that the Benefice was sequestred; you granted the Remedy that all the pish^rs are entitled to— The Dr said he cd not come & do the Duty: Kidgell shd have shewn this: But this Objection is not founded: a minister of a Sequestred Parish, can & ought to do his Duty, as before. 4 Jeofts wch says If Occasion require, to get the Benefice served by a proper Person: The Church is to be supplied; the Minister is as capable as before: It is impossible the Ordinary can approve of any other, whilst the Minister is on the Spot & ready to do the Duty— On these Considerations, I submit, that Kirkman cant intervene, because there is no Suit; & that he can claim no Interest except in right of Kidgell— The last Consideration, is Fountains Petⁿ, who alledges the Suit to be a cause of Correction voluntarily promoted agt Mr Kidgell, & that Kirkman has given a Bond of 80£ to prosecute, it is a plea any Cause shd be processed in by Articles & examon of Witnesses, that Presentment is not sufficient Evidence to deprive on— This Petition is new & extraordinary; the Defts appears, without alledging any Nullity, directs the Promoter how to proceed: If he alledged any Irregularity he shd appear under Protest; I beg leave to insist there is no Cause; no Citation, & that Kidgell is not before the Court in this respect— This is no Cause of Correction, as they apeak, what is it to correct— we dont say a word about his Manners &c. we only say, he has not resided, & implore the Aid of the Ct to admonish him to come & reside, or shew Cause why he shd not be deprived— We might proceed by Articles, but have not any Vindictive Sentiments, no Retrospect: there is no Color to examine Witnesses, the Judge can do without, he may proceed on the slightest grounds, because the Party need only certify his Residence, if the Judge proceeds afterwards, it is at his own peril— The 2d Presentment in may. 6 months after 1st first, clearly shews he did not reside— Articles wd be a clear Nullity, as there has been no Citation, I hope, as the Effect of your Monition has not been answered, you will enforce it, & proceed to Deprivation, wch must be done by the Bp. himself—

Dr Collyer— This No-cause, No-Suit is brought by Mr Lewis for non Residence— I insist Non Residence is no Cause of deprivation & that there is no Law to justify it— half the Clergy in Engld wd be deprivable— If a man voluntarily flys from his Living & deserts his parish, he may be admonished to reside, & on omitting so to do, may be deprived; but it must be a voluntary Desertion— I must trouble you with the presentment wch is audaciously fraudulent; it is first made to the Archdeacon, & states that Kidgell has not personally resided, or himself done the Duty, had not appointed a Curate. What cd prohibit the Archdeacon, not to enquire wh? the Cure was served: the Sequestrators would not have Kidgel, but the Service was regularly supplied— K is now under a temporary Deprivation If he was to attempt to do Service under the Sequestration he wd be a Disturber, liable to prosecution as such in the Sp. Ct & at Common Law— a 2d Presentment is made to the Bp, he asked no Questions, tho he had issued the Sequestration wh? the Parish was not Served— The Presentments appear Colorable the Monition takes it for granted: what Business has Kidgel there, to see another person receive the Profits & do the Duty: he has Enemies, because he opposed Blasphemy— Only to take away all a man has in the world, I dont know else what can be called a Cause of Correction: Debitum Justitiæ to give Articles that we may plead & shew Causes— He is a

Sequestrator coupled with an Interest; not a mere Sequestrator— He does the duty of one, as Bailif he is accountable to the Ordinary: we pray to be dismissed—

N3 Dr Wynne offered to reply wch Dr Collyer objected to as unusual but Dr Harris said In all motions where a Reply was desired it was allowed

Dr Wynne— The Dr takes for granted that our proceedure is new; It follows that if our Way is right, there is no color for Articles, It is no criminal prosecution— It is the Ministers Duty to reside after Sequestration as well as before; If he chose to reside, do his Duty, the Sequestrator cd have no right to intermeddle with the Cure: if he suggested to the Ordinary a Desire to do the Duty cd appoint him, & order the Sequestrator Curate to cease officiating— There is the Deprivation of Mr Morrison, Rector of Henley on Thames in Gibsons Appendix, He is acquainted with the whole in this Way, to call for Articles or Evidence, is totally unnecessary agt the nature of the Thing—

Morrison Deprivation see Gibsons Appendix

Judge Dr Harris— The 2 Qu^ns before the Ct are 1 Wh^r the Sequestrator may intervene 2. Wh^r Fountain is entitled to Articles

As to the first; the Sequestrator has in one Sense an Interest, as may lose his Debt; but not such an Interest as will qualify him to intervene in a Cause of Non Residence between the Bp & his Clergy All Respect will be paid to the Kings Writ, it cd only be conditional, so long as this Rector shd continue Incumbent.

As to the Second, I think not entirely with Dr Wynne— This is a Cause he is cited to appear, he has appeared, & prays to have the Charge— There is no Process, where Parties are obliged to defend themselves, before Articles have been exhibited— Where Articles have not been given in agt Clerks, they have been ordered on Appeal— I am inclined to think Articles ought to be given by Mr Stevens, the whole Monition is in the nature of a Citation— I assign Stevens to give Articles by next Ct. & think Kirkman has no Interest to appear in this Cause, & reject Grenes Allon.

Correction for

Grene appealed. Prerogative Ct. 4 Sept Mich Ter

To prove the Allon.

No 32 Lovegrove v Lycett

Altham — Dr Clarke, Calvert — Dr Harris, Wynn — Jenner

Dr Harris— The Allon states that L 25 Sept^r 1763 caused Bid Hestone to be brought to the Bare Ground, & that he gave him strong Liquors so as to cause a Delirium, wch continued till his Death: that he cd not be taken out of Bed nor bear the least Noise; that the Bells of the Pish did not ring on that account— that L brought him a Will dated Sep^r 13th sometime in Oct^r to execute this, he was totally incapable

Dr Calvert read the 10th Article of the first Allon: that between the 20th & 30th of Sept^r the Deed seemed pleased to see the 3d Jn Lycett, behaved in a friendly manner to him, in the presence of Lovegrove, & wished him a good Journey

2d Art. of the 2d Allon. in June 1765

That Lycett on the 12th Oct^r 63. went to Bid Hestones, found him in Bed delirious, & returned with his 2 Friends, as he was not conversable

10 & 11th Articles Mr Lycett about 15th of October, wrote to Dr Battie at Marlow, desiring him to visit the Deed, that he went on 17th & again on 24th of October & found him worse

Dr Clarke— Having stated the Case, said, I will suppose they had forgot these facts— they are of such a nature as not to affect the Cause they cant prove Mr Lovegroves Intention as an Apothecary, the bad Intention cant be proved, It is an Articles calculated only to reflect