has been required; the Drs talk of a Prayer they intend to make, but treat it as actually made, & argue from it – Mr Wallis was Sollicitor to the Testator, whose Exors & Representatives the present Parties are; they want to steal an Opinion from Mr Wallis as to the Quantum of the Estate – I hope you will think he has answerd fully to the Interrogatories, & reject Greene's Petition with Costs –

Dr Wynne – Till a Party has given in his Answers, he cant pray a Term Probatory, cannot stir a Step, or oblige the Opponent to give an Issue in the Cause; Our Client did not want that Advantage; we chose to bring the Cause on; It is by Dr Gage's contempt in declining to give his Answers, that my Client has been put to the Expence of examining Witnesses – It is inconsistent with humanity & would be a Breach of Trust in Mr Wallis to reveal his Clients Secrets; if that was allowed, it wd be impossible to carry on Business, or preserve Confidence inviolate – These Interrog: might be properly put to one Person, & very improperly to another. We might say with as much reason, that the Interrog: are improper, as they insist the Answers are. I deny that all incidental Points in a Cause, are proper to be spoke to; it is not right to ask after a Constat of the Estate, when the Validity of the Will, is the Question in issue

Drs Harris & Judge – The Question is wh: I shall order a Monition for the Reexamination of Mr Wallis to the Interrog: & wh: I shall stop the Cause till he has answerd, q 2.3.6.7 Interrog: The Drift of the 2, 5th is to know the fortune of the Exors, & the Proceedings in the Chancery Suit in 6, 7 Int. Mr Wallis excuses himself from answering, on account of his being Sollicitor in the Cause – I am clear, that he has answerd the 7th fully & properly, as a lawyer he refers them to the law – It is said Dr Gage is in Contempt & therefore has no right to object – Answers are to be given in the first Place, & for default thereof the Opponent may refuse to proceed, or may go on, as he chuses; I apprehend in Testamentary Causes, Priviledge of Parliament dont lie – However, at that time, they did not come & object to his examining on Interrogatories but admitted it, & I am inclined to think, the Party who has not given his answer, (tho perhaps not entitled to plead) if his Opponent, examine Witnesses, may crosse examine them notwithstanding; therefore the Objection is not peremptory at present – the next Question is wh: the Answers are full; now nothing is more clear than the Impropriety of a Counsel, Sollicitor or Proctor betraying the Secrets of his Client by his Answers I am clear the Interrogatory, is not pertinent with

S. Ld Simpson is said to have excommunicated a Mem of Parl: tho a

respect to the Matter in Issue, i.e. the Validity of the Will; Ch. but say they, this leads to an incidental Point, when that comes before me, I shall give my Opinion upon it; you can lay those Circumstances, before the Ct, in a regular way, by Affidavits; Why ground your Motion by fishing for Information from the Opponents Sollicitor It wd be proper to object to the Circumstances of a Party in a Case of Admon; but not in the present Case; I think Mr Wallis has answerd fully, & shall decree no Monition for his Reexamination, but give no Costs –

Mr Answers decreed full. q. Motion for his Reexamination refused. - - - -

Greene asserted he gave an Allon on Admission rept Ct & if not admitted, that q Cause shd be assigned for Sentence on the 2d Assignation, & Prayd a Liberty to take Affidavits, which was decreed accordingly - - - - - - - -

Trin: Term 1 Sess. — Prerogative — Fountain — Battier & others v Robinson — 156 — Longden

Dr Harris & Burrell — Dr Calvert & Wynne.

Dr Harris - - -

3 Sess. E. T. 1768. Fountain as Proctor for Jn Rudolph Battier Junior, James Hall, & Peter de la Rive, alledged, that Wm Richardson late of Brosh Oak in Wilts, but at Pensacola, the Party deceased, whilst of sound mind &c, duly made, executed his last Will & Testament in writing, dated Novr 29. 1765. & thereof appointed his Clients abovementioned, Executors. That a Caveat being entered, against granting Probate thereof on behalf of Mary, Wife of the Revd Wm Robinson, it was warned, & on the Caveat Day after Mil. T. Philips exhibited as Proctor for the Exors, & prayd Probate might be granted to them – Longden exhib: for Mary Robinson, alledged her to be Sister & next of Kin of the Decd.; Philips was assigned to answer to her Interest, & both Proctors to exhibit Scripts & Scrolls on the Oaths of their Clients by the 10th of April

10 April. Philips brought in De la Rive's Affidavit with the Will annexd

1 S. 2 S. Philips exhibited a Proxy & confessd Longdens Clients Interest; & Longden brt in a Commission with Scripts on Oath of his Client & opposed the Will – Philips propounded it, & asserted he gave an Allon, wch was admitted

2 S. Trin. T. a Commission for Examion of Witnesses was decreed at Philips Peton returnable 3 Sept

3 Sep: 1767 The Commission was returnd, Publication decreed, the Cause assigned for Sentence on the 1st Assignation 1 S. Mic: T.

1 S. Mic. T. Longden asserted he gave an Allon wch was admitted 8 Jan: 1768 & a Decree for Answers decreed.

2 S. . . . The Decree was returnd

3 S. . . . Philips appeard & was assigned to give his Answers by the Bye Day

In this State of the Cause, Philips Client applyd to Fountain to conduct the Cause for them for the future.

Q. wd Co after Publication is passd & Cause called on for Sentence only first assignation, q Ph. who called it on, is entitled to correct any Omissions of his Proctor, making Affidavit he has not seen or been informd of q contents of the depons. - - - vid Oughton Tit. 81 c 97 & 9 Gail Lib. 5. Observ: 105 nu. 2 - - -