overseer as incompetent and illegal — Being asked how long it was before the death of Philip Nicholls that the deponent last saw him — Answers — He cannot say certainly but perhaps three months — Being asked when it was that he purchased the corn of Nicholls — Answers — Fifteen years or upwards — Being asked do you believe from your knowledge of Philip Nicholls that he was capable of giving directions for making his last will and testament with reason and understanding at the times you have seen him — Answers — The Deponent believes it is well understood and he has heard it from many that no man could more readily point out his stock both from the flesh marks and ear marks than Philip Nicholls could when he saw them in his neighbours fields — The deponent was always under an impression himself when a man has property and knew that property that he was capable of making a will to give it away —

Nathan Soper aged about sixty six years sworn — The deponent has known Philip Nicholls about fifteen or twenty years he knew him when he saw him but he had no acquaintance with him he never visited at Nicholls's house nor Nicholls at his he has seen him at different places and at different times — He never had any discourse with Nicholls nor Nicholls with him they shook hands and said how do you do — He was a man that has but very little to say at times when the deponent had seen him — It did not appear to him that Nicholls's understanding was as lively as common — The people of the neighbourhood generally did not think he had as good mother wit as was common — That people in general did not consider him as a man capable of holding any discourse with them and of course took but little notice of him he cant say whether it was for want of understanding or not that people generally took no notice of him — He behaved very well in company as far as he ever saw he never heard that he made any disturbance he saw him but seldom — Nicholls had a little impediment and a bad voice —

John Iglehart aged about sixty seven years sworn — The deponent has seen Philip Nicholls at times but has no acquaintance with him hardly and has not seen him that he recollects for twenty years — The deponent thought from the knowledge he had of Philip Nicholls that he had not his natural senses as most men had but he might be a bright man or more so than he expected as he had but little opportunity of Judging of him —

Isaac Peach aged about thirty one years sworn — The deponent has known Philip Nicholls about twenty years he never was well acquainted with him until about three years before his death the deponent was on Patuxent fishing and overtook Nicholls fishing likewise the deponent could catch no fish himself and (he)

he asked Nicholls if he could catch any and he said no they bit very indifferently that day afterwards on his return home he called at Nicholls's house who had then returned home and he asked Nicholls to let him get some pears off of a tree in the yard and he said no that he had some better pears in his chest in his house and he went in and got some and gave them to the deponent — Some time after when Mr. Hazel lived with Mr. Nicholls this deponent happened there and they had some brandy and Mr. Hazel set it out and asked the deponent to drink some grog and Nicholls said he had better sweeten it that it was better sweetened than without —

Being asked if from his knowledge of Philip Nicholls he believes he could understand the nature of a last will and testament if well explained to him — Answers — He believes he could understand any thing if well explained to him but he does not believe he could explain it himself or dictate a will he believes Nicholls had understanding enough if he wished to leave his property to any person to give directions who he intended it for — He believes if any person had gone to Nicholls's house and asked him who he intended a horse for at his death he would inform him who he intended to give it to —

The following paper was offered in evidence by the defendants counsel to which the complainant by his counsel objected as not being legal and proper evidence in this cause —

I John Gassaway Register of wills for Anne Arundel County doth hereby certify and attest that the will of Edward Stewart Senr. was returned to the office and proved and recorded on the eighteenth day of December seventeen hundred and ninety four and that it appears by the said will that Henry Woodward was one of the subscribing witnesses to the same and that he proved the said will as a witness on the 8th of December 1794 —

In Witness whereof I have hereto set my hand and affixed the seal of my office this 22d. day of November in the year of our Lord 1806. —

Seal

In. Gassaway Regr. Wills A.A. Coty.

This cause standing ready for trial and being submitted to the court upon the bill, answer, depositions and arguments of counsel and the Court having maturely weighed and considered the same, it is thereupon ordered, decreed, adjudged and determined by this court and by the authority of the same this tenth day of June in the year of our Lord eighteen hundred and seven that the said Philip Nicholls the alledged testator at the time of the alledged signing and sealing the Instrument of writing in the bill and answer aforesaid mentioned was not and never was from his childhood of sound and disposing mind memory and capable in Law to

(make)