the Ct, for the Plt brings a Cause of Jactitation, & yet plead in the 1st Art: of his Allon, a Marriage de facto, by a Popish Priest, if that is true, how can I forbid her to jactitate, for she is his Wife, tho, she shd prove not his legal Wife; there is no Similitude between this, & the last Cause, Publication must be on every Plea; when the Man allows a marriage de facto, a Question of Law may arise, wh: the Woman shd be dismissed from the Cause of Jactitation, on account of its being an illegal marriage as the whole depends on the legality, I shall not determine on the Jactitation, till that is settled.

The 1st Art: going to the legality of the marriage, is relevant.

2d Art: is not material of itself, but as tending to establish the first Art; for if the Conversation is proved, it goes to shew they their marriage by a Catholic Priest.

3d Art: I dont see the use of this Article, how will it enlighten the Cause, by shewing no Rob: Lewin was at Galway or in the Neighbourhood, it is not contradictory to the other Plea, it has nothing to do with the first marriage (24 July 1759) & is wholly inadmissible....

4 Art: It might be in the presence of the Persons pleaded by Resp: without the knowledge of Mrs Unick; it is only a kind of indirect Negative; but if they c: prove no such Person as Anthony Wells was Rector of St Nich: Galway, it might materially affect the Cause; It looks very odd in a Cause of Jactitation to admit a Marriage de facto.

Suggest the 3d Art: & must admit the 1st & 4th tho, they come very late.

3d Art: rejected the rest admitted

By Day M.I. Prerogative

Stevens No 143. Sowle v Connor Longden

Dr Marriott & Wynne

Stevens as Proctor for Sowle alledged, that in Octr 1766 Maj: Genl Stanwix his Wife, & Family were all lost in their Passage from Dublin to England. That Mary Stanwix his Wife made a Will during her Coverture, by virtue of Powers to her Granted, nominated no Exor, but appointed Maj: Genl Stanwix her Husband, residuary Legatee for life & after his Decease, appointed her Father Marmaduke Sowle Esq, & her Mother Lucretia Sowle Resid: Legatees for their Lives, & the Survivor; Mr & Mrs Stanwix are dead, as also Mr Sowle, & no Admon of the Goods of Mrs Stanwix, either with the Will annexed, or simply as dyeing intestate, has been granted, therefore St prays Admon with the Will annexed of Mary Stanwix, to be granted to Lucretia Sowle, the substituted Resid: Leg:... Longden exhibited for Thos Connor Esq, & alledged himself to be Admor of the said M. G. Jn Stanwix deed, praying an Answer to his Interest; Stevens confessed him to be so, but denied, the General to have survived his Wife, or Connor's having any Interest in this Cause, or in the Admon of the Goods of Mrs Stanwix deed. Longden denied the Survival of Mrs Stanwix, but allowed, that by the marriage Settlement of Mrs S. with Genl S. she had a power of making a Will, notwithstanding her Cover-

Q. Shall admon be granted to the Representative of y husband, or the next of kin of y wife?

-ture, wch was to be attested, by 2 or more credible Witnesses that the paper purporting to be her Will, is not at all attested, & therefore is null & void. That by Presumption of Law, the General survived his Wife, & she dyeing intestate her Estate vested in him, & that the right, is now consequently in Thos Connor Esq his only next of kin, Admor. Stevens allowd, the Will was unattested by any subscribing Witnesses, but alledged it to be all of her own handwriting, & submits, that the Operation of it was as an equitable Appointment, of what she had by her Settlement, a power to dispose of must be left to a proper Court; & alledged that Mrs S. was at least 40 yrs younger than the General, & therefore is to be presumed to have survived him; but wh: she did or not, or whoever may have the Interest in the Estate, either under the Will, or Appointment, or in case of her dyeing intestate, yet Thos Connor has not, nor can have any right or Interest, in, or to the Admon of the Goods of the said Deed, either with the Will annexed or simply as dyeing intestate, & therefore prays Admon of the said Mary Stanwix, to be granted to the said Lucr: Sowle, with the Will annexed, or simply as dyeing intestate, Longden dissenting & praying, the Judge wd pronounce for the Validity of the said Will; for Petition of Both Proctors this Day

Dr Hay

The Judge granted Admon simply to Stevens's Client, the Appointment not being propounded as a Will....

a simple admon granted to y next of kin of the Corpse

Third

Bogg No 144. Proud v Proud Adderley

Dr Wynne Dr Harris

Q. To which of 2 Brother Admon shall be decreed?

Dr Harris — This Suspects the Grant of an Admon, to which of two Sons it ought to be decreed? The Objection to my Client, is, that he was Committee 4 Years ago, & is indebted to the Estate, & as such is accountable to the other Child; Bogg alledges that S. Proud the Younger Son, is in possession of the Estate, & would not account as he declared, till compelled to do so. Several Sums were lent to Rd Proud, to build the great House.

Dr Wynne — The other Party has given an Affidavit to shew my Client an improper Person, otherwise his being the Eldest Son wd entitle him to the preference. He has had the legal authority many years, & been so entrusted, as to be enabled to make up the Accounts; if he has not made up his Accts in Chancery, there would be Confusion by decreeing the Admon now to the Brother, I apprehend the Committee must make up his Accounts there. The Opponent has made a rash Suggestion in his Affidavit, viz. that the money lent to his Brother, was the Cause of the Fathers Lunacy; By our Affid: the other Brother is as improper, because indebted to the Estate; so that it stands as if there was no Affidavit at all; a Joint Admon not being prayd, the Ct will not decree it. Where there occurs any thing to guide the Discretion of the Ct, it will be attended to. my Client says, that Edw: who joins with Samuel in the Affid: lives as a Servant with him.