the Child (of which his Wife was encein) of any part of his Effects
he replyd, it cant hurt the Child, for you know, it cant be of
any Signification, in the manner it is; but I will insert the
Child, that my Will may be made when I have a mind, &
in pursuance of this, he interlined, between the 7th & 8th Lines
"and to my Child after her Death." then follow certain words wch
are obliterated, (& in case of that Death)
The Party proponent insists that this Paper was not to be
of any Effect, till it was reduced into proper form, & to shew that
the Decd esteemed the Paper of no Consequence, but to serve to
make a Will from; It is pleaded
That the Decd died 12 August 1767.
That the Widow, the Proponent, was then with Child, but soon after
miscarried –
That the Decd had not been well for 4 or 5 Months before, but was
never so ill, as to lie by, & was not thought in danger till a
few Hours before his Death.
That after the Decds death, the Paper was found in the Pocket
of an old working Coat of his, not wrapped in any thing . . . .
These are the Circumstances pleaded by the Party proponent; &
then comes the General Article & Prayer, That the Premises are
true, of which Proof being made, she prays the Testamentary
Schedule may be pronounced for; as valid in Law.
If the Court should be of Opinion, it w not concludent in point
of Law so as to pronounce for it, she prays Leave to retract pro-
-pounding this Schedule any farther, & that the Parties, who are
Legatees therein, may be cited to propound it, if they think it
for their Interest; if they do not, or propounding this Testamen-
-tary Schedule, it should not be pronounced for, then that they
shew Cause why Admon should not be decreed to the
Widow, as to an Intestacy –

Dr Collier for the Sisters . . . .

I should only submit it to you, Sir, whether the Allon carries
carries that effect with it, that it is proper to be admitted.
Is it not a Contradiction, that she lays positively her being
Universal Legatee, in this Paper purporting to be the Decds
Will, & then the Declaration, that it was not intended to be
so – The Paper is of a Testamentary nature, & was meant either
to operate, or to serve for making a perfect Will – Where is
the Use of laying the Declaration so precisely, as about a
Month . . . . . The pleading the Words of
the Will, is pleading against the Article propounded –
The Interlineation is merely a Memorandum for a Will, if
hereafter, he should think fit to make one – The Decd has
not signed it; & his positive Declaration will shew it
to be only Notes of an intended Will

Dr Wynne

This Paper is propounded, & tho, imperfect may under-
circumstances be pronounced for; tho, not subscribed, it
is signed at the Top, thus, "J. Michael Mole." My Client
having found this Paper, (out of Candor) thinks it necessary
to lay it before the Court, & not to take upon her, to
swear, from private Information, that the Decd left
no Will; We plead the Circumstances of the Decds declarati-
-ons, as tending to destroy the force of this Paper; we must
-oss, to take the Sense of the Court: I agree with the
Dr that the Declarations indicate it to be only a Memor:m
The Use of the latter Article, is, to prevent the Widow being
led into Expences, if it cant be established on these Facts,

by being obliged to propound what is against her Interest.
for if this Paper is valid, her Interest is only during her
Life, if an Intestacy is decreed, she will be entitled to one
Moiety absolutely . .

Dr Hay Judge

As the Allon stands before me, the Paper, on those facts
(which are taken for true) cant be established; It is certainly
of a Testamentary nature; if you chuse to cite the Lega-
-tees, you may; without any Decree of mine: They may
state the Case differently; but upon this State of the
Case it is impossible to pronounce for the Paper.
Gostling prayd a Decree agt the next of Kin . . . . . .

Paper rejected

Prerogative
H. T. A Sess:

H. Stevens — No 148 — Hull v Jupe — Fountain

Dr Wynne — Dr Harris.

Dr Harris

V.d. No 116

Q Was the Will of the 18th of Sept: ever revoked?
Q If yes, was it not revived by cancelling the Will of the 21st of September? . . .

Wm Hull died a Batchelor, leaving Geo, Hull his Brother, & other
Relations; the Decd made 4 Wills, of the following Dates;
2 of the 31st of August, the 18th & 21st of Septr 1765. Judith Jupe obtained
Probate as sole Exec: of the Will of the 18th of Septr 1765. This Probate
has been called in, & the Question is now whether any, & which
of these Papers shall operate?
The Decd told . . . . . if he should die before he saw him
again, he should immediately destroy the Will of the 21st
of Septr & that of the 18th of Sept: stand – Immediately
after executing the Will of the 21st of Septr the Decd said
. . . . . "Do thee take Care of this Will, for I am not
fixed in my mind, which shall stand, tho, I have made
this Will, it is not to my mind;" Glover observed how
improper it was that 2 Wills should subsist at the same
time; the Decd replyd, I have considered of the Wills, & the
last Will is not to be; . . . . . neither shall that Will
stand, for some of them mentioned there for money, do
not deserve it; they have often abused me very scurrilously
have acted very disrespectfully, whilst I have been ill, &
shall not have it in their power
when I am gone; he then ordered Glover to destroy that
Will – In support of Mr Glover's Character, It is in Evidence
that he was a good natured man, & no body's Enemy but his own.
Mrs Jupe was the Decds Housekeeper.

Q Was the Will of the 18th of Septr ever revoked, & did it
not always subsist?

Q If revoked, was it not revived, by cancelling the Will of
the Will of the 21st of Septr?

Dr Wynne

It is in Evidence, that Judith Jupe, was not related to the
Decd, but taken as a Servant Girl into his family, 10 Years
preceding his death; the 2 former appear to have been
burnt by the Person who was employd in making all the
Wills, the Contents of these two, do not appear.
The Will propounded devises a Copyhold Estate to
20£ to a nephew & 20£ to Henry Buster
There are the same Witnesses to the Will of the 21st of Septr
as to the 18th: & the same Legacies, one of 60£ to his Brother
& a Legacy to his Brother in Law, a Clause revoking all Wills
by him made, & declaring that to be his only last Will.
Glover speaks fully to giving Instructions for the Will of the
21st as well as that of the 18th & the Ws speak fully to the Execution.