says if N.J.S. was joined with him, it wd add greatly to his distress – N.J.S. swears Ab.S. was in such distress a little time since as to be in danger of being arrested, that if Ab.S. has the Admon he fears he shall find great difficulty in obtaining his Share; That Ascanius S. in the last Indies appointed him, his Attorney. a Proxy is given for N.S. praying Admon may be granted to Ab.S & N.J.S. jointly –

Dr Calvert... If it appeard a Person was of bad Character & low circumstances, it wd be an Objection; but Ab.S. lost his Fortune by Shipwreck, & his Behavior was so good, that he was appointed to another Ship directly – The Point is, that N.J.S prays a Joint, we a simple Admon a Joint Admon is never granted where all the Parties dont join in the Prayer; it is not likely they shd draw together. N.J.S refused to lend Ab.S. £100 in his distress; besides there is a Suit depending between Mrs Hutton the Mother of Ab.S. my Client & N.S. they produce a Proxy of Consent of Mrs H. J.S. it is only to join Ab.S & N.S. in the Admon, not to give N.S. a preference, his Conduct on y^e death of his Sister, is an Objection, viz. he sent a Lawyer to take possession seized the House, & gave directions to admit no Person whatever. my Client is in equal Degree, & being the Elder, of the whole Blood is entitled to a preference, We own he was in low circumstances in 1764, but say he now lives in a House of £20 p Ann, & therefore cant be said to be poor

Dr Wynn..... The reason assigned for Preference is that Ab:S. is of the whole Blood & y^e Elder; Eldership gives no preference, in y^e grant of an Admon however has any weight, (where the Parties are equally founded in their Pretensions) the Ct considers only the Interest, & how will administer best for the Parties interested; this Brother of the half Blood, has a Proxy from the Sister of the whole Blood to oppose the Grant of a Sole single Admon to Ab.S. 3/4 of the Interest are for a Joint Admon; if the Evidence went no farther, each had an equal Interest, my Client wd be entitled – Another Obj^n is the Poverty of Ab:S. his holding a House of £20 p Ann, is no Evidence of his Substance; the Ct will never put the Parties to such Trouble, to come upon the Securities, wch may possibly be the case if Admon is granted to Ab.S. when there is a responsible Person willing to undertake it – The Obj^n to N.S. Conduct at his Sisters death, is mere Suggestion; there is no Colour to say, there was more than proper precaution taken to secure the Effects – I hope as my Client is in good Circumstances & has a Majority of Int^t you will either grant y^e Admon to him singly, or a Joint Admon to him & Ab^m Senior jointly . . .

Dr Hay Judge.... The Qu: is on the Grant of an Admon betw: the half & whole Blood; the Rule is to prefer the whole Blood; for by the Rules of the Civil Law, the whole Blood is held to be nearer of kin, tho, not by the Common Law; but I have known Instances, where it has been granted to the half, in preference of the whole Blood In this Case N.S. does not pray it singly; but the Ct seldom gives a Joint Admon unless both Parties apply, from y^e Inconvenience of their drawing different ways; here there are 3 Interests before the Ct equally entitled. viz. N.S. for himself, as the Attorney of Ascanius his Brother & had the Proxy of N.J.S. the Difficulty with the Ct therefore (for it desires to put y^e Admon in the best hands) is wh^r it shall be granted singly to Ab.S. in opposition to the prayer of the 3 other Parties (whereas in distribution no Inconvenience likely to arise to y^e Suit in Chancery by a joint Admon to Ab. & N.S. where it is pray'd by a Majority of Int^t in distribution, & rather think a joint Admon preferable; I wd never grant y^e Admon to 3 Ps. singly, as it wd be an Imputation on Abraham Senior

A Joint Admon decreed.

Parties

Consistory of Lond: By Day of Feb: 26..

