& that our Objection was overruled: then, what is the nature of the Allon? it is to plead what we have allowed, the College being a Body Corporate &c and tho. it is true that the Parties have a right to plead their own way, yet the matter pleaded must be relevant: It is saying nothing: It says, that All Souls College, was All Souls College, & founded in such a Reign: they might as well say Mr Cravens name is Wm then they allege that it is not subject to the Laws in the University; now this is the very thing in question, wh? it is or not? did ever any Person give in Plea, the point in Issue, the very merits? at this rate, the Cause might never have an End, we might give an Allon to plead they are subject: this is to be proved by the Statutes, & is improper in an Allon: there is no fact pleaded, the matter is irrelevant, it is calculated only to protract a Cause, already, shamefully delayd.

Dr Harris.... I believe the Gentlemen are not really serious, in expecting this Allon to be admitted, they will however have gained their point, wch is delay: the Contents of Mr Cravens Protest are to the purpose, but he ought to have protested in Acts of Ct & not set forth the matter in an allon: they have stated that all the Colleges are exempt: they have certainly no Business to consider the Rules as to other Colleges; If this is a custom in the University, (wch it is not) it is a bad Custom & such as you will not allow: There is a Statute entitled De nocturna vagatione reprimenda agt wch these Gentlemen have offended; that Statute directs how the Delinquents shall be punisted: no Custom can be suffered to destroy the Discipline of the University, as this undoubtedly wd, if it existed; if any College cd protect members of the University, the Delinquents need only shelter themselves within the Walls of that College, & so escape with Impunity; if All Souls was to be an Asylum for Mr Craven, what pretence cd there be, for the College to protect those belonging to other Colleges? will it be said the Offence did not deserve punishment, I believe it will be allowd to be contrary to the regularity & Order required in a Seminary of Learning, & it does not appear that Mr Craven was punished in College, wch shews more the propriety of the Proctors taking Cognizance of it: the University is a Body corporate consisting of all the other Colleges, wch are, as Members subordinate to the Head; the Statute abovementioned, allows of no exception, no privilege or exemption for any College or person; it is therefore not only contrary to right reason, but to express Law, that any such Privilege shd exist. It has been pleaded as a Custom, but very improperly; they cannot examine Witnesses to the fact of a Custom, they shd exhibit the Statutes of the College, to shew such an Exemption, no such right appearing in those of the University, & if the present plea was to be introductory thereof, the matter of the Protest shd have been stated in Acts of Court.

Dr Wynn.... The Dr has introduced the Objection to this Allon, as if we had no other view in offering it, than Delay, & were ourselves indifferent to the fate of it: but I hope you will consider it as we mean it, serviceable & necessary in the Cause; if there has been any improper delay it has been the fault of the other Parties; they appealed, we only follow them; they have the purse of the University to support them, we are at our own Expence: they suppose the private Colleges to be like nests of Hornets, no discipline, no Officers in them; if this was so, it wd indeed be a very extraordinary Case, & this wd be such an allon, as none cd support: The University consists of a number of Universities; each has Laws, a Master, Fellows, & Officers of its own: who have authority to enquire into the Conduct of its members: & punish Delinquents, & why the V. Ch.r shd interfere, I cannot conceive. In the protest Mr Craven has stated, that being a member of All Souls, he is exempt from the Visitation of the University Officers; & surely, I have as good a right to say he was exempt as they have to say he was not: This Allon is diff.t from the Answers, for in them, he, as to many facts articled agt him, asserts his Innocence; something has dropt in the Argument, as if there had been an Irregularity in the Proceeding; there is no mention made of it in the Appeal, & I must take the liberty of setting the matter right: it is a mistake; 3 of the Delegates were not of All Souls College, nor are they special Delegates appointed for this Purpose, but are chosen by the Proctors on their first entering on their Office, they are stated fixed Judges for the Year, so that it wd be no Objection, even if there had happened to be 3 out of All Souls, whereas there was but one out of that College, & one belonging to each College, whereto the others of the Company belonged; the mistake then seems to have arisen from thence, & from not rightly understanding, how the House of Convocation is constituted. As to the Allons pleading the merits, I know no other use of an Allon: so a man pleads who propounds a Will: by our manner of pleading we plainly refer to the Statutes, we may hereafter introduce them: the case is different from private Instruments, wch must be annexd to the Allon: these are young men, & have not an Opportunity of producing the Statutes, they are too voluminous to copy. As to the other Question, whether we can prove the fact of Custom so as to establish our Plea; I see no impropriety in our examining Witnesses; if we cd be benefited by it, we surely might examine them: suppose Persons were to depose, that it is the prevailing opinion, that it is not usual for the University Officers to visit private Colleges; we claim no peculiar privilege above the other Colleges, so it is proper to say, that all the other Colleges are exempt; we may over, we may use, what we please. From the Abstracts of the University Statutes Si Quis unus &c. Si stat huiusmodi Coll: &c produced by them, there are limitations, & Conditions wch shew, they are far from vesting a supreme visitatorial power in the University; those very limitations &c clearly exempt us, & put us out of the reach of the Statutes, the University cannot punish unless Justice has been denied, or there is no Law to punish within the College; it does not appear, that a Complaint was ever made, & there must be a Law in the College to punish because, they were actually punished — All the Statutes of Oxford are not equal, some are by Act of Parl.t others are not; but what Use we can make of what we have pleaded, will be seen when the Merits come on —

Judges. the Kings Advocate Dr Marriot delio. the Sentence....

The Rules for Allons are different in Cts of Appeal, from what they are in Cts of the first Instance: there is such room for Subterfuge in the case of Appeals, that they are more strictly required to be relevant: As to the present Allon, it is only general, nothing special, there is no more than has been already pleaded, I do not see any new matter introduced: the general matter of All Souls being a Body Corporate, was properly admitted in the first Instance, & it was unnecessary to plead it again: they shd have pleaded that by the Statutes of All Souls, he was not subject to the Authority of the Vice Chan.r?