who refused to conform it; then they said, they wd Submit to the recused Judges: then comes the Protest to the Jurisdiction, that it was unappealable, tho, he wd have submitted - There was no foundation for the Recusation - Every College has Possessions, Laws & Officers of its own; the System of Corporate Bodies may be compared to Political Bodies for the Purpose of Power & Sovereignty reserving their own Independency, except for the purpose of the Alliance - It was a Seminary of Learning, long before ye foundation of Colleges, to wch Persons resorted for public Lectures & were lodged in private Houses, therefore at large, they were subject to ye particular Officers - Individuals fixt their Residence, where there were these Studies, it was found more convenient to assemble Different Persons within the Walls of one House - As to this respect the Statutes of the University were narrowed, but in other respects remained the same - Imperium in Imperio is always exceptionable a Party might be harassed twice for the same Offence - the Private Colleges have always been jealous of their own Rights - They have Statutes ordaining all differences, by laws, amongst members, to be adjusted by the Local Jurisdiction; even Bp Laud recuded from visiting because each College had Statutes - he did not mean to visit only as Metropolitan. The Statute refers only to the Regulat of domestic discipline, It is tender of private Immunities far from so illiberal a thought, as to involve the University in continual disputes with private Colleges for the privilege of punishing - If your Lops shd think the Colleges have the same privilege as private Houses, i.e. not to be entred, except for some extraordinary Case - The Greatest Power makes Apologies for pursuing Offenders into the Territory of the weaker, because what is an Act of Justice in the one, is an Intrusion in the other Case; The V.Ch^r decree is very general, not restricted, what better right has he to order the Outer Gate to be opened, than the Inner - There is a distinction between Colleges & Oppidans by the Statute, it is given not only in the latter Case to the V.Ch^r & Proctor, but to the Masters &c to enter - a Penalty is given for not opening their Doors at once, when demanded, but not a word is mentioned of private Colleges - It is omitted in the Statute, a Gownsman being in a College, It is notorious, there is no College, wch has not Statutes to punish all sorts of Offences; the Notoriety is enough, if no Statute had been produced -

Delegates.
Sat: July 22d 1766.

Sollicitor Genl...

It is necessary to recall the Attention of the Ct (diverted by such various points) by stating the Case. The Charge was "That Mr Craven affording Shelter in his College to the others, menaced the Proctor in the Streets - Mr Craven in his Answer insists on three things, 1st by his Protest, that he is not subject to the V.Ch^r Jurisdiction for any thing done within the College - 2dly That the Proctor had no Authority to enter his private Chamber - 3dly he denies the facts charged - The 2 first are parts of Academical Law, the other is a direct Answer - The 2 last points are not in Consideration, the 1st is the Protest; viz. "Though I had committed any Offence I am not subject to the V.Ch^r" this the only point in Issue below - I speak to the Declinatory Pt viz. The V.Ch^r recites that from the Pleadings there had been a Proposition started, "That Proctors cant pursue" &c That an Offence within a College is cognizable by the V.Ch^r so determining agt ye form of the Protest - The Delegates of Congregation (6 present, 1 absent) confirmd ye above Determination, but not unanimously, the two of All Souls dissenting, from thence, it was appealed to the Convocation - That Ct consisted of 9 - 4 did not act - & undertook it & declared it null, but did not reverse the Decree of the

V.Ch^r & Congregation as contrary to the Statute; from that decree the present Appeal is brought, insisting that it cannot be supported, that Offences committed in a private College is cognizable by the V.Ch^r It is for the Credit of the Advocates, the Convocation; can Gentlemen who are conversant in reasoning, determine contrary to the Principles & Premises? Can such a Conclusion be drawn by any Logician, "that "because the Proctor cd not pursue, yet the V.Ch^r might have a right "to determine Offences - This is not maintainable for 3 Reasons - They had no Authority to determine at all, but if they had, they determind a Point not judicially before them; & if it wd be before them, they determined wrong - . . . . . The University received Charters from the Crown with large Powers - the 13 Eliz: confirmed & made effectual whatever was wanting in the Powers under the Crown Charters - They erected Ctes & appointed Officers; it is no wonder, where the Civil Law prevails & the Common Law is not understood, they shd adopt the Proceedings of the Civil Law, not of the Common Law - The Kings Charters cannot dispense to proceed by the Civil & Canon Law, it is the Statute wch makes their Proceedings legal - In Cases of meum & tuum they proceed by the common Law, in others by the Civil, not the Canon wch is unknown there - their forms of Proceeding are according to the Civil Law; the Chanc^r & V.Ch^r has an Assessor of the degrees of LL B or D.C.L. The Offences are not such by the Common Law - Hales Hist of the Common Law - 32 - They are not Ecclesiastical but Temporal. 8 H. 4 & H. 8. Littletons Rep: 9 & 10. - Manners & Penn Ld Raymond 134 Proceedings according to the Civil Law; it is true the B.R. wd not take notice they proceeded by the Civil Law Rules, unless returnd so by the V.Ch^r Usage is to be observd there - It happens that some Judges are exceptionable, Interest includes all - as to the K. . . . . executive Powers, Prerogative is very different from Judges appointed by the Subject . . . . . happened in Chancery in Ld Talbot or Ld Cowpers time, it was to the Mr of the Rolls, not the Chancellor) who gave Sentence agt the Chanc^r with Costs & he submitted It is a Principle of Justice - But say the Gentlemen, not applicable here, because the Act of Parl^t directs they shall proceed by Usage - they mean as to the form & original Institution, because no Instance on the Rolls, the method once adopted, to proceed by the Civil Law, you must pursue it accordingly - The Statute of the University directs the Proctors &c on the Recusation, shall appoint others; It is not inserted, occasionally, but expressly, this must refer to the Civil Law - Dr Wynne has produced the different methods between the Civil & Canon Law, nor has any Civilian differd, only Covarruvias a Spaniard & Oughton say, Ecclesiastic to Civili . . . . Thus Countries adopted the Canon Law more or less - The Common Law is as near to the Civil, as the Canon Law is - the Authorities all agree that by the Civil Law, these particular Articles take place in all Recusations, it is not necessary to specify at the time; It is not clear in all the Cases, wh^r the Arbitors took the original Point in Issue under Consideration, if they determined agt the Recusation, the other Ct proceeded, suspended at least, if not withdrew the Cause out of the Ct - the Recused undertook to name their Arbiters next Ct, but did not, the remainder declined, the recused Judges did not sit

An Officious intruding Judge does not lighten the Suspicion of some improper Biass

This similar to the Challenge of a Jury. The Attorneys are Triers when is challenged, otherwise the Sworn Jurors are Triers - In the whole 17 Judges concerned, 2 or 3 of All Souls; the Dn was with respect to the Jurisdiction of the V.Ch^r only, but he determined one point more; not in Judgement, not contested; there is never an Appeal upon an extrajudicial point the Judgement stood go at large, it is not even an Authority in the Books; for if a Proctor had pursued a Collegian the next day, he might have contested the Right, he was not concluded by the V.Ch^r nor subject to the Examen

Suppose a Constable hears of an Offence, or see a Fray, tries to take the Parties in his own District, he may pursue them into another County - The Statutes are anxious to give the largest Powers to the

the first defect in those Charters was their creating Chs appointing Officers for those Pts, wch can be done only by Act of Parl^t...

to preserve ye discipline of ye University they erected &c