N°55 Rippon . . . v. . . . Turner

Goodwin . . . Dr Calvert Dr Harris, Wynn Greene

Dr Calvert... This is a Cause of Defamation brought by Jane Rippon agt Mrs Henrietta Turner, Wife of Nicht Turner Esq –

Thot Powell deposes, that he & Mr Turner being in a Parlour adjoining heard Mrs Turner say to the Plt "you are with Child" you use me ill replied the Maid, I am not – Eliz: Wilsey says about 2 Months ago, she was in the Passage & heard the said Conversation –

Dr Harris.. The Libel pleads the Character, the Words charged are, "you are with Child;" & "you are a Whore"; the Witnesses depose only to Mrs Turner saying, "you are with Child, one may see it;" the Qu: therefore is, wht the Words spoken are defamatory, if they are, wht they were spoken with an Intention to defame? Thot Powell to Interrog: answers, that the Minister did not say you are a Whore

Dr Calvert.. we have proved the Defamation, tho, not in the express words laid; I believe you are with Child; In these Cases I know there shd be an exact Conformity in the Witnesses; there is in the present Case; Powell was turned out of the family on Suspicion of being married to her; another Witness says he was then courting her in the Way of Marriage; As to the Intention of defaming, that appears from the manner in wch the Woman took it & the Circumstances prove it; the Mistress taxed her resentfully with whoredom, before Powell, who was then addressing her by way of Marriage wch is the greatest she cd do –

Dr Harris.. This is a Suit brought by a Servant agt her Mistress, wch is very new & unfavorable; when I looked into the Libel I saw the word Whore; this very indecent word was spoke in a Bedchamber or a Parlour by the Mistress to the Servant (for the Witnesses differ as to the Place) could that be to defame? they dont say the Original of the Quarrell; the only words you can regard, are these, "you are with Child" It is said a Person may be called Whore by Implication, I allow it, but the Implication must be necessary, wch it is not in the present Case; As if I said to a Woman "you have a Bastard" implies whoredom, as she must have committed Fornication or Adultery; but in saying, "you are with child, no such Implication follows; she might be married, & the Implication is that she was; I remember the Case of Man & Gould Mrs Gould was Housekeeper to a Family of great Rank, with a power of hiring, discharging the Servants, found fault with a Maid Servant for being too great with one of the Men & said you are considered as the Whore of that Man, Suit was brought agt Mrs Gould & 2 Witn: swore to the fact; the Plt said, as the words were spoke in a Private Place, by the Representative of the Mistress it cd not be conceived they were with an Intention to defame, that the Character of the Plt wd be concerned, if the Mistress was to be condemned for a hasty word, that the Presumption was so strong agt the defamatory Intention, tho, the word spoken was Whore, that 5l Costs were given agt the Plt nomine Expensarum on account of the Indecency of bringing such a Suit; I hope you will also discountenance them & give us exemplary Costs

Dr Wynn.... I submit, there is a defect of Proof in the 2 necessary Points, viz the Speaking the defamatory Words, or doing it animo defamandi; from attending to the Words of the Interrog: & Answers, you will see Mrs T. her self suspected a Marriage between the Plt & Powell, & did he not declare he cd take any Liberties with her & is now married to or courts her? to the latter he answers negatively, but to the first part, so, as to confirm Mrs T. spoke the Words from a Suspicion of the Marriage – The Words must be proved to be spoken with Malice or Passion; if such Suits were countenanced, this Ct wd become a Court of Inquisition; nothing cd pass unnoticed in a private family; a contrivance at any distance of time after the words were spoken, wd operate; It exciting resentment in the Plt, is no proof of the Injury; if loss of Character ensued, it was from her own ill Conduct; there is reason to believe, the whole is a Trap laid; Wilsey is in the Passage, the other Servant Powell in the Room; the Plt comes in & begins the discourse by saying to her Mistress, you use me ill, in saying I am with child; Mrs T. answers, I do not, you are with child –

Dr Calvert. The Maid could not begin the Conversation as Dr Wynn stated it, because it is a Reply – The Case of Man & Gould does not apply, because Dr Harris observes, the Words were spoken merely to correct her Conduct, indecent Passion produces Defamation; it arises from one Party asserting, another