed
as will fully appear from a copy of the Docket entries and short copy of the
said Judgment so as aforesaid rendered, and a copy of the said Motion and reasons
therefor, hereunto filed as Exhibit No 2 which are prayed to be taken as part
of this answer. And this defendant in answer to the said Bill of Complaint
further avers that after the quashing of the said Scire Facias as aforesaid the
plaintiff caused another Scire Facias to be issued on the said original Judgment which
was issued subject to all proper Credits to which the said Judgment was entitled as
aforesaid to the November Term of the said Circuit Court 1858 and to which said
Court the said writ of Scire Facias was returned and under and by which
the said Complainants William B Dell Abraham H Dell and Ward Anthony
were summoned and return as the Conclusions of the said James B Dell as
aforesaid and that the said Conclusions returns as aforesaid, appeared to the said

Scire Facias proceedings and both various proceedings and the pleas aforesaid
thereon and character, and amongst others the plea of payment and of nul tiel
record were after making and disposing of divers questions on the pleadings
the said cause came on for trial at the July Term of the said Circuit Court
1859 at the adjourned session thereof, held in the Month of November of the said
year and before the Jury duly empannelled in the cause the said defendants the
tenants as aforesaid offered to give a Judgment of Final for the whole amount
of the said original Judgment with the interest thereon subject only to certain
Credits for payments made by the said James B Dell subsequently to the
rendition of the said original Judgment as aforesaid and to the entire exclusion
and disallowance of all Credits and payments made by the said James B
Dell prior to the rendition of the said original Judgment but this defendant
by his Counsel refused to accept such a Final because of the powerful difficulty
that arose in regard to the said prior Credits and this defendant by his said
Counsel consented and agreed to take the said Final subject to all the said
Credits which the said Judgment was entitled as well those before as since
the rendition of the said original Judgment but the said defendants Co-defen-
dants as aforesaid would not agree to the Final on such terms and strongly as
it may appear, refused and refused all the Credits for payments made by
the said James B Dell prior to the rendition of the said original Judgment as
aforesaid. And this defendant avers that while it was the design and
purpose on his part to prevent all future trouble and litigation the said
Co-defendants were urging and intending to prevent and keep open litigation
as long as possible, that after the refusal to give the Final subject to all
legitimate and proper Credits as aforesaid, this defendant by his Counsel
and Attorneys insisted upon the call and empannelling of a Jury to try
the cause, and to determine the amount due on said original Judgment, and
accordingly a Jury was regularly empannelled and sworn in the cause and
in the trial thereof this defendant by his said Attorneys admitted before the said
Jury and offered and insisted upon allowing all the proper Credits to which
the said original Judgment was entitled, and set them before the rendition of
the said original Judgment, which were the same and all of those contained in the
said list filed among the original papers as aforesaid as all of those
claimed by the said defendants since the rendition of the said original Judgment
but the said defendants Co-defendants as aforesaid objected and insisted that the
said Credits or proffered Credits for payments made by the said James B
Dell prior to the rendition of the said original Judgment should not be allowed
and that the same should not be considered by the Jury in forming their verdict
but be altogether excluded and disallowed and suspended in the objection
to the allowance of the said prior Credits were the said defendants Co-defendants
as aforesaid that they applied to the Court to have ruled out and taken from
the consideration of the Jury the admissions of this defendant and all the said
prior Credits proffered and insisted upon being given and allowed as aforesaid,
that all payments and Credits prior to the rendition of the said original Judgment
as aforesaid having been excluded and taken from the consideration of the
Jury by and at the instance of the said defendants Co-defendants as aforesaid
the said Jury after hearing and fairly considering the whole case rendered
their Verdict for the sum of eight thousand four hundred and seventy eight