Rice Griffin dies, names Trustee & Sam.l Evans Gr. the former is before the Ct, the other is not. Caveat is entred by Sam.l Evans not warned as here, but in effect by a Citation taken out & returned, but not continued, as it is here. The Judge gave Sentence the same day (without waiting the whole time allowd) notwithstanding a Caveat entred by Rice Griffin. The Judge gave the Admon to Mr Gr: thus it stood till May when Citation issued at the Instance of Waller Rice. The Judge revokes the Admon granted to Mr Gr: & assigns to be heard on the Grant on a future Day; the Judge had sufficient Allegations before him to determine, but the Minor by himself cd not have had Admon, because he cd not have given Bond. To be sure regularly Waller Rice Shd have appointed his Gr: & y.e Objection wd have been at an end. from the Will, as being Trustee, Sam.l Evans was to take Care of the Minors Interest; for Mr Gr: had none under the Will. If the Admon granted to Mr Gr: is revoked, then is no need of another, the Trustee takes care, the just thing is done, I will not keep Parties on Niceties, what wd be the Case if I sent it back, the Minor wd put an end to the Suit by nameing Mr Evans his Guardian; I pronounce agt. the Appeal, but give no Costs.

Prerogative Bye Day. Feb: 25.

No 52. Forrest agt Wilson

Bishop — Dr Harris — Dr Wynn. — Bogg.

On Admission of Bogg's Allon.

Dr Wynn. . . . James Wilson died intestate, leaving Tho.s Wilson one of the Parties in this Cause) & his Brothers & Sisters, his lawfull Cozen Germans & the only Persons entitled to distribution

Aug.t 1763 Admon was granted to J. W. 1764 Citation issued at the Suit of Eliz: Forest, as Sister of the deed to bring in the Admon. 21 Jan.y 1765 Bishops Allon was admitted. 2 Sep: Hel. J. Bogg a pecuniary he gave an Allon, the Admission whereof is the Point now to be debated

1.st Art: pleads that J. W. died in July 1763 leaving only these Cozen Germans

2d Art: whereas it is pleaded in Bishops Allon that J. W. the Deed was from a different Stock, this we deny & plead otherwise

3d Art: pleads the Register of Baptism at Leith 1709

2d Art. The Deed was Son of Wm Wilson (by Eliz:th his Wife) Shd Groom of the L. of Northumberland, who was the only Son of Tho.s Wilson Mariner, (by Janet Dagrum his Wife) at Leith near Edinburgh, who died before 1709 & acknowledg the Deed. 3d The Register. 4th. That the Conversation of Eliz.th the pretended Mother that she had no Children, is falsely alledged

Wm Wilson pretended Groom to Duke Hamilton had 6 Sons & 3 Daughters & married a different Person from what is pleaded

Dr Harris . . . . He shd group & shew who was the Father of Tho.s: the 4th Art: is improper, for it does not signify wh: Eliz: J. has Sisters or not, it wd only diminish her Share in the Distribution, her Degree is just the same with respect to them. He might allow Mr J. W. to be Cos.n German; It is said a Gentleman pretended to have an Authority from L. J. to offer J. W. 500. This is not charging an express power, it shews only a desire to avoid Law; they shew only the Birth & Death of Jr, they shd have made out the Chain.

Dr Wynn. . . . You will please to observe, Sir, that we are in possession of an Admon. It is necessary to contradict her being the only next of Kin.

Judge. Dr Hay. . . . This is a Case of Interest; the Qu: is, wh:r the Admon granted to J. W. shall be revoked, & wh: E. J. is the Sister or not; she gave an Allon, pleading that John her father was Son of Wm W. & Eliz: Goddard; nothing very strong, as the Dr says, but it is admitted; the Cozen German comes not to set up his own right but to controvert hers; for as Admor, he had a right

to deny hers; as to the Allon, every part wch tends to skew, that Eliz.th his not interested, is proper. She is in possession of an Admon therefore his Interest is as it were proved, it is not necessary for an Admon to prove his Int.t in a particular way. it is very material to say that Eliz. J. has other Brothers & Sisters, she having all, She has confessd him to be a Cozen German, & did not then mention her being Sister. Tho this Allon is not very strong, yet as it is in answer to a weak one, I admit the whole Allon.

admitted

Prerogative Bye Day. Feb. 25

No 53 Morris agt West falsely calling herself Williams

Longdon — Dr Calvert. — Dr Wynne — Jenner

On Jenners Motion to rescind & Conclusion . . . .

