provide for themselves, by their own Industry— 1763. Wm Butler
Mrs Cloudes Brot: died, wch laid the foundation for this Scene; It
is said, She had no Regard for her Husband, be itso, that will not
account for her disinheriting her Nieces & Great Nieces; Mr Rs
Letter is very extraordinary; no man has a right to endeavour to
inculcate the Doctrine, that a Woman is not to be reconciled to her
Husband; much less, is it becoming, in so religious a man, as R.
whose Letter so far from referring to a prior Conversation
between him & the Decd, has rather a Reference to. . . . . .
He is desirous of getting something for the Church, but he will
not forget himself; he takes care to explain to her the nature of
a Residuary Legatee, to tell her a Res: Leg: is necessary, for tho
it is by no means of the Essence of a Will, it was necessary for
him, else the next of kin would have been residuary Legatees;
that part of his Letter, which says it is "for the Glory of God," is
Blasphemous & merits the Pillory; with respect to the first Will
Robinson (& not Davis) brought it to the Decd, accord: to the vulgar
Saying, set a Rogue to catch a Rogue; Robinson got it from
Hammond, & not from Davis; the Decd was very angry with
Davis, on account of that Transaction, & threatend to expose
him to the Pastor of the Congregation; 'tis evident Robinson
encouraged the Decd in her favorite Foible of drinking, he says
2 or 3 Glasses of Ruson do him a great deal of Good, that She
has the Gout in her Stomach & should drink something strong.
Those who say, the Decd was not a drunken woman, are
Persons who occasionally visited her, & depose to her Sobriety
only at those particular Seasons—
I now come to the Execution of the Will in question, the
other Circumstances, are only to guide your Judgement on that fact— The Witnesses to the Will do not prove the
Identity of the Testator, tho, our Witnesses do; There is a
draft of the Will of 10 Octr Wrote by Hills, wch corresponds with
the Copy brought by Benn, except in 2 Legacies to Mr Descrambes
& H. Tully, wch are omitted in the Will of 3 Novr Benn swears
to the Authenticity of his Copy— Ewer dont tell us, what
Instructions were given for the Will of Novr who was present
when they were given, or wht they proceeded from the Decd
I do not lay it down as a general Rule, that Instructions
sht be traced up to the mouth of the Testator, but that
Satisfaction sht be given in some Cases, as where doubts
arise, upon the Capacity of the Decd, & the Integrity of the Persons
concernd in the Transaction & benefitted thereby— It was so de-
termined in Colvilles Case" who made a Will in 1746 & amongst
other things gave 2 Legacies of £500 each to his Sister & half Brother
& the Residue in trust for . . . . & Niece of his Mistress Pat: Lander.
It was proved, Instructions were given by Baldwin to Barnard an
Attorney, for making the Will, that Counsels Opinion was taken
thereon; that the Will was afterwards carried to the Decd, read
over to & executed by him, who was then in his ordinary course
of Health & did not die till 1748. The Will was contested in Ireland
& the Decd proved of a slighty turn of mind, & to have been under
the Influence of a Mistress, who indeed him to leave the Residue
to her Nieces; "Justice Robinson directed, that if the Jury was of
opinion, the Decd was of a weak turn of mind & under Influences,
then, there was a Chasm in respect to the Instructions, that &
mere matter of Execution was not sufficient—

The Witnesses to the Will, in the present Case, were entire Strangers to
the Decd; no body was about her during the whole time of the Execu-
tion, but Davis & Robinson, who being the Parties benefitted sht in point
of delicacy have retired; it would be material. if the Witnesses could
give the Ct some satisfactory reasons, why they believe the Testatrix
knew the Contents of the Will; what passed in the Parlor, is worthy
notice, Hills & Ewer both say on entering Deeds house, they were shewn into
a Parlor by Mr Keene, who told them Mrs Cloudes wd be ready presently; that
Davis, or Robinson, or both, went out for some little time, & then returned
there being a Blank left in the Will for a Trustee for disposing of
500£ to poor Baptists, D. or R. whoever went out, said on their return
that Mrs Cloudes wd have Mr Davis added as a Trustee, that Hills
inserted it accordingly; this is a strong Circumstance to induce a
Suspicion, that either D. or R. could make Decd do as they pleased,
or, that they ordered Ds name to be inserted, without the Decds
directions; upon coming into Decds Bedchamber, Hills, said to the
Decd, "I have received Instructions from Robinson, for making
your Will, shall I read them?" he never asked wht she gave R.
orders to bring those Instructions: on her bidding Hills read the
Will, instead of giving Decd the Duplicate, to examine & compare
with the Will itself, as he read it, it is entrusted to one of the
other Confederates (Ewer) in this Transaction— The reason assigned
for this Neglect on the part of the Decd, towards her Husband & her
Relations, is, the Ill usage She had received from the first, & her
having received no assistance from either in her Distress; I do ad-
mit her Brother Wm to have been culpable in not relieving her,
I will acknowledge her Husbands Ill behavior, but I must insist
her Brother Joseph does not appear culpable in the least; he
had at that time 6 Children, & might possibly be as poor as
his Sister; there is no Colour to say he had not done what he
could do for her, or that he was able to do any thing; She had
likewise other Relations, agt whom She does not appear to have
had any Objection, why then sht she pass them by unnoticed, merely
to benefit Strangers; We are told She objected to the Legacies given
to the Descrambes, when the Will was reading, but said Robinson
would have them inserted; now if she did not intend those
Legacies, this is not her Will, but if it is, these Legacies did
not come from her; to this we are answered, she approved
them afterwards, whatever her original Intention might be,
If true, that is a strong Reason for inferring an undue In-
fluence in D & R. We hope you will only pronounce for what
is proved, which is no uncommon thing; It was done in the
Case of Barton & Robin where the Attorney made himself
the Resid: Legatee; the Legacies were proved to come from the
Decd, by Persons, who listend when the Will was read over to Decd
you therefore pronounced for them, but having no Proof of
the devise of the Residue proceeding from Decd, you set it
aside & decreed Admon to one of the next of kin, as I hope
you will do in the present Case. . . . . .
Judge Wray It is clearly in evidence, the Decd made 3 Wills in a short time,
viz. 15 Augt wch was destroyd by herself— 1 Octr wch Hills burnt by
her directions, after the last Will was made— 3 Novr It is agreed that in
every Will Davis & Robinson were Exors, & the Witnesses believe Davis was
Resid: Leg: in the first; the chief difficulty arises with respect to the Decds
Declarations, in respect to the Residue given Davis as afd— 2 Wts viz. Slack