and that the exceptions were afterwards by said defendant abandoned and the amount of the Judgment were some twenty thousand pounds of Tobacco paid by the said defendant; They further proved by the exhibition of deeds and bills of sale a list of which is agreed may be read at the trial of this cause in the Court of Appeals to save expense and as evidence of said deed &c. That during the thirty years preceding his death he purchased land and negroes and sold land and negroes; That he applied to the land office to take up vacant land and that a patent issued to him for said vacant land in 1833. that he conveyed real estate by order of Prince George's County Court sitting as a Court of Equity to two of these Caveators George S. and Ind. L. Townshend; that he conveyed property by deed to William Townshend one of the Caveators and the said William Townshend conveyed by deed real estate to him in fee and also acknowledged a deed before the said Caveator William Townshend then a Justice of the peace and James Robinson - They further proved that deceased also contended that he saw God inwardly and saw him with the eyes of faith. That he intended to make as his Executor his favorite nephew Jeremiah Townshend one of the Caveatees, that he would do him justice and carry out his views. - He stated to another witness that his brother William had on one occasion used such language to him to drive him out of his House and deceased had never been there since - That with the money he procured for wood sold he purchased all his groceries and fulling for his negro cloth, and the proceeds of his Tobacco crop he always laid up to interest in land, they further proved that deceased was in the habit of sending to the landing for his fish on the 12th April in every year unless it happened on Sunday and then he invariably sent the next day; he was so particular on this point that it must always be inserted in the contract for the hiring of his hands to the fisherman, and offered in evidence the following letter proved to be in the hand writing of the said John Townshend to the witness, " Mr. William Lyles, Esq. I did not send my cart to the fishing landing on the twelfth day of April as I said because it was Sunday so I sent it the thirteenth day please to let my people begin getting fish as we agreed on till they are done getting of fish please to hurry them on fast to cum home and you will oblige your friend. - John Townshend -

April 13th 1846. -

The Caveatees by their counsel after the Testimony by the witnesses for both sides had been detailed all of which is contained in this and the preceding exceptions which are hereby made and considered as a part of this exception prayed the Court to instruct the Jury. -

1st. That if they find from the evidence aforesaid that at the time of executing and acknowledging the paper propounded for probate in this cause the said John Townshend was of sound and disposing mind and capable of executing a valid deed or contract, then the said John Townshend had a sufficient Testamentary capacity. -

2d. If the Jury shall find from the evidence aforesaid that the said John Townshend at the time he executed the paper propounded for probate was under no other delusion than that of believing that the Almighty specially revealed himself by manifesting his supreme will to him in regard to all matters of business or importance occurring to said Townshend and that he was bound implicitly to obey said revelation of the Will of the Almighty God: and if they further find from the evidence that in other matters while acting under said delusion, he acted rationally and a man of sound and disposing mind and one capable of making a valid deed or contract, then the said alleged delusion

is not of itself sufficient to avoid said Will. -

3d. If the Jury shall find from the evidence aforesaid that the alleged delusion (if any) under which the said John Townshend was acting at the time of executing the paper propounded as his last Will and Testament did extend to the other acts of said Townshend and if they further find that said delusion although existing in the same degree did not prevent the said Townshend from acting at the time of said other acts as a man of sound and disposing mind and capable of executing a valid deed or contract would act, then it is competent for the Jury to find that said Townshend was of sound and disposing mind and capable of executing a valid contract at the time of executing said paper so propounded notwithstanding they may believe he was at the time executing said paper acting under said alleged delusion. -

And thereupon the Caveators prayed the Court to instruct the Jury, that if they find in the execution of the Will in this cause the said John Townshend acted under mental delusion with reference to the disposition of the property therein devised, then they must find for the Caveators. -

2d. The Caveators further prayed the Court to instruct the Jury that if they find from the evidence that prior to the execution of the Will the said John Townshend laboured under delusion as to the disposition of the property therein devised then it is incumbent upon the Caveatees to prove his freedom from said delusion at the period of the execution of said Will. -

Whereupon the Court granted the first prayer of the Caveatees and the first prayer of the Caveators without objection of Counsel on either side, and refused to grant the second and third prayers of the Caveatees and granted the second prayer of the Caveators." The Court refused to grant the second and third instructions asked for by the Caveatees and for the following among other reasons - They are calculated to mislead the Jury, in inducing them to believe that in judging of the Testamentary capacity of the deceased they might exclude from their consideration the other facts and circumstances in proof and which are to be taken in consideration with the matters in evidence upon which the prayer is grounded - The unreasonable provisions of the Will and all the facts and circumstances in proof tending to show the incapacity of the deceased to make a disposition of the Estate with Judgment and understanding with reference to the amount and situation of his estate, and the relative claims of the different persons, who should have been the objects of his bounty. The Court is not to ascertain the value of each portion of the Testimony, but all of it going to show capacity or incapacity at the time of making the Will is to be considered by the Jury who are to decide the question of sanity and from the whole testimony the Jury are to determine whether the deceased at the time of executing the will was of sound and disposing mind and capable of executing a valid deed or contract, the whole of the Testimony except so much as the exceptions stated was objected to having gone to the Jury without objection, and the purpose for which any portion of it (unless when otherwise mentioned not being stated, or required to be stated, the second prayer of the Caveators is granted because altho' the presumption of law, is that every Testator, was at the time of executing the instrument of sound disposing mind, and capable of making a valid deed or contract, and the burden of proof lies upon those who assert the mind to have been unsound; yet if a previous state of insanity has