Dr Calvert . . . In the Case of Foster & Wright the Conclusion was rescinded to let in Exhibits, wch are different from new matter.

Dr Wynn . . . The Qu: is wh:r certain Letters shall be introduced, (after the Cause is concluded) wrote by Mrs West to the Deceds Brother, wch Jenner alledges were sent to Faulkner to draw an Allon from, & wch he omitted to do? I hope you will not rescind the Conclusion on acc.t of the Proctors Blunder, as the Party intrusting such Proctor, must abide by his Proceedings, & as there is an Opportunity of rectifying the errors so committed, in the Superior Ct. where lies an Appeal, it is allowd, non allegata, allegare, & non probata, probare.

N.B. Appealed & afterwards compromised some of the Parties dyeing

Dr Hay Judge . . . . In Williams is the deed; Many Wms, as his Widow had possession of the Admon, from May 1763 to May 1764. The Qu: is with respect to Mrs West's Interest; Faulkner appeard for the Widow, called on the Cause regularly; I am sorry to find he behaved so unprofessionally in the Conduct of the Cause, his Behavior to his Client. the Letters if brought in time, contain some things wch might be material, but if they were ever so material, I shd not think it right to open the Cause, in order to introduce matter, wch may be received in the Superior Ct; the Case of Foster & Wright is very diff.t there Letters & Books of Accounts had been pleaded & made part of the depons, but were not annexed to the Allon; the Ct rescinded the Cause for the purpose of introducing the old Exhibits, to wch it was confined & not allowd to introduce any new Exhibits. A Party is bound by his Proctor, he has his Action lagt him, but I cannot rescind the Conclusion, on the face of the Letters, they do not carry that Evidence of the Marriage wch the Act asserts, tho, if offerd in time, might have induced presumptive reasons. Foster & Wright, shd never be made a Precedent, it is a single Case standing on a particular Circumstance peculiar to itself. Upon the whole, I reject Jenners Prayer . . . . . .

rejected . . . .

Prerogative Bye Day. Feb: 25.

No 54 Senior . . . . agt Senior in y.e Goods of Rachael Senior decd.

Grene — Dr Wynne. — Dr Calvert — H: Stevens Jun.r

on Grant of y.e Admon.

Q: Wh: a single Admon to y.e Sister or a joint Admon to y.e half Blood with a Majority of Interest?

Dr Calvert . . . . Mr Grene alledges that Abraham is an indigent Person, & that he was in such low Circumstances, as to apply to Nassau Tho.s Senior to borrow 100; Stevens confesses the fact, but says, his Party was cast away in y.e Humber M. of W. & thereby was reduced to such a low Situation, that he offerd his Brother Nassau Security on his half Pay. that Nassau went down & took possession of the Deds Effects, without giving him any notice thereof & that Nassau is only of the half Blood

Dr Wynn . . . . . Rachel Senior Spinster died intestate, without Parent leaving Abr:m her eldest Brother & Henrietta Eliz.th Jemima Senior Spinster her Sister both by the whole Blood & Nassau Tho: Senior Esq & Ascanius Wm Senior her Brothers by the half Blood, the only Persons interested in distribution; Immediately after her death Application was made for a Commission to swear N. J. S. & take his Bond as Admor, but a Caveat being entred for A. S. was warned & Int: of A. S. stated as eldest Brother of y.e whole Blood & next of Kin to Deed Stevens prays Admon to A. S. Grene that N. J. S. may be joind with him, as equally entitled, he alledges A. S.'s Poverty & Application to borrow 100, Stevens alledgd that A. S. was shipwreck in y.e Humber M. of W. was afterwards transferd to the Ps Mary where he continued till the End of y.e War, when he applyd to N. J. S. to lend him 100 but was refusd; A. S. offers any Security for y.e due performance of y.e Admon