and several other witnesses who knew him well testify that he was competent to execute a valid Deed. If it be admitted that Rachel Todd was using all the Power she possessed to improperly influence Benjamin to give him (Rachel) his Bonds, and Personal Property, it does not of itself prove that he influenced him to execute the Deed. We have already shown that it was a moral duty and a meritorious act on Benjamin Todd to provide for these his Grand children. And the uncontradicted testimony of Mr. Hobbs, Mr. Lore, Mr. Mullennix, Mr. Durrell, Mr. Brown, Mr. Pickett, Mr. Rice and Mrs. Ringrose, shows that from repeated declarations for fourteen or fifteen years previous to his death he had fully intended and determined to give his land in Frederick County to his son Jesse. And after the death of Jesse he declared his intention to carry out his promise to him, of giving the land to his two "poor boys," and this he endeavored to do, and thought he was doing in executing the Deed in question.

Now, if it be conceded, that Rachel influenced Benjamin to convey the land to these children, it does not necessarily follow that it was an unfair or improper influence. To make the influence exerted by one person over another illegal or censurable, it must be an improper exercise of power contrary to the will or intention of the mind operated upon, inducing him to do an act illegal, unfair inequitable or wicked. A case can hardly be imagined where it would be wrong to induce a person to do an act right and proper in itself. The fact, that the party exerting the influence, was controlled by a wicked or selfish motive, ought not to vitiate the just act performed with good intentions. But if we look carefully at the part taken by Rachel in this matter it is not clearly certain that he wished Benjamin to make this Conveyance, or at least to make a good Conveyance of the land.

It appears that Benjamin had long before determined to give this land to Jesse and his children. He had had the land resurveyed and platted by the name of "Ridgeville Heights" on one tract; had, in one or two Wills, devised it to Jesse and his children. He entitled when the Plat was mislaid upon his wife and Rachel's searching for it, sent for Jesse's wife to help hunt for it, and when found by his wife, he was particular in having the full and proper names of the boys to be inserted in the deed. Then, when Rachel seemed to be slow about the matter Benjamin showed great anxiety, and said to him "in the name of God now go and do what I have told you."

He also said Rachel throwing difficulties in the way of the Conveyance, suggesting that the boys could not pay the Revenue tax. He applied to Mr. Shelps a Justice of Frederick County to take the acknowledgment, and when told by the Justice it could not be legal for him to act and advised him "to bring his brother and wife this side of the line," that is in to Frederick County, he replied it makes no difference. He did not mention to his Brother Benjamin the fact that Mr. Shelps was a Justice of another County but permitted him to sign & acknowledge it when he (Rachel) had been informed it was illegal.

Again, when Rachel brought the Deed to Mr. Rice to be examined he withheld from him, who was his Brother's standing Counsel, the important fact that it had been signed and acknowledged in Carroll County before a Justice of the Peace for Frederick County, and if Mrs. Grove is to be believed, Rachel said to her, "that he got Mr. Shelps to take the acknowledgment on purpose xxx that he was the only Magistrate to acknowledge it before because he was out of the County, and that was why he got him xxx that the boys had no right to any of his Brother Benjamin's property"