Dr Clarke — The Article states "That the Deed did with his own Hand make & Write ye Will now propounded; A Person acquainted with the Hand writing, tho, not present, may prove it — The Objection that S.H. declared to the two Ministrants, she did know she attested a Will is of no Consequence, she now says, she recollects, she signed a Paper she can explain it — if she had died, the Objection to be sure ed not have been removed

Dr Wynne — The general Objection to us, is, our having lain by so long; It happens there is a circumstance in their Evidence wch accounts for the Delay; On seeing an executed Will, they had no reason to suspect, & therefore acquiesced — Within a Year after, there might be grounds to suspect all was not right, in wch Case it was natural to ask ye Witness if she had attested such Will; & when ill, was more likely to tell the Truth — The Witness subsequent to the taking out ye Citation; there have been many Cases where the Exors wd be glad all the Witnesses were dead; because Dead men tell no Tales; the Signature is the same wh: the Testator is sane or not

This is called an unsolemn Will, the Hand writing is the point in Question; I deny the Doctrine laid down, It is not the What is disposed of, that the Law regards, but the Form & Manner of the Disposition: If the Testator designed an executed Will, the Ct . . . . on Subscription, Attestation — This is represented only as an accessory Witness to the others; In the Interrog: she says, her Father said, "Girl you must sign this Paper; the Witness does not say a word to the Sanity, Recognition, the Deed may have been asleep, nothing appears from this Witness; Her Depon takes away the presumptions, wch wd have arisen from ye other Witness if not ousted by positive Evidence — the whole will rest on the Depon of a single Witness to the Hand writing of the Deed — Goldney stumbles at the Outset, says he knew him till 17~~26~~ tho he died in 1755

Judge
Dr Hay — This Will is dated ~~20~~ years ago, the Widow took Admon in 1755, enjoyd it undisturbed till 1765. when it was called in at the Instance of the Next of Kin, who have a right so to do at any time, the Reason of their deferring it so long dont appear The Qu: is wh: there is legal Evidence to continue the Admon? It was a right Observation, that the Law requires no more Evidence than wch ye Law ye death of 2 of the Witnesses is not controverted, ye other is examined — The 3d Witness, admits an improper Execution of the Will wch had been just signed, but not in her presence, that she was bid by her Father, not by the Deed swears positively to her signing, also to her Father, Mother signing: So that she ascertains Time, Place, & Persons: She allows she made the declaration wch occasioned this Cause, it stands on her Evidence, the 2 Ministrants came to her when ill in Bed, very proper, she was then most likely to tell the Truth; taken all together, she says after

next of kin may call in a Probate at any time

this putting her on her Recollection, she remembers the Fact What other Account can she give — The Law requires, if a Will is executed, the Examn of the Witnesses; if dead, ye Hand writing & Character — Bromfield the Clergyman proves the Hand writing; Harrison swears to her Fathers Writing; besides a Supplementary Circumstance, tho, insufficient in itself Deed ed not be asleep, when he wrote the Will in favor of his Widow The Character, Handwriting of ye Witnesses Deed is proved, ye Latter by Witness — Upon the whole, I decree Admon with ye Will annexed, to the Widow.

Dec. 11. 1765

2 wh: a Plea of a Release is a sufficient Bar to an Inventory & Account?

Prerogative
By: Day

No 38 Element ol. Hedge, agt Hedge
Alexander Dr Harris Dr Wynne Addorley

Dr Wynne — Eliz Allen ol. Hedge died without Children, leaving Danl Rupel Hedges her Brothers, & Wilhelmina Element her Sister; Jo & Geo Baker her Nephews, entitled in Distribution — Soon after her death, Admon was granted to Daniel Hedge, my Client, Citation issued by Eliz. Element & Rupell Hedge to see Distribution: Rupel Hedge appears to be named in the Citation without his Leave — Daniel Hedge appears under Protest, & alledgd a General Release from all those Parties, & that he had already distributed — Element has made an Affid: that the Release was unduly or forceably obtained, & suggests, there was a debt of £200 owing to the Deed, wch did not appear to be accounted for — Danl Hedge makes an Affid: stating that he has paid her more than her Share wd amount to — She alledges, he extorted the Release by threatening, if she refused to sign ye Ct she shd be a Sufferer, & by promising to pay her a share of the S. Sea Stock & the Debt owing by a Person unknown to her at Richmond, He says, he had lent her Money, & therefore retained ye money arising from the Sale of the S. Sea Stock

There is no Proxy given by Mr Rupel Hedge appointing any one to cite for him — If D. H. has distributed, you will not decree an Inventory; there is a general Release, tho, it is pretended to be only for particular parts, if that was the fact he wd be entitled to a further Distribution, & therefore to an Inventory, but you will observe the Words are large: the Ct will pay no Attention to what is set forth in the Affid: she must apply elsewhere to invalidate the Release, the Ct will take it for granted; if it stood on Affid: Mr Hedge gives a full account of the whole matter, he has a right to retain for his own Debt, standing on equal footing —

Dr Harris — we dont say Mr H. was a party in the Cause so as to have a Proctor, but you deny the Citation; I remember it was said by the Ct, that the Qu: was not generally wh: the Release was valid or not; but wh: it shd be a Bar. Mr H's own Affid: shews it was a particular, not a general Release — If she cant dispute her Distributive Share here, she can nowhere — I hope you will order an Inventory & Account; It is Due of common right, an Inventory in 6 Months. an Acct: in 12 Mo: the Release is not a General one, nor does he contradict my Clients Affid: wh: he has paid her her Share will appear by the Inventory.

Judge
Dr Hay — It is not material wh: one or both cited; he pleads a general Release, that she had received her distributive Share, & that he was not obliged to give an Inventory & Account: that it stood merely on a Release from all the Parties; tho there shd be a Fraud on the Release, they must resort to another Ct before they cd be entitled here: But in this Case ye Release is exhibited, & Affid: it shd be general; but Mr Hedge gives an