of a Maintenance during her life, which he having no money was unable to do — I hope you will pronounce this Will to be obtained by Fraud & Imposition, as such revoke the Probate & decree the Admon to my Client, who is next of Kin.

Dr Harris — If the Deed really thought her Relations had used her ill, it is immaterial whether she was founded in that Supposition; Mr Hand having destroyd Loose Memoranda, was of no Importance when the Original existed — The Smallness of the Legacies must remove every possible Objection to the Witnesses on that account, no Bias can be supposed to rest on their Minds; Admitting Insanity in the Deed, if she was sane when the Will was executed, that Transaction cannot be affected; every body knows a lucid Interval, is sufficient, to justify the Act of alienatie, if he is taken at a lucky Quarter of an Hour: I never knew the Evidence of any Physician or Apothecary of use on either Side — there is no wonder that the Inhabitants of a Country Town shd make an Old Woman the Subject of Conversation, after her experiencing so sudden a Transition, from being supported by private Charity, to Riches & Affluence; it has been said there was a Bargain made by Mr Knapp, it is a meer gratis dictum, & unsupported by Evidence; The Statute mentiond by Dr Marriot relates only to Sailors Wills; an Attempt was made to extend the Equity of that Statute; Sir Ch: Hedges favord it, but the Ct of Delegates rejected such Extension; their Motives, I need not investigate; The Legislature have set their faces agt all Constructions that tend to impede the disposition of a Mans Fortune; An Englishman may disinherit, & the Ct had no power to exert humanity agt law. The Statute has been construed equitably in one Instance; for it confines the nullity to where a Will is inserted in the Body of a Lr of Attorney, whereas the Ct has extended it to a Will made in Satisfaction of a Debt tho, not embodied, & the Statute goes no further . . . . . .

Dr Burrell — I shall readily agree with the Dr who argued first on the other Side, that if the Deed had not a Capacity, adequate to the Act in question, this Will ought not to stand; but I think, the Wts depose, so fully, & satisfactorily, to that point, there can not now remain any difficulty with the Ct, how to determine; they have charged her with Love of Strong Liquors, & being frequently intoxicated, but several Persons, of unblemished Reputations, agt whose Evidence, there is no Objection, & who were generally in her Company, declare they never saw her disguised in Liquor; tho some of them had been acquainted with her many years: the Dr urged the Opinion of the Neighbours, that the Transaction was fraudulent, & inferred the Fraud, from such unstable Premises I will give the Sentiments of the Neighbors their due weight, but they ought not to be brought, in Competition, with the unstaken Testimonies of those who swear positively to repeated acts of Capacity, & that the Deed appeared free from Restraint — The destruction of the memoranda, by Mr Hand, is worked up to a grievous Charge agt him, & laid as a strong foundation for the most uncandid Suppositions: he probably thought, that as the Will was drawn up almost at the same time, with those Notes, there was no occasion to preserve them; the Dr mentiond, it was customary in Ireland, to grant Admon, without obliging the Party to swear herself next of Kin; if such a Method is adopted there, it is illegal, & absurd; illegal because contrary to the Statute; & absurd, because the End for wch an Admon is granted will thereby be defeated: the Dr supposed, some Persons about the Deed, who prejudiced her agt her Gr: Daur Anne, & asked her some Question

wch occasioned the Deeds Answer, that she did not think Anne wd do her that prejudice: perhaps this Account is false, but if true, I know no harm in asking the Deed about a Person, of whom she had frequently expressed her disapprobation — This objected, the Deed expressd no Sorrow, on Brown's communicating to her the Accident, that had befallen her Sister; & therefore they infer she had no Understanding; I will presume, the were that her Sisters ill usage, in withdrawing her annual Allowance without any reason assigned, & her insolent Message, that accompanid the Guinea, she sent her afterwards, had operated so strongly on the Deeds mind, as to eradicate every Spark of Affection, & to render her totally indifferent to Mrs Quarter — Dr Wynne said no Wt spoke to the Deed answering Hard, when he asked if the Will was to her mind; the Evidence given by Mr Wales, Shaw & Coinde, surely slipped his Observation, as they speak fully to that Particular . . .

Judge Dr Hay — This is a very extraordinary Case; I dont sit here to make Wills, etc but determine on the reasonableness or Unreasonableness of them, but on the Law, & the legal Evidence before me; where a Will is very unfavorable, the Ct expects a stronger Degree of Evidence, than when it is of a favorable nature: This is not true, that in every Case where a fact of Execution, or general Capacity is proved, the Will must therefore be established; for if there is Evidence of Fraud, Imposition, Threats, Custody, or undue Influence, the Will, tho, ever so well executed, may be set aside: Every Will must stand, on its own peculiar Circumstances, & to determine this, I must look into the Evidence, & form my Judgement wh: I am to pronounce for, or agt its Validity: 100£ is given to the daur; Hand on an Interry says, he dont remember the Deed took any notice of a Mistake in the Legacys; here is a mistake in respect of the Legacy of 100£ to each of Wm Sanders' Children, who never had any: the Deed however indigent in her Circumstances, it was reported, & believd at Worcester wd reap a considerable Benefit from her Sister Quarter's Estate — The Instructions are not fully & satisfactorily proved; the Account given of them is very general — The Writer & Witnesses depose strongly to the Execution, so Deed having a general Testamentary Capacity: If the Will stood only on the Evidence of the subscribing Witnesses, in solemn form, it wd have been supported: but the Daur gives a Plea, & examines Witnesses, whose Evidence must be taken into Consideration, in opposition to those, who speak to Capacity at the Execution; if Rogers speaks truth, the Deeds Capacity was not so strong, as the Instrumentary Wt asert, yet a general Capacity is admitted: the Evidence of the other Wt shall not be destroyd, if there are no other Circumstances to affect them; the Capacity of Old People fluctuating; being better at one time than another: in pedgeing on that great Caution must be used; Coinde himself owns the approved the Will, in a low voice — But the Daur alledges the Will was improperly obtained, by Imposition; I must then, enquire, if the means used, were legal, tho, the general Capacity is admitted: there may be many Ways used, wch are legal, tho, not strictly honorable: I must look into the Circumstances to determine, wh: the Will was obtained by improper or undue Influence: All agree the Test: was very old, in extreme necessity, & a very declineing Condition: She was in the Hands of Mr Knapp, a Person very anxious to secure some thing to herself, (when E. was known to have died rich) at least, to secure her debt: Notice was sent, & communicated to her by Brown, of her Sisters Death) indec: She then took no Step to secure E.s Effects; from whence I may fairly collect, the Persons now concerned, were unacquainted with the fact, till after the Receipt of the addre on Feb. 5. & all the Witnesses depose to her distressed Circumstances, & agree she wd make a will in favor of any body, who wd support her; Knapp to 4 Intts says, the Deed sent to Oliver & Bradley to procure some money of them, but they declined to advance any to her; Knapp wanted likewise to be reimbursed the Expence she had been at; She went to them a day or two after they had been with Deed wch was 11 Feb: she says, she went voluntarily to Oliver on the same Account, & thinks that in case either of them wd have