said exceptive Allon, would be again giving an Opportunity, to admit Witnesses, to prove the former Allon of Feb. 27. It is true that some of the Facts laid in the 2d Art. of the exceptive Allon might, & shd have been pleaded in the former, & therefore that after Publication, no such matter ought to be received to Proof but they never were pleaded; & the 1st Art, & the other parts of the 2d & 3d Art. cd not have been pleaded till Publication had passed, & being if proved a direct Contradiction to what Sheldon, Mills, & Hallward have sworn, ought not to have been rejected: It is hoped, if the Ct shd think, the Exceptive Allon shd be reformed, yet that the Grievance will be pronounced for & the Decree rejecting the Allon reversed, with Costs as to the Appeal, & that the Judge will retain the principal Cause....

Sheldon to 4 Int: answers. He hath frequently been in Company & conversed with Thos Corbett. the Decd as Gaines, & does not found his Judgement, & Opinion, of his Sanity, or Insanity entirely on Report of other People, but in a Great measure, from his Conversation with & personal Observation of his Behavior, & more especially from that Instance of his Weakness, in selling so considerable an Estate for so small a Consideration; He never declared, that of his own Knowledge, he knew nothing of Corbets Insanity.

Cave alledges Sheldon has sworn falsely, for, That he has declared to Mr Rowland Hill, as well as to other People, that he knew nothing of the Sanity or Insanity of the Testator, but from Report, & that of his own Knowledge, he knew nothing of Corbets Insanity...

Wm Hallward to 2. 5. 8. 9. 10 Art: ... Decd boarded 12 Months with deponents Father by which he was intimately acquainted with his Capacity; that he was so ignorant he cd not count 20, nor knew wch was most in value, a Guinea, or a Shilling, believes he knew not, one sort of meat from another — Neither did he ever sit at Table during the whole time he lived with Deponents Father, but in a Corner, & putting his Trencher on his Knees at his Meal Times, did eat with a Knife but never with a Fork.

This contradicts by us. but might have been pleaded before.

That Cave Alledges. Decd generally during the time he boarded at Hallwards Fathers House, & always when he chose it, did sit at Table with H's father, & very frequently with H. himself, & at all Times took precedence of H. & used a Knife & Fork at his Dinners.

Samuel Mills — Is certain Decd knew not one sort of Meat from another, especially Beef & Mutton, wch he cd never distinguish from each other

Cave alledges. That Mills has sworn falsely, for, That one day, at the Time he worked for Edw: Cave, as he was eating a Beef Steak at Caves House, Thos Corbet came into ye Room, to Mill, & asked him what he was eating, & Mill endeavouring to impose on Decd, said, it was a Mutton Chop, whereupon Corbet with some warmth replyd, it is a Lye, for it is a Beef Steak, well knowing it was Beef & not mutton —

Dr Collier.... I am Council for the Cozen German — We had pleaded a general Incapacity, & Idiocy in the Decd; as a Confirmatory Circumstance we pleaded, that an Issue was tried before Ld Chief Justice Wilmot in 1765, & that a Verdict was found, of the Decd being incapable to make a Will, & that the Heir at Law had the Real Estate delivered up to him, in consequence of the Verdict; They lay to Greenbank Sheldon's Charge, having declared in the presence of Rowland Hill, that he formed his Opinion on Report; if we were to grant, he had made such a Declaration, it is inadvertent; it is said to have been 18 years ago; perhaps he may speak very differently, when brought on his Oath — When an Exceptive Plea is given, the Court will expect

the Circumstances to be specified, & that they shd speak definitely to particular Points; the Allon shd say, he declared it seriously & solemnly; for Mr Hill & may say perhaps, that he spoke when he said so: if any Stress is to be laid on the Objection, it shd be said, in what manner he declared it; Mr Hill might try to catch him, & Mr Sheldon might answer accordingly; the manner, the Time, the Occasion shd be specified; a declaration ever so strong could not weigh against his depon on Oath, that he never did declare so; the Court will not easily admit any Exception to a Witness examined & interrogated solemnly.

As to Hallward, they object only to a particular part of his depon, & get recite the whole; this is letting in a General Plea, & to open the Cause for that purpose, now, is improper; if the Particular alluded to, will destroy the Credit of the Witness, the rest is unnecessary: for if you can lay a single Point wherein he is falsifyd, the Ct will infer the Witness: want of Veracity in respect to the rest.

With regard to Mills, if the Circumstance is true, it is of small Import; for it wd not set aside or repudiate the W Account of the Decd's general Inability to distinguish one Sort of Meat from another...

Dr Calvert..... The Cause is fully instructed as to facts; whatever will go to ascertain any facts cannot now be received; the Objections must arise from the Depons themselves, or from some fact, so repugnant to the Depon that no Faith or Credit ought to be given to the Witness, otherwise the Exception is not pointed; Sheldon might not recollect what he said 18 years ago, will those Words, Spoke at so great a distance of Time, destroy his Credit; which will the Court believe, a Solemn Depon, or a mere declaration? if they could lay, that he had sworn it on another Occasion, it wd be relevant: as suppose it laid, that he, at a Tryal at the Assizes, had deposed on Oath, what they say he has declared; It is a slight word inadvertently spoken. An Article shd be so laid that it will appear to the Court, something material must come out on it; But if the Witness was to depose in the words of the Plea, it wd not destroy his Credit — You cant plead matter, contradictory to their Plea, after Publication: Here you plead, he could count 20, & knew the value of money, & different Sorts of meat, we had before pleaded the Reverse: It is not an exceptive Article, what looks most like Exception, is frivolous. As to Mills he lived with Cave 20 years ago; will you let the Credit of Witnesses be impeached at that distance of Time? ...

Dr Harris.... I do allow, we cant plead matter, contradictory to what we, or they have pleaded; the Question is, wh: what we aspert, will shake the credit of the Witnesses, if it is true? If he declares one thing, & depose another it will affect his Credit, tho, not reject him as a Witness: there are fixed Principles; that when a Person declares one Thing, & swears another, such Declaration is admitted to Proof; Our reciting fully, can be no Objection, it is the fairest way: the Doctrine of specification is exploded, it is to be presumed they are essential Witnesses, if we recite what is necessary, it is sufficient, Witnesses are not examined to the Recital; the Distinction is whether we can affect the knowledge of a Witness? as if he put a Guinea & a Shilling before the Decd, who distinguished them from each other; the Decd's abilities to distinguish meats was known to the Witness, for he tried to impose on him, by saying he was eating Mutton, when it was Beef, & the Decd told him he lied: this will affect the Witness who had sworn before, that the Decd did not know one meat from another: The mode wherein this was declared will come out on the Evidence, they