of Mr Harrison amounting to £1300 - In Clarke's Praxis no mention is made of Clergymen - the Parties are both to give their Pleas, & annex the Claims to them - the Practice of Clergymen is antiquated - Linwood lived Temp. Hen: 8. the Clergy had great Sway then, they were versatilis Ingenij, presided in Chancery &c. were as well versed in Civil, as Spiritual affairs - I believe they wd not take it amiss, if they heard me say, they now understand nothing but Divinity; Does the Ct want middle men, will it tend to dispatch: Com.rs to be sworn by you - In Hayter & Gooch 3 Persons were appointed faithfully & accord.g to their best Skill, to make an Estimate of the Repairs wanting at Fulham, & a Return of what is necessary, to render the Palace Substantial, fit for the Reception & Habitation of a Bp, directed the Libel, Allon, & Schedule to be annexd - It wd be absurd to argue from their not having given an Allon, their own Laches, Stubbornness, our activity: you have an Allon, I have none, say they, therefore dont use yours -

Dr Wynne. The Date of the last Instrument is near 400 years ago - founded on a mistake; they were mere extrajudicial Proceedings; I dont say the Workmen must go Article by Article, according to the Schedule - If they did not chuse to give an Allon they must take the Consequence; the reason will appear from the Libel, directing a Commission to Clergymen, is making them Judges of what they dont Understand -

Judge — Dr Hay — In this Case Dr Markham sues the Exors of Dr Newcomb, who dont deny that some Dilapidations are due, if they did Dr M. has a right to shew what he ought to be paid for - This melancholy tores how much reason there is to complain of Dignitaries leaving their Houses dilapidated, for want of Care during the Incumbency, throughout the Kingdom - the Law provides for the Support, sets apart a Portion during the Incumbency - Dr M. did his Duty: Dilapidations must be taken at the time of ye Vacancy; Libel was admitted in Trin: Term last. Dr N. died in Jan.y preceding; several Schedules were annexd to the Libel, Wright has not signed the Estimate, the Sum deducted is by him. Harrison makes the Sum nearly the same, with Wright. Objection was taken to the Schedules; the Ct said it was too early to object to ye Art: of the Libel, & admitted ye Schedules not being on Oath - the present prayer is to render the Admission of the Libel & Schedules of no effect by naming Clergymen in the Commission - They are properly called middle men - I am to determine what are de[illegible] on the final Hearing, on the return of the Commissioners these Schedules being properly received, if improper they shd have appealed - What Mr Beadon says in his Affid.t will come before me on the Return, in considering ye Dilapidations; if the old Floors cant be well repaired, new Floors must be laid down; the Decency th. accord.g to ye general Doctrine ought to be fit for the Reception of ye next Incumbent - I cannot receive the Objection on Mr Beadons Affid.t or his Proctors Act - The Practice is never to chuse Clergymen - Ward & Somers in the Arches. June 21. 1741 — 2nd Date

a case founded on Mepham's Constitutions - Dr Ward Rector of Biddington in Kent gave a Libel with Schedule & Estimate; Somers did the Same; the Ct named Commissioners, referred the Schedules to them; they reported according to the Estimate of Dr Ward - No Witnesses were examined on either side, but the Ct determined on ye Commiss.rs Report & gave Ward £46 Costs - I rather think with Dr Wynne that if Clergymen were named, I must judge on their Opinion wch wd create Delay & answer no purpose - Mr Beadon has given no Estimate, wch he might have given, had it annexd as well as Dr Markham - I must refer to the Schedules admitted, as a Guide to those, who must make a return to me - Mr Beadon may then object he has offerd no Tender - Gostlings Peton was rejected, who then asserted he gave an Allon.

Thursday Dec. 12

Consistory of London. By Day

No 38 — Ward — v Hennell

Jenner — Dr Harris — Dr Marriot. Wynne. Burrell. Tyndal.

Are Whs and Offs of Excise exempt from pish Offices?

Persons exempt by Law: 1 Secy. by reason of Dignity - 2. Clergymen of their Orders - 3 Curate Menpall in ye Kings Ordin.y Services by Privilege - 4 Lawyers, Attorneys, Clks of Chancery, B.R. Com. Pl. & Exch.r by reason of their Attendance 2 Hol. Ab. 6. Physicians, Surgeons by 5 H8. c 6, 32 H8. c 40 7. Apothecarys by 6 W3 c 4 - 1 Anne c 11. 10 Anne c 14 - 8 Dissenting Teachers, Teachers of qualities accord.g to Statute by 1 Wm M. c 18 -

Hennell Clerk of the Incidents in the Excise Office was chosen Churwarden of the Parish of for the Year . Hennell refused to take upon him that Office, upon wch Suite was brought agt him by Ward to compell him to serve; Tyndal appeard for Hennell, alledged him to be Clerk of the Incidents in the Excise Office, & exempt from serving all pish Offices by virtue of the Kings Patent to the Com.rs of Excise -

Dr Wynne. Usop & Lindsey. Lindsey being sued for not taking upon him a pish Office (wch: Wn) alled ged himself an Officer with Fee, & excused by the Proclamation 1 Geo. 3. from serving on Jury, & Watch & Ward - It never came to a Sentence, the Opponents giving up the Point. NB Lindsey was Watch maker to the King, he exhibited a Warrant from Ld Chamberlains Office for a Salary -

Dr Burrell — He is exempted by Common Law, under the following Words all in his Majestys Ordinary Services. See Prideaux of Ch: Wns fol. 1 Vid. Degge fol: 182. Lyndwood. Cap. de Clericis non residentibus vers. pro ulterea, folg 132. the Glos.

Attorneys exempt E. 14 6. Watsons Case BR. Trin. 15 C. 2 Rol. ab. 272 Barkers Case M. 21 Jac. Stampes Case 1 Rol. 368 -

Judge — Dr Pettes sorth — The present question before me, is not wh.r Lindsey is eligible but wh.r compellable to serve the Office of Church wardens? he pleads in Bar a Privilege, & exhibits a Patent, whereby the Commiss.rs &c are exempted. There is no doubt that ye Crown has a power so to do - the next Qu: Is the Clerk of the Incidents understood, under the Words, Officers or Agents? I think he is - The Certificate does not give me full Satisfaction, as it dont state that Hennell was Clerk of the Incidents at the time he was elected. It is said, he is so. 16 Dec: 1762. I think if he was Clk of ye Incidents, at ye time of his Election he ought to be dismissed; but of that I shd be satisfied - NB. Mr Poole, who attended for Mr Barter, ye Solicitor of the Excise, was allowd to swear in Ct (tho irregularly in my opinion) that Hennell was at ye time of ye Election Clerk of the Incidents, & he was dismissd accordingly -

with the Patent

clause in the Patent dated 10 Feb. 1763 to the present Commissioners - "That you may be enabled the better to attend the Execution of "this Commission, our Will is that our Commissioners Sub Collectors "Deputys Officers, or Agents, shall not be compelled to serve as "Mayors, Sheriffs at any Assize or Sessions, or from any Jury or bear any other "Public Offices or Employ Whatsoever" -