& Cripps say, that Decd. on being apprized of the Quantum of the Residue, used many harsh expressions agt Davis; said he was a Villain, that she wd expose him, & expressd great dissatisfaction, that he wd get 4000£ by the Residue wch she said was too much for him, & wch she never intended him – The Will of 3 Novr was opposed by the Decds Husband, in his Life time, & that opposition is carried on by his Representatives, who would take the Benefit of the Intestacy, & insist first she is dead intestate as to the whole, or, if not, at least with respect to ye Residue. The Question is not between the next of Kin of the Decd, but betw: her Exors & the Representatives of her Husband; The Circumstances of the Decd, are material; she appears to have been in extreme Poverty a considerable time, to have been neglected by her Husband & Relations, & to have lived on very bad Terms with ye former; in 1763 a large Sum of Money came to her Husband by the death of her Brotr Wm Butler her Relations thought it prudent to obtain from her Husband, a Separate Maintenance thereout, & a certain proportion to be at her disposal, the Husband consented, & assigned over 1/3 of his 1/2 to Jos: Butler, Lewis Davis, & Jn Robinson in trust for her Sole & Separate Use & disposal; the very day the Settlement was compleated, L Davis persuaded her to go to his house, & make her Will, in wch he was named Resid: Leg: She appeard satisfied with it in general, but displeased that Davis would be so much benefitted; but her Declarations that she had made a Will at Davis: are a proof of her general Capacity at that time; besides the Deed of Settlement shews the Opinion of the Parties, as to her Capacity, by empowering her therein, to make a Will – That she intended to die Testate, is proved by Slack, who says, when the Decd expressd her dissatisfaction at Davis she said, she was going to make another Will, desired him to leave his name with her, & afterwards told him she had made another Will on the 10 Octr in wch Will Slack is himself a Legatee; this destroys the charge of Incapacity from Drunkenness, & confirms her general Capacity; Her Husbands Agent to the Probate, is Evidence agt him, that he thought she had a Capacity; Mr Ewers behavior appears to be very proper, he wd see the Decd about her Instructions for the Will of 5 Octr he did so, & that Will must have been pronounced for, if it was before the Ct. upon the Decds general Capacity & Instructions; But it is this Will sh: be set aside & set aside, on account of Imposition; I do agree that every Will obtained by undue Influence, must be set aside, & that the Execution sh: be voluntary, & not merely mechanical; Qu: Is there any Evidence that this Will was fraudulently obtained? The Witnesses who attested it, give a satisfactory account of the Execution; they say when Mills came to that part, where 1500£ was given to the Dr T. Decd said it was more than she intended, but when Robinson was going to explain it, she said, go on, & seemed satisfied – The Will of the 3d of Novr only changes ye mode

of benefitting the Relations, who cannot claim in blood, or in any other way than under the Will, as in every other Case the Husband wd be entitled; Cripps ascertains the reading over the Will, & heard the Legacy read, wch was given to her, much Stress has been laid on Robinson's Letter; I have read it carefully, & can see nothing in it, so ensnaring & irretiating; she was obliged to Dr R. for aiding her, when her Relations forsook her. the Difficulty arises on the Evidence of the 2 Wn with respect to Davis; if Decd was so angry with him, as they represent, it is odd, she sh: benefit him so considerably, by making him one of her Exors & Resid: Leg: there is no Evidence produced to shew why she alterd her Opinion with respect to Davis, & yet the fact is, that she did alter it; there is general Evidence of her speaking affectionately of Davis, but no Witness shews how she was reconciled. the fact shews it, the Will of October evinces, she had forgiven him; the Alteration, in the Will is, that the Gr Nephews & Great nieces have large Legacies, instead of the Residue; the Defect of Evidence arises from the want of caution in Robinson omitting to employ an Attorney to take the Instructions; & in the Attorney not applying to the Testator: it would have been more prudent, if Robinson, had communicated the alterations, designd by the Testatrix, thro, another Channel, & not carried them himself; the Particular mentiond by Cripps, prove general Instructions. viz. "after Dr R were gone on 2 Nov: Decd said, she had given Instructions for a new Will." this then brings on the Question, wh a Residue shall be declared void for want of particular Instructions duly proved? I apprehend that Defect is supplied, where there is sufficient proof of a Testamentary Capacity, reading over, & general Instructions – On the whole, I pronounce in favor of the Will of Sl. Clouds decd & decree Probate to the Executors, but think there is no pretence for Costs....

The Will established

Ibid

Major No 167 Paty v Sterry Gosbling.
Dr Harris Dr Wynne

Is Nuncc Sterry, meant by Lewis Story?

Dr Wynne... In Paty of Lambeth, is the Decd; he made his Will 20 Augt 1764. attested by 2 Witnesses, & thereof appointed Nuncc Sterry of Wandsworth Carpenter, called by mistake in said Will Lewis Storey of Wandsworth, Carpenter, & Jas Howson Exors. Decd, died 13 Novr 1766 & 29 Novr Probate was granted to Sterry, Howson having renounced, but prior to the Probate issueing, Satisfactory Proof was made to the Office, by the Affidavits of 2 Persons, (one of whom was the Joint Exor,) as to Sterry's Identity, viz. that he was the Person called Lewis Storey; the Probate not being expeditiously extracted, gave Martha Paty, the decds Widow, an opportunity of entering a Caveat, & calling on the Exors to prove by Witnesses, but she took no Step, till E.T. 1767. when 1 S. Major on her behalf, cited Sterry to bring in the Probate, & for him Howson to prove by Witnesses, or shew cause why it sh: not be revoked, & Admon granted to her, as the Widow, & also to exhibit an Inventory –

2 S. E.T. Gosbling Jnr appeard for Sterry, & confessd Majors Clients Jnt