a Chattel Interest, exclusive of her Husband; but if the Husband dies, the Wife shall have them, because they were a Chose in action, & they shall not go to the Exors of the Husband; But if the Husband & Wife are divorced a Mensa & Thoro, & the Wife has Alimony allowd her, & she sues for Defamation, or other Injury, & recovers Costs, & the Husband releases them, yet the Wife shall recover them, because they come instead of that, which she has expended out of her Alimony, which was a separate Maintenance, & not in the power of her Husband, & this is the reason of Moram's Case, But if the Wife has a Legacy left her, the Husband may release it — In the principal Case a Prohibition was granted....

Vid. Cro. Car. Gren. case.

2 Rolls Ab. 301. pl. 2.

Prerogative. E.T. 3 Sess

Cumberlege. No 15A Cowper v Turner H. Stevens

Dr Wynne Dr Bever

Q are Pawns Bona Notabilia? Q Can the Ch: take Cognizance of a Set Off? ...

Dr Bever.... Wm Cowper of St Mary Newington Surry, in the Deanry of Croydon is the Decd — He made his Will dated the 22d of Septr 1766, & thereof appointed Rebecca Wife of Thos Turner, his daur, sole Executrix — The Testator died the 26th of Septr 1766, having Goods &c in different Dioceses or Peculiars to the value of 5£ & upwards, sufficient to found the Jurisdiction of the Prerogative Court — On the 26 of Sept 1766. Rebecca Turner proved the Will, in common form, in this Court — The same Day Catherine Cowper Widow & Relict of the Decd proved a Will of a prior Date, (viz. 8 Sept 1766) as Executrix therein named, in the Peculiar of Croydon —

A Citation was afterwards taken out & returnd agt Rebecca Turner Exx in the Will 22 Sept 1766, to bring in the Probate, & shew Cause why it should not be revoked, for want of Jurisdiction, at the promotion of Cath: Cowper afd

2 S. M T. 1766 Cumberlege appeared for Rebecca Turner.

4 S. ..... He brought in the Probate — H Stevens, propounded the Jurisdiction & asserted he gave an Allegation This Cause comes on now, upon our Allon & the Answers of Mrs Cowper —

1 Art: Pleads the Jurisdiction, & that Cath: Cowper under the Will proved by her, had taken possession of the Decd's Effects; particularly his Books of Accounts, by which it would appear, the Decd had at his death, Goods, &c in divers Dioceses, or Peculiar Jurisdictions, amount to 5£ sufficient to found the Jurisdiction of this Court..

Answer Mrs Cowpar admits, the Testator kept a Pawn-broker's Shop at St Mary Newington, but denies he had Goods &c to found the Jurisdiction — She admits having the Custody of 3 Books of Accounts of the Decd, which she intends to bring into the Registry; that it did not appear thereby, he had Left 5£ &c in diff Dioceses &c

2 Art: That Nehemiah Ward of the parish of St George Southwark was indebted to the Decd in 5£ or a larger Sum for Goods sold & delivered....

Answer Mrs Cowper beleives Ward was indebted £5.4.6½ to the Decd, who was indebted to Ward £2.0.1. & that there was a Balance of £3.4.5½ due from Ward to the Decd & no more..

3 Art: That Samuel Stacey of St Geo. Southwark was indebted to the Decd £.0.12.0. for a Quarters Rent due at Mich: preceding his death..

Answer The Decd died the 26th of Septr & the Rent was not due till the 29th, therefore it was no debt to the Decd. Q. did any Proportion belong to Decd?

Art. 4. not [illegible]

Art. 5. Thos Mason of Stockwell, was indebted to the Decd £.0.6.0. & had a Watch of the Decd, in his Custody worth at least £3.3.0.

Answer Admits both these Items; Beleives the Watch worth about £2. that Decd was indebted to Mason £1.10.0. which made the Balance £0.16.0

Art. 6 & 7 That Mrs Brinkly of Streatham owed Decd £2.15.6. & Mrs Biggs of Streatham owed Decd £.3.10.0.

Answer Admits the 2 Items, but says Goods were pawnd with the Decd for the same, at Newington, which she apprehends confines the Locality of the Debt —

Now we apprehend, the Residence of the Debtors, & not the Locality of the Pawns, must determine the Question of Bona Notabilia

The Allon & Answers being read, Dr Bever proceeded

The proper Reply to these Answers is, that as it appears upon the face of them, that above 5£ was owing to the Decd from Persons who live out of the Peculiar, that is sufficient to found the Jurisdiction of this Court, as to the Balance the Court cant enter into that Question, it being matter of Account; I wont lay any Stress on the Rent, because it dont appear of what Nature the Estate is — The Locality of the Debt, is determined by the Residence of the Debtors, except in Cases of Specialty —

v. Geo. 2 for better payt of Rents....

Deposits are a kind of manual Mortgage of Personals; Pawns are of a superior Value to the Money lent, therefore Wd be a matter of Account, which disables this Court from the Cognisance thereof

Dr Wynne — Taking the whole of Wards Debt to be due, it is no more than £3.4.5½ for the other Debt averred by us, must be a Set Off. So that this cant of itself make Bona Notabilia The 3d Art: states Staceys being indebted 1/4 of a Years Rent; Our Objection is founded on the very Act of Parlt cited by Dr Bever; for we say, the Party dyeing before the Rent became due, it goes to the next Person entitled to the Premises, & not to the Exor — Jshd doubt whether the Watch, under the Circumstances stated, could be considered as a Thing of that Nature, as to be Bona Notabilia; It is no debt, but was accidentally left with the Party, to prevent the Owner being robbed of it; It resembles the Case of Goods a Man has with him, who dies on a Journey —

V. Salk: 578.... NB. prior to ye Act of Parlt

As to the 7 & 8 Art: it is clear the Money taken up, on the Pawns, could not be Debts at the Decd's death, because the