of his Lot, and in that way, and by the wash from the upper ground through Caroline street and otherwise as given in evidence, other land was made fast land, and added to his lot, and if he leased the said land as so increased, or a part thereof to McDowall as stated in the evidence and collected the rent from him, and that since said Hammond's death said Elizabeth and them claiming under him have been in possession of said Land acquired by Hammond from Cornthwait, and the part added by filling and allubion as aforesaid, then the Jury are bound to presume a Deed from Alexander Mountenay of Montenay's Neck aforesaid to said Robert Blunt or to his ancestor.—

And if the Jury further find that the acts of Assembly read in evidence are passed, and that by virtue and in pursuance of the act of 1773 chapter 4. Mountenay's Neck was surveyed and added to Baltimore Town, and shall also find the filling up as stated in the testimony so that the ground claimed in this case was at the bringing of this suit fast land, and that the Defendants were then in possession thereof; and if the Jury shall find the water boundaries to be truly located as laid down on the plats at the several periods assigned to the several locations thereof, then the plaintiff is entitled to recover.—

2d. If the Jury believe from the evidence that John Oulton died at any time before the institution of the writ in this cause then the Defendants have shewn no such subsisting out standing title in any one representing him, to the tract of land called Bold Venture, as can bar the plaintiffs recovery in this case.—

3d. That the Defendants in this case, if the Jury find the facts set forth in the plaintiffs first prayer, even if they believe the evidence offered on behalf of the Defendants; yet said Defendants are mere trespassers and intruders on the land claimed by them in this cause, and as such cannot set up an out-standing title in any third person to defeat the plaintiff or to protect their intrusion.—

4th. If the Jury find from the evidence offered by the Defendants, the Patent of Bold Venture of 1695, granted to John Oulton by the state, yet as the Defendants have offered no evidence of any entry upon or possession of any part of the tract of land granted in said Patent, by John Oulton, or any one claiming title through or under him from the date of said Patent down to the present time then the mere original existence of such a patent, in the absence of any proof of the facts aforesaid, does not constitute, such a present subsisting available outstanding title in any third person as will bar the right of the plaintiff, to recover upon the facts set forth in his first prayer, provided the Jury shall believe them, and provided also the Jury shall find from the evidence that said Oulton departed this life, at any time before twenty years, next preceeding the impetration of the writ in this cause.—

5th. That the Defendants in this cause have shewn no title whatever, to any part of the property embraced within the plaintiffs pretensions, as delineated on the plat including the square from _____ street to the water.—

6th. That they are therefore mere intruders, and cannot protect their possessions by setting up an outstanding title in any stranger, with which they have not connected themselves, and have no privity.—

7th. That if the Jury shall find the act of 1816 ch. — and that Mountenays Neck and the property in dispute also embraced within the local

limits described therein, and if the Jury shall further find the Patent aforesaid to John Oulton; and that from the date of said Patent in 1695, until the present time there is an absence of all proof that either John Oulton himself, or any one claiming by through or under him, did ever enter upon or become possessed of any part of the tract of land granted by said patent then they may and are bound to presume, in the absence of any evidence to the contrary, that the state became reinvested with the title to said tract of Bold Venture, when the said act of 1816, was passed, and that according to the true construction of said law, the plaintiff, in this cause, or those under whom he claims had a right to fill up and extend his lot in the water opposite to and in front of the same, so as to reach the port Warden's Line.—

8th. That before the plaintiffs, in this case be barred from their recovery by reason of the Patent of Bold Venture, the Defendants must shew such outstanding title in some third person to said tract as would enable him to recover in Ejectment against both the contending parties in this case.—

9th. If the Jury believe from the evidence of Mr. Boulden that Mountenays Neck was added to and made part of Baltimore Town in the year 1773, then by operation of the act of Assembly of said year the right to improve in front of the Lot of the plaintiff in this case as delineated on the plat was, for the first time vested in those under whom the plaintiff claims, and that the operation of the Patent of Bold Venture does not defeat the grant of said Right in that year or prevent its passing by that act. Provided the Jury shall believe that Oulton the patentee, died intestate, and without issue before that year.—

10th. That the passage of the said act of 1773 is itself evidence connected with the circumstances of the grant to Oulton in 1695, and of the age which the Jury are at liberty to infer he must have been at that time to have made a Contract with the state, and the period since elapsed to the passage of said act, and the non adduction of any will or any evidence of any claim made by any person representing said Oulton from 1695, to this day, from all of which the Jury may find that John Oulton died intestate, and without heirs, before the year 1773.—

The Defendants prayed the Court to instruct the Jury as follows:

1st. That the location of Mounteney's Neck on the plats in the case not having been counter-located, the Jury must find such location of that tract to be the correct one.—

2d. If the Jury find that the tract of land called "Bold Venture" was granted, as given in evidence by the Defendants, and that the Defendants location of the second and third lines of that tract on the plats in the case is the correct location, that then the patent of Mounteney's Neck gives no title to the Lessors of the plaintiff, to the lot of ground for which the Defendants have taken issue on the plats.—

3d. That the second and 3d lines of the said tract called "Bold Venture", if the Jury find said tract was granted as given in evidence by the Defendants must run with two lines of the tract of land called Mountenay's Neck, as that latter tract is located on the plats, and if the Jury find that the said two lines are those on the plats running from black (M.) to black (N.) and from black (N.) to red figures (32.6), that then the patent of the tract, Mountenay's Neck, gives no title to the Lessors of the