alter her Will? Whatever Mrs. S.s behavior may have been it was forgiven: the legacies muzzle ye Wr. to this was owing the Delay, Eyre was an unwilling Wr: Deed might mechanically execute this Will, but did she intend to injure her daur; did she know ye Contents? clearly not. Davis says ye Penknife was found in ye Country, in ye Room where Mrs. S. lay, while there; perhaps previous to ye Date of their Will, Deed wrote ye Note then, & might intend to send it, but did not, till she had been some time in Town, but Davis dont know when it was sent: As to ye Paper wch Deed gave C. with the money, wch has been exhibited by ye Gentn. it dont appear, when it was written, for ye Date is only of ye Copy, so that tho, it was copied 20 Sept. 1762, it might have been originally previous to ye Date of the Will of 1762 – The Exhibit most plainly shews, she had an affection for her daur, by lodgeing £500 in Cs hands for her private Use – In another part of their Plea, they think it right to shew, why Mr Innes did not make ye Will; certainly they were right as to shewing it, but they are unlucky in the manner in wch they set about it: the Declaration of Deed with respect to Innes, must be previous to making ye Will, as it was a reason agt his being employd; & this declaration makes it impossible she shd leave him a legacy; By ye legacy to miss Eyre, how cd she so often Mr Eyre, he was to have no benefit, how cd she so often him – What Opinion must C. himself have had of her Capacity, when he says she might have forgot the Contents of the Will? What, of a Will made only 3 Months before? she dont know these plain legacys, yet cd he have given Instructions for, & have read the Will: it is a Contradiction to suppose it – The Gentn. will say then strike out these legacys, it might be so if a Person was sane, imposed on; it is not so in case of Incapacity, wch must affect ye whole Will tho, if 2 legacies had been falsely read over, or foisted into ye Will of a Person, of whose Capacity there is no doubt Probate of the Will wd certainly go, without those two legacys –

Dr Calvert – We do not say, this has not the Appearance of a Will duly executed, but if Deed was under an undue Influence, when the Will was made, it was no Will at all; we are not tied up, to shew, she was locked up, or that they put the Pen in her hand & used it to sign with; if a Person knows not what she does, or the Will proceeds on false Suggestions, it is equally, not the Act of ye Testator. Swinburn says, Grs. Flattery annulls a Will, it is a false Suggestion, the Deed not knowing the grounds whereon they go, the Deed proceeds on false facts – The Scene of Imposition began at Woods, continued at Cornforths; he was an Acquaintance, she wanted the Air, say the Gentn. there was no Appearance of a Scheme in it, perhaps there was no such View at first; it might be formed afterwards, immediately on her Arrival – Is it possible, is it any wayes credible, she shd make ye Declaration pretended; "that she went to Pl. for the sake of the Air, because her Daur wd not take her a country Lodging" She had the Money herself, & cd have got a Lodging, she did not depend on her Daur; It cant be true, say they, that there was any Contrivance, because the Daur accompanyd her, she did so, but she stayd only a short time; we need not contradict her going out; observe, whom she was surrounded with, all Ws family; & generally, one of them, went with her in the Coach – tho ye People of the House were not listening, the precaution taken by ye Deed of bidding Haslom look, wh. none of them, were so, shews what she thought

them capable of – Mrs Bowman dont say, she ever heard Mr Eyre threaten ye Deed with a Mad House, she only says, Deed informed her, that she had been informed by some of her Friends, that E. designed to get her to some private Mad House – Our Ws say the Deed received her Information from C. if he was the Person who raised the Report the same C. as speaking of himself, is rather a suspicious Wr. as to the Account given by Bean, how improbable! E. wd never have said it to her in an abrupt manner; if he had said it at all, but there is no Introduction to such a Speech; She gives no reason for Mrs Rhodes making use of such an undutyfull, unnatural Expression; it is incredible she shd have used it without some reason given for it – I will submit to you on other Grounds, Bean is not a credible Wr. she is resolved to do her utmost to serve her Party, but oversets herself, for in deposeing to the time of Ws stay at Canterbury she says he staid ye Weeks, whereas Prestage, who went with him on Business, & others concerned, who must know best, make the Absence, only, about as many days – She says, she has seen Deed write & knows her hand, & on Interrog.y says, she can neither read, nor write – therefore cant answer to ye Exhibit the Deed has by the Evidence made frequent Declarations of the Trust; from whence, it is clear, she was under that Persuasion, so that it is not material with respect to ye factum of the Will, wh. she was really a Trustee or not; I wd not argue that she cd not make a Will, or was not a Trustee, but the Point we contend for, is, that she did not make the Will of 1762 i.e. she was under undue Influence & incapable, so as not to be her Act – as to being made, in consequence of going to another Council, it is meer Supposition; it is not to be collected, that she went to Mr Forrester to try wh. she might not leave it away from her daur; the motive of consulting him, was, rather, to be justified in leaving all to her daur – The Note inclosed in ye Penknife Case cant apply to the latter Will, wherein she leaves only a life Estate to her daur, was not this wronging her? it wd be a Quibble, to say she wd not wrong her, when she had made her only Tenant for life, instead of having it to her absolute disposal – The next Argument of Imposition must be drawn from the Contents; for supposeing her conusant of them, wd she have left a considerable legacy, to one, whom she had called "his insolent daur"? no certainly; for if the Occasion of dislike had arisen, after making the Will, a Person who knew what she did, wd have revoked the Legacy; we dont say, there was a positive deception; Imposition, as to the Mode, is different, according to the State of the Persons imposed on; S. cd never intend his fortune shd go to W. if he had not designed it shd vest wholly in Mrs S. he himself wd have left the Reversion amongst his own Relations; there was no occasion for any Injunction of Conscience, if it was to be at Mrs Gs sole disposal; the Instructions were carried by ye Person to be benefitted by the Will; the Person they were carried to was a Stranger, to the Person, the were said to be carried from; the Drawer of the Will is a Gentn. of Credit, in his Profession, wch makes it ye more extraordinary, that when Instructions had been carried so different times, no Application shd have been made to the Deed herself; if Deed ever did make such a speech, as is pretended, "do you think I am in my Senses? cd it have escaped Prestage? wd he not have spoke of it on his first Examin.? did she understand what she was about? clearly not, else she wd not have executed a Paper to benefit Persons, she had formerly expressed a dislike to, so contradictory, to her former declaration, of being her daurs trustee: & there is no clear proof, that the Instructions carried by W. came from the Deed; there was a case determ.d before the House of Lords in 1763. wherein a Will was set aside for want of Proof, that the Instructions came from the Deed. It came by Appeal from a Decree of the Ld Chanc.r of Ireland refusing to set aside a Verdict obtained by the Resp.ts on an Issue directed out of Chancery, to try wh. ye Will, in the Pleadings mentioned dated 4 Dec.r 1740 be the Will of Rob.t Colville Esq or not? the Jury

x Ld Rob.t Manners & others v. Stephen Moore Sen.r & Jun.r & others.