In Law, if a man says, I will do something for you, writ it as you will, if it is afterwards read over to, approved & signed by the Deed, it is good – The Story is told in such a manner, as to carry a great appearance of Probability: wh: Mr Mckenzie read the Will 3 Times to Deed as WB says, or not at all, as he himself deposes, is of no consequence with respect to the validity of the Will or Codicil; it only relates to the Credibility of the Witnesses – M. says the Will was signd by Deed in the presence of all the Witn.s the 2 other Ws do not contradict him, tho, they dont confirm him; Reynolds cant recollect wh.r he saw it signed – It is not necessary in a Will of Lands that the Ws shd be all present at the signing

Variations of Ws when no other Circumstances arise do not amount to much, It may arise from their being Persons not used to Business, inaccurate, consequently are confused & not capable of giving so good an Account – Of Deed said to W.B. when Ennold was in the Room, "there, I have given your Son 1800. that is a Publication – It is plain, Deed knew it wd operate as a Testamentary Disposition; the Chief Objection will arise on Pearson's Evidence who is one of the Subscribing Witnesses, he says the Deed was manifestly incapable when he signed the Will; It may be reasonably asked Pearson, if you thought the Deed incapable why did you attest it, if not, why do you retract; a Witness who contradicts his own act & Deed can never be credited – But Davis the Coachman contradicts him, depose that on going into the Kitchen Sep.r 14. he heard Pearson say, he had signed something of a Codicil for Mr WB's Child But this is not a more direct Contradiction to Pearson, than he is guilty of in his own Depon, where he Retracts what he has said on his Examon in chief; viz. to 3 Int.s he cant take upon himself to say wh.r Deed was, or was not capable – after attempting to destroy this own Act, he destroys his Depon by his Answer to an Interrog.y they have attempted likewise to destroy Ennolds Evidence, by a Witness who says Ennold declared he wished he had had nothing to do with it – but Ennold swears in answer to an Interrog.y he never declared Deed incapable or wished to do so – It may be observed perhaps, that the Date of the Will is miscited in the Codicil, it will receive the same Answer – It may arise from Imposition; but it may also arise from want of Memory of dates, when there is no defect of Understanding; Men of the greatest abilities are liable to these Inconveniences; it wd be very hard to say a man cant make a Codicil, because he cant remember the Date of a Will

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make a Codicil, because he cant remember the Date of a Will

Mr M. says the Deed declared the Contents to him, & therefore he himself did not read the Codicil over: 2du: arise on the allon, wh: they have established the Insanity of Deed at the time specifyd? 2. Is there such an Incapacity as to found a legal Presumption that he cd not make the Codicil in question? Langleys Evidence is very remarkable; he was with Deed y.e Sunday & Monday previous to the Execution, (on Tuesday 14 Sep.r) yet dont relate a single Circumstance of what he observed relative to the Deed, on either of those Days; the first fact he speaks to is on the 14th Sep.r when he, Glover & R.B. saw Deed at the same time, their Depons very irreconcileable to each other – Glover says he went about 10 or 11 in y.e morning of Sep.r 14. to visit Deed, where he met R.d B. & Langley, they enquired slightly about Deeds health knowing he was incapable; Deed would answer a Question or two rationally & then rambled, that Deed knew Dep.t at first & the Business he came about, for one rational Answer wd make several irrational ones; L says he gave no rational answer, that he cd not make Deed understand the Meaning & Import of any Question; if Mr Glover is to be believed Deed was very capable of such a Codicil, very little more being required than to know one Person from another, however it clearly follows that Glovers knowledge is not sufficient an Incapacity – Sir Wm St: & Mr WB are very strong, the Evidence is not sufficient an Incapacity – he distinguished between what he Deed wd not give away his own Money – he distinguished between that & giving an Order for what he held only as a Trustee – they have failed in one Circumstance they have undertaken to prove, viz. the Custody of E.G. that she was turbulent, & cd make the Deed do what she pleased, except when he was set upon doing anything, then he wd contradict her; if he had a mind to see R.d B. or Hindley & she was averse, he wd notwithstanding, do as he thought proper – They are so taken up with proving the affection for R.B. they lose sight of every thing else; thus his Capacity, free Agency is proved; It is clearly in Evidence he intended to do what he has now done; he declared so, & what he had done, repeatedly, upon the whole the Evidence clearly preponderates in favor of this Transaction

Dr Bever... We are sensible there are great Variations between the Witnesses on both Sides, but we hope when the Evidence is minutely weighed & compared, ours will appear so consistent, as to entitle us to a Decree in our favor. Mr WB is a Person of good Character, tho, I expect to hear his Evidence excepted agt, as it is in favor of his Son – there can be no Doubt but that some Testamentary Paper was executed on the 14th of Sep.r the only difficulty is

The Kings Advocate seemed to lay some Stress on the great number of Papers produced on the occasion.... but these are very easily accounted for – Mr WB is a good Witness in Law – Mckenzie can have no Bias, he is unexceptionable, & when added to WB is sufficient, to decide the Question; he was sent for by Deed, & desired to attest the Cod.l merely as being the next Door Neighbour. What Ennolds & Pearson say about the manner of signing, wh: all the Parties were present is immaterial, as they have subscribed to the Execution; notwithstanding the Story of the Black Devils, he, was partially capable at least – Different Persons will relate the same facts in different manners –

Dr Marriott... Mr WB drew the Codicil to benefit his own Son – Barwell Smith says he did not see the Deed for 6 Weeks after he made the Codicil, of which he was in possession, and not come to the Deed lest he shd revoke it – Mckenzie says no body guided Deed's hand, in this he cant be credited, because Mr B. acknowledges he guided it – from the time of the Transaction to the Death of Deed was 8 Weeks – The Paper cannot receive force from subsequent Sanity, because he cd not review or revoke the Act, they shd shew a Continuity of Understanding; the saying Let us see what sort of Will you will make? shews the Importunity of Mr R. or the Nonconsciousness of the Deed; none of the Servants are produced, they were afraid to examine them, y.e Presumption is for us – Davies sat up that very Night; Physicians are only there now & then, a few minutes will make a difference – The Deed takes Mr Langley for Mr Barnes's his Son, who transacted all his Business – The Exchequer Porter & the others prove only a Mechanical Signature, how does it appear he signd any thing, where is the Paper? Does it appear Deed had Houses to repair? Ideas fix themselves in Persons minds when sane & sober, wch they will always talk of when insane or drunk; he was a very rich absurd old man – Persons who are to be benefitted shd employ public Persons, out of the House, Strangers, in drawing up Papers of this nature by wch all Presumption of Fraud wd be ousted –

Dr Calvert... The Qu.n arises on the Paper propounded by Mrs E.G. benefited already under a Will not contested, 2000£ a House, Plate &c. this Circumstance is used by the Gent.n on the other Side, to shew the Deeds regard for Mrs E.G. & his Intention to benefit her; but does it follow that because in 1758 he left her the afd Sum &c, that he wd give her more? consider the Character she lived in, he benefitted her sufficiently for a Housekeeper, Nurse – Internal Evidence sometimes operates, where the Contents will apply to the Evidence of the Witnesses; but merely saying it is an officious Will, very little applies to establish it – they express their Surprize, that R.d B. shd impeach the Capacity of that Relation who had benefitted him so considerably; Sir Yet was his duty to do it, in justification of the Testator, however generous he might be, where there is reason to suspect Imposition, he has a right to see, wh.t the Share in Contest