to guide me on this Head; their Depositions are very candid & ingenuous; I think, I never saw any more fair; Geldard says the First of a Will came originally from Mr Ward, who at a Meeting of Lawyers, proposed it, to save him trouble, but never mentioned any Benefit intended himself; the only Motive then assigned by Ward to Geldard, was, to save him trouble. Mr Wards letter points at no Benefit to himself, the whole that can be collected from it, is that Ward wished a Will to be made, that he might thereby be freed from trouble - It was very proper Mr Geldard shd see the Person, from whom he was afterwards to receive Instructions for making her Will; G. admits when he came to Miss Ames about the Instructions she declined to answer his Questions; but she broke open the Seal of the Paper wherein the Instructions were enclosed, & said, "there is what you want"; Her Answer to the Question proposed about Alterations, is very material; "I would have no other Alteration than A0 to Mr Lucas; being asked what Mr Lucas, she replyes, the Esquire, to distinguish him from the Clergyman; Mr G. accordingly writes on the Letter, Gibson Lucas, Esqr; There appeared nothing reluctant in her on the 13th of July, when the Instructions were given, except her declining to answer Gs. Questions, which, he supposed was occasioned by the presence of Mrs Musgrave &c.

15th of July. Mr G. went again; nothing appears to impeach his Behavior, in endeavoring to get the Act done according to the pressing Letter of Mr Ward - Her Expressions, that She had Blisters & declining to answer, seem rather to proceed from an Impatience consequent on her Illness, & from an averseness to being asked Questions, than from any Dissatisfaction at executing the Will itself: The Words "I chuse it" & her desireing Geldard to keep the Will, till he saw Mr Ward, prove the Capacity very strongly; The first day Geldard did not ask, who wrote the Instructions; when he did, she answerd, she wrote them, by the Directions of Mr Ward; the Expression is rather equivocal: from this Account we must conclude, they were given by Ward; what passed between him & the Deed nobody can tell, but by the Recognition, she uses, She establishes & confirms them sufficiently; The Instructions, on the face of them, are wrote at different times, & twice signed, from whence I should suppose, they had been under her Contemplation more than once: Upon the whole of the Evidence, I think there is nothing to impeach the Conduct or Character of the Subscribing Witnesses I am of Opinion the Deed was of sufficient Age to make a Will, & had an adequate Capacity when she executed it; on what Motive, the Instructions were given, is not my Business to enquire; I am only to look into the Factum & the Law, about both which I am satisfied, & therefore think myself bound to pronounce for the Validity of this Will . . . . . .

Q. Was there any additional Legacy?

The Will established

Prerogative. Cricket — No. 128 — Don v Campbell — Goodwin — Dr Harris — Dr Wynne

Q. Is the Identity of the Deed sufficiently proved?

State of the Case

Dr Wynne . . . . August 1765. a Decree issued against Mungo Campbell, Exor of a pretended Will of the Deed, to bring in the Probate, to shew cause, why it shd not be declared void, as by fraud, & under false Suggestions obtained; why Admon shd not be granted to John Don, as the Guardian of Robert Don, one of the next of Kin of Robert Don the Deed, late of the Elizabeth, Man of War - That in the Will propounded, the Testator describes himself of the East India Merchant Ship Prince Edward - the 2 Subscribing Witnesses, are the only Persons examined, who have not proved the Identity, & no Step has been taken to prove Robert Don of the Pr: Edward, & Robert Don of the Elizabeth, was one & the same Person.

Judge & Dr Hay . . . . . To be sure, there is proof that Robert Don made a Will, who belonged to the Prince Edward, wherein he appointed Mungo Campbell Exor; The Witnesses say, a Robt Don signed a Letter of Attorney to M. C. of East Smithfield, & they say that on searching the Books at the E. I. House, they find that on the same Day Robt Don signed such Lre, he received what was due to him; this is a circumstance tending to prove the Identity, wch proof must be greater or less, according to the Circumstances of the Case - In Lady Amelia Butlers Case, the Witnesses did not know her, but swore to the Execution at her House; the Court determined in favor of the Will, on the Improbability of her being personated in her own House; In all these Cases, I cd only rescind the Conclusion for further Proof of the Identity: it would be only giving them farther time to bring such Proof; I cant say, I can set aside the Will in a Sailors Case, merely for want of the Identity being proved by 2 Witnesses, which indeed is shewn by Circumstances, tho. not directly; Proof might be made by comparing the Lre of Attorney, with the Receipt given at the India House; the signing a Lre of Attorney, & Receiving money at the India House himself, the same Day, is no Objection; if it was a Case of Consequence, I would adjourn it over to compare the Apd Papers but as it is a Sailors Will, I decree the Probate out of Court to Goodwins Client . . .

Sister of Ld Arran

The Will established

Prerogative. Longden — No. 129. — Brede v Thompson, Steele & Thornton — Fuller — Dr Harris — Dr Wynne

Q. Was Deed sane when he made the Will, when he made the G A Codicil

Dr Wynne . . . . David Patrick is the Party deed: he died 2 Feb. 1766 - He made his Will (A) 8 July 1765. a Codicil thereto (B) 28 Jan. 1766. and a 2d Codicil (C) 31 Jan. 1766, also 2 others not dated or witnessed, one of them marked (D) was endorsed on (B) 2 of them were signed compleatly, the other 2 with only the initial Letters of the Deeds name: The Witnesses speak to Acts done precisely, on the Day before his death; It comes out on the Interrog: that he destroyd himself, & was brought in a Lunatic by the Coroners Inquest; it appears by Clay, a Witness examined on the Inquest, & by . . . . . that the Coroner said, the Commission of the Fact, is sufficient Evidence of such Lunacy . . . . . .

Dr Harris . . . . We oppose the Codicils, relying on the internal Evidence of the Papers themselves, viz. his leaving his Apparel from his Wife, his strange notions, that nobody would receive a small Legacy from such a Wretch as he was &c.

Dr Wynne . . . . By the Papers themselves, he appears fully capable of managing his Affairs; he was Butler to Mr March, who entrusted him with the Care of his House, & he transacted his Masters Affairs very well: he conversed sensibly on the 31st of Jan: settled an Account as sensibly as he ever did; he began another Account on 9st of Febru: