his Bill not being paid, afterwards he waives his Objection, but before the Probate is withdrawn, appears for the present Parties— I cd not think how this was to be distinguished from Intervention in other Cases; I never heard Intervention was matter of Grace; the Dr did not deny Parties might intervene, I have always understood they might intervene at any Period of the Cause, in principis, tho dio, vel fine, consentiente vel reluctante, parte principali

Dr Clarke

There is great reason to suspect Collusion, that B.C. has been satisfied, therefor disregards the Interest of the other Next of Kin; If the Cause has been fairly conducted, they must be supposed to have made the best proof in their power; they have taken no Step to call the next of Kin before the Ct, acquaint us with the Proceedings, therefore it cant be said we had legal Notice before we desired to intervene, we came in when we knew of it

Dr Lay. Judge

I remember the Ct on the hearing, thought the Evidence so confused, it cd not pronounce for the Will; the Plea agt the Validity, was that the deed was in a State of Ebriety when he made it; the Ct having doubts about establishing the Will, gave no Sentence, but asked if Fuller B.C. Proctor consented the Probate shd be delivered out of Ct: he said, he had no Authority to do any thing— The Payment or Non payment of a Proctors Bill, cant retard the Proceedings of the Ct; Fl. prayd to be heard on his Peton, as to delivering out the Probates, till his Bill was paid; he then waves his Peton. Green repeats his former Prayer; then Fuller appears for the Next of Kin in question, to oppose y^e Delivery of the Probates; the Ct has made no Decree in this matter, this goes a good way to shew there is a Cause before the Ct; If I decree they have no right to intervene, I must decree the Probates out of Ct, I speak to the Point wh: there is a Cause— I must think that Fountain had consented to the Probate being delivered out, as to his Party the Suit is at an end— I do look on Intervention as a matter of Right, a Party shewing he has an Interest; you must take the Cause in the State you find it, except in matrimonial Causes— There is no doubt, but a Party may come in after Publication, desire to be heard on the Evidence as it stands; the Qu: is wh: the Probate shall be delivered out, weh depends on another Qu: wh: there is any Cause before y^e Ct: if there is, the present Parties may cotnein, shew why the Probate shd not go out; I am of Opinion the Cause is not over; If I shd say they cant intervene they might enter a Caveat, take out a new Citation; what Dr Collyer said, is an Objection to my admitting his Request, that he cd mend his Case, if a new Cause is instituted for that Reason, I ought to allow the Intervention, not allow y^e Probate to go out; the Consent of the opponent dont put an End to the Cause, where there is no Decree made; a Party having an Interest may come in any State of the Cause, but must take it in that State—

I will never stop Justice on account of a Proctors Bill, & hope never to hear that Objection repeated.....

See Clarke's Ft. 135.

Easter Term 2d Sess.

Prerog: Ct April 20. 1766

Major

№68 Winchester Langdale & Wood. v Strode

Bog Drs Clarke & Wynn ..... Dr Harris, Calvert. Burrell

Dr Clarke

Mrs Eliz: Gough died Jan: 23. 1763, leaving a Will Codicil with 2 Duplicates of the same, dated June 5. 1762. wherein she appointed In Winchester Esq, Geo Langdale & Benj: Wood Exors, Trustees - 2 Sep: Kd. J. Bog exhibited for the Exors; Collins for Lucy Naomi Gough, as Daur of the deed, who had entered a Caveat warned by the Exors

N.B. This shd be inserted. fo. 112. bef: Wood and Saunders. . . .

Bog confessed her Interest, was assigned to exhibit Scripts, Scrolls; Bog brought in the Will, Codicil of 5 June 1762. Bogs Client was assigned to exhibit, a fuller Affidavit of Script; Collins brought in a prior Will of Jan: 18. 1760, a Republication subsequent to the date of the Will of June 1762, wch Collins alledged were material to be introduced— In that Will, Winchester & Francis Eyre Esq were Exors & Trustees; they were assigned to declare wh: they wd propound the Will, when Eyre by Tyndal declared, he wod not propound the Will of 1760. whereupon Collins declared he wd propound it; Bog objected to Eyres dismission; There was an Application for the Appointment of an Admor P.L. when Collins named Jn Robertson Esqe Bog. Fowler Esq. Bond was decreed to be given by the Admor in 2000. the Security to be reported; Allotion was prayd agt Charles Cornforth Esq. to bring a Letter mentioned in 11 Art. of Allon. In y^e interim L.N.G. ats Strode remarried wth Strode from whom she had been divorced: Major then exhibited for Mrs Strode; Our Allon was admitted Jn 6: 1763. We exam: our Witn: they have given one Allon, & then another, exhib: a great number of Letters, & done every thing possible to delay the Cause...

Dr Harris

Mrs Eliz: Gough died in Jan: 63. a Widow, leaving one Daur, her only next of Kin; She died possessed of a very considerable fortune, derived from Ferdinando John Paris Esq, who had married her Sister; It will appear by a Letter of Mr Paris, dated Jan: 7. 1746, that he gave his Fortune to the Deed, only in trust for Mrs L.N.G. now Strode; this Letter contains many remarkable Expressions, viz "That he had promised his Wife on her Death Bed, to take care of her Niece Lucy; that he wd not have worked so hard, but to provide for the Dear Child" He says again "I have given you the whole of what I have, wishing I had more to give the same Way; Again "I greatly trust, you will answer, my often declared Design, therefore will not fetter you with any Trust or Co-Executor"; Again "I beg you will answer my purpose most effectually, in full confidence of wch I have made my Will, relying on your Fidelity; I do beseech you, lay it upon your Conscience, not to disappoint my Expectations of you"; We have 60 Letters, Exhibits to shew, that Mr P. looked on L.N.G. as his own Child; maintained & educated her; Mr P. died in Dec: 1759. It appears by Mrs Haslom, she has declared in the presence of other Servants, to Mr Eyre, that she was Trustee for her Daur; She made no Secret of the Fortune being left to her only in Trust, & looked on herself, as a mere Trustee, who cd not dispose of any thing; From Mr P's death, she retained her Affection, clearly to Jan: 1760, when she by Will bequeathd all the fortune left by Mr P. in Trust, to Winchester, Eyre, (whom she also made Exors) for the sole & separate Use of her Daur during her Life, & then, for the Purposes she shd by her Deed or Will appoint; By the Will of 1760 she gave 50£ apiece to Lyd. & 50£ apiece to each of their Daurs, & other small Legacies amounting only to 150£ yet as Mr Eyre deposes, she asked her Daurs Consent, even to dispose of so small a part of what P. had left her— Mrs G. did not die till 3 years after; In the Spring 1762. She was inveigled, & enticed to lodge at Mr Woods at Parsons Green, on pretence of taking the Benefit of the Air; soon after she went thither, there was a Disagreement between her & L.N.G, wch Haslom accounts for thus, That Benj: Wood began to do her ill Offices; that, She was sent on Messages; that Mr Wood told Eliz: Gough, her Daur intended to confine her in a Madhouse, the Betrays even adds; & to take away her Life; hence arose the Disagreement— This alledged by the Exors, the Will of 5 June 62. was made by Eliz: Gough; this is contradicted by the Conduct she held on making that of 1760; for it is in Evidence, She then consulted, asked Leave of her Daur to give away a few small Legacies; In the latter she did not consult her Daur; gave 200£ apiece to her Exors, 100 to Mrs Eyre, about 1500 in different Legacies, without mentioning them to her Daur; she then directs the Interest of her whole Fortune to be paid to L.N.G. for her Life; & then on a further Trust to be given to her Children & a certain Share of the Proceeds to them till they attain 21, as the Trustees shall think fit, if she dies without Issue, or having Issue,