Fathers Will the Model - from Foster & Howgraves Evidence Mrs Wrights name was omitted on acct. of an old Quarrell, her father having been indebted to Decd. father & pleaded the Statute of Lim.ns in bar of Pyment - Skeath is dead, his Subscript.n is proved; Skeath jun.r & Gaun are the othe 2 Witn.s to the 2d Cod.: before the hearing on the Merits they are objected to; what is strange Gaun does not know his own writing he says it is like his fathers, but thinks it rather better, he gives an honest plain Country account of it; the Presumption is that it is his own; have they produced a single Exhibit to combat its being so, you wd aid & forgetfullness his Character is unimpeached Mrs Wrights Soll.r gets Skeath into Company over a Bottle, persuades him to sign a Declaration, wch when Sober, he afterwards contradicts on his Examon - the Declaration was extrajudicial, our Exhibits stand on better Legs, from their Inot had contradicted us tho, they had an extraord.y to afford them an Opportunity - The Papers are better supported than many are, cant be overthrown by Minutia. In Hudsons Case 1 Witn. deposed to Instructions, another to overhearing Circumstances; In all Frauds some little Blunder discovers the whole - Mr Wych says, he has heard the Decd was made Exor, but from Incapacity did not prove, the presumption is that he did; the Father's making him Exor is a Sign, he thought him sane - One Silly Woman grounds her Belief of his Insanity on his playing with her, when a Child, in a foolhardy manner It is said his Understanding was on the decline; no wonder from such fits - He was Sheriff & Ch: Wn, if he was so imbecil of mind & body, he wd have been excused Shrs, friends; his Apothecary & Servant attended him - Judge Page, an ill natured Man, made an ill natured remark, this is no proof of Idiocy - He pays over the parish money, accounts with Owen, is not quite unsociable, kept Hounds, & generally an open Table, the Consequence of it - Sir Tho: Trollop speaks in direct Terms, to support the Sanity of the Decd - The Legacy to Owen is not unreasonable by a Person who had no Children - Several speak to his superseding Owens Orders, instead of letting the Apothecary load him with Drugs, he gave him a piece of Gold, & reprimanded Owen for not treating him as a Gentleman; he raises Servants Wages, chuses Liveries &c contrary to Owens Inclination; I don't say he was a man of Taste, but he shew'd his Judgement superior to his Carpenters in Mechanics - He paid Mr Foster £220 for Digby; you see he was capable of being an Agent, & not once, but several times, also capable of counting Money; no small Sum £2000 - No Minister for his own Honor wd administer the Sacram.t to an Idiot - it is said he put on his hat at Church, he was liable to take Cold after the violent efforts of his Fits, his Music Master testify he had a competent Skill in Music - he saw all his Servants in Bed before him & gave proper Orders as a Paterfamilias - he sat as Judge in his own house upon a pre-contract of Marriage & wd not suffer the Parties to go to Church, till the affair was settled, wch he did wisely & judiciously Familiarity naturally arises in the Country betwixt Masters & Servants - After Fits all Ideas of Interval are lost - this is the gen.l State of our Case - Mr Sam.l Foster the Drawer of y.r Will has exhib.d the Instructions wch agree with y.r Will itself in all y.r Bequests - In the Mem.m Book is an account of 4 Guineas paid to Mr Sam.l Foster for hav.g drawn the Will - The Witnesses on the other Side consist of 3 Hospital Persons who cant write their names, 10 Labourers, 3 Barbers &c who from their Situation, cd know little more of y.r Decd than his Appearance there is a milliner also, who is a little better sort of Person & will

not take upon her tos wear he was insane for all the time she knew him; all form their Opinions from the Decds Appearance, out of 48 Witnesses, only the Schoolmaster, Mr Wyche, Lyndsay the Clerk & a pragmatical fellow, forms his Idea of the Decd's Understanding from his taking little Notice of him -

Dr Wynn.. The Will is dated when the Testator was about 24 - there are specific Legacies to all the Relations, except Mrs Wright, 500 to Owen, an old Serv.t 400 to his Wife, & a Sum to the Poor, by the 2d Cod: a lapsed Legacy is turned over to Owen & in the 3d Cod: y.r name of Mrs Burnell the Uncle is omitted he being dead between the time of making the Will & the 3d Cod: Mrs Wright the only Relation omitted, opposes the Will - It is pleaded, the Testator was totally incapable of giving Instructions &c from his Fathers death to his own, by reason of Fits - before I go into the Evidence, I submit to you who the Law defines capable & incapable, from the Civil & Canon Law - Swinb: 77. Every one is presumed capable till the contrary is proved; if any one impugns he must prove the Impediment; it is hard to prove a person insane; it is not sufficient for the Witn.s to depose he was so unless they give a reason for their belief; the Testimony of those who depose to Sanity is preferd; If a Lunatic makes his Testament & it is not known, wh.n it was made during the Interval &c. it is to be presumed it was - Swinb. 79. defines an Idiot to be One who cant number 20, or answer a Question so as not to know his own Int.t cant measure a yard of Cloth, or beget a Child, &c By applying the Evidence to these Rules, wch will not be contested by the Cntr. as to Law or Reasonableness, we shall shew this Suit is ill founded; the Circumstances the depend on, are consistent, tho' they infer differently the Witnesses we produce, were acquainted with him intimately I admit he was the wisest Man, was in firm of Body; it is said he was not a bright Boy, but made his Exercises neatly; the Father's Will is an Evidence of his Opinion; the Testator was put under a Clergyman for a more liberal Education, who says, he acquired some Knowledge in History & Geography, if he wd have attended might have attaind a competent Skill therein; this is the Acct. of him till he came of Age; he resided at Blythall in 1737. his Guardian allowd him a Pack of Hounds; you see this Book of Accounts, they begin as soon as he cd take the management of his Affairs. Wm Foster was the Person to be benefitted after his own Relations, he transacted his Affairs; the letters were such, as suggested themselves to him at the time; in many Instances he gave him his own directions; viz. in one letter, "I have told my Tenant I wd insist on 1/2 years rent" &c in some things he referred to his Judgement in others, gave directions himself; few shew so much regard to the main Chance as this young man, he asks many pertinent Questions relative to a Mortgage - in another Letter to Mr Wm Foster, he desird him to enquire how the late Sir Charles Buck left his Affairs & what Fortunes his Daughters had - Persons at his Elbow, might direct him in his own Affairs, but nobody cd direct his Advice in their Affairs; it is not to be conceived, a Person wd write to consult an Idiot; it is clear he was not so esteemd by the Gent.n of the Neighbourhood - There are some slight errors in Mr Bs Accounts but considering the Condition of the ..... they may be accounted for; yet preserving the degree of capacity we contend for; it was not always the same, Nature relieved by sleep 48 Hours, else I suppose Persons so afflicted with Fits cd not be supported so many years; this may occasion the Gaps in his Accounts, it is a temporary Incapacity, perhaps assisted by his own Recollection, or by the Suggestion of the Servants, bringing him their Bills, he inserts them afterwards for his Amusement - the Irregularity considering the Circumstances, is no Argument of Incapacity - the Government of his Servants is proved by many . . . . indeed Owen took a good deal upon him, & was sometimes restraind; as when he had got some of the Tenants drinking in the Hall on their being noisy, the Testator said to Owen, if it was your own Beer, you wd not be so liberal of it - When Owen was going to pay Thistleton y.r Gardiner, he said Decd agreed to give him 2 Gs