

fessed to read it to him. That he had placed implicit confidence in Duvall, and believed he had read the mortgage to him correctly; but was sure he did not, if the description of it given by the complainants was correct; that he was under the impression, that the balance due at the time of the settlement was only two or three hundred dollars; and that this had been satisfied by the subsequent payments admitted in the bill. The defendant demanded a production of the mortgage, and a proof of the assignment to Bowie, and of the grant of letters of administration to the other complainants. A commission was subsequently issued to take testimony, and certain proof, both oral and documentary, taken under it; the character and effect of which will sufficiently appear in the opinion of the Chancellor, delivered on exceptions by the defendant, to the report of the Auditor, which allowed the debt as stated in the bill.

THE CHANCELLOR:

I have read the evidence carefully, and given due consideration to the circumstances and combination of circumstances upon which the defendant rests his first exception, founded upon the allegation, that the mortgage was obtained from the defendant by fraud and imposition; and cannot think that the conclusion fairly to be formed, from a view of the whole transaction, is such, as the defendant seeks to establish.

It is well established, that he who attempts to protect himself from the consequences of an engagement, into which he has entered, upon the plea that he has been imposed upon, must make out the imposition by proof. Fraud is not to be presumed, and though it may not be necessary to prove it by direct and positive testimony, yet the circumstances upon which the presumption of its existence is to be founded, should lead plainly and directly, and by strong implication, to that conclusion.

Surely, deliberate settlements, and solemn instruments, are not to be impeached and overthrown by light and trivial circumstances, which at most furnish a foundation for ingenious