The Station of the Pet^rs does not entitle them to better Accomodation than their Neighbours; Seeth the psh Clk, believes the Desk is lighted by the Window behind— they say, they will open a Dormer Window, wch is a Confession, it will be necessary; the Gallery will obstruct the air coming to the Pews under it; a Curtain wd only keep out the Sun. not the air— As to the Fabric, our Workmen say the Wall leans, wants Support, they say it never was weak; why then were the Buttresses built? our Witn^s say it is made of Flint Stones, Brick, wch when dis joined will not cement again; wchever Wall is damaged, the Objection is equal, Wright's Reasons are unlogical, because there are some Dormer Windows, therefore there may be many more; when the Window was made, a Buttress was thought necessary— It is worthy consideration, wh^r any Variation can be made from the Petition & Citation, to wch the Sentence, Faculty ought to be conformable; why do we come here, if we know not what we are to oppose; Every Body in the psh is called, because every body pays the Expence; any small thing (as an Accessary to the Principal) might be done, to carry the Faculty into Execution—

Dr Burnell.... I shall beg the Indulgence of a few words, upon a Question which has already undergone so thorough a discussion; The Gentlemen who spoke on the other Side have termed this an uncandid & invidious Opposition, how truly we merit that Appellation, the Evidence before the Ct will sufficiently testify; Perhaps those Appellations were given us, because we had not the Concurrence of the Vicar & Ch: Wns; Tho' that be the reason, I must remind the Drs of the Proctr, necessarily consequent upon Applications of this nature; viz. an Intimation, or in plain English, an Invitation, to every Person interested, to acquaint the Ct with such Objections, as they think the Petition liable to; if I am intended in this Position, as I trust I am, then, it will not, it cannot be urged again, that the Consent of any Individual is necessary, to sanctify such Objections; the lowest, is equally entitled, with the highest Man in the Parish, to offer his Reasons agt the Grant of a Faculty prayd; if they appear well founded, the Ct will pay all possible attention to them; if not, they will be rejected with a becoming Contempt, & perhaps the Party who offers them condemned, with Costs; I do not say, the Opposition of the Rabble, will at first sight, be received with the same favorable Eye, as if it was conducted by Men of Property, because the Education of the latter, is always supposed to be a Check on their Proceedings, to prevent their entering into a vexatious Opposition; where therefore they forfeit the good Opinion of all: they deserve exemplary punishment for their Demerits; the Petitioners have grounded their Application on Want of Room, for the psh^rs in general; of defect of Seat for themselves & families, in particular; that the Ministers Ch: Wns, & principal Inhab^ts authorize their Prayer; that the Gallery will be productive of no Inconveniences to the Fabric, or the Psh^rs who resort, to the Church, & that they mean to build the Gallery at their own Expence; every part of this Plea, except the last Item, we deny, & support that denial by Evidence; the Witnesses tell you, the Church receives

its chief light from a Window in the North, the greatest part of wch must be obscured by the Gallery in question, wch being only 9 f: from the floor of the Pews underneath, must necessarily render them so dark in Winter, & so hot in Summer by preventing the due Circulation of the air, that those who sit therein must be greatly incommoded; that if the Entrance into the Gallery is intended to be on the Inside of the Church, as on the outside of the Pews in the North must be removed; if on the outside the Wall wch consists of large Flints & is very old, will be greatly weakened; the Gentlemen answer this, by admitting the fact, & saying they intend to corroborate these Objections by opening a Window on the S^t. side of the North; a dormer Window in the Roof, & a Door Way on the outside where the Bone House is; but these Intentions were never communicated to us, till after the Cause was concluded, they were not in the original Prayer, or Intimation, & therefore they cannot avail themselves of this Amendment;

I agree with the Gentlemen, the Authority of appointing, what persons shall sit in each Seat, is in the Ordinary, who is to take Order therein; I know also that before the Reformation, no Seats were allowed to distinct Inhab^ts except for some very great Persons; if therefore consistent with these Rules, they can shew themselves entitled, we must acquiesce; but Sir I beg leave to insist they are in no wise the Objects of your Profession; do their Rank demand it? are they rated more, or do they pay near so much, as the Opponents? if not, why are they to be accomodated before their Neighbours? have they shewn themselves in a more inconvenient Situation, or worse accomodated than the rest of the Psh^rs do they not enjoy every advantage in common with them, free from Obligation & in right of their being parish^rs upon the whole we hope you will think they have failed in the proof of their Plea, & that their Prayer shd be rejected; if not, that at all Events they are entitled to no more, than is contained in the Original Intimation— In Ly Middlesex's case, the Windows wch were enlarged were not in the original Intimation, but an Offer was therein made, to enlarge 4 Windows near the Monument, if the Light was obstructed, & an Order of Vestry for application in the manner & of the Windows were specified to be filled up

Johns: 178. 176 Kennet's par: Antiq. 596

Wak: 239. 3 Jos: 202 Degge 172 1 Burn: 254.

Dr Harris Judge... The Station of the Person applying for the faculty, is immaterial if the is not regularly seated; my difficulty is with respect to the Intimation; Ly Middlesex's case don't come up to the Point; nothing was directed to be done there, wch was not consequential; the glazing Windows was not essential; a Dormer Window in the present case, is not, but taking down the Arch, cutting holes in the Wall, putting up a great Beam is essential; I cant judge of the Inconveniences wch may arise from it; none of the Wn^s speak to this point— I distinguish between what was essential, what not, between the Intimation, & the subsequent faculty—

Dr Wynne.... You are not bound, as where there is the Verdict of a Jury wch has taken a View; an Intimation is very different from a Citation, in a matter affecting the Cause of the Party; Suppose the Ct shd appoint a Surveyor, or if one is app^d by the Parties, direct him to make his Report— Witnesses are often incompetent Judges of the Fact

Judge... I am of Opinion with Dr Wynne, we will grant the Faculty, if they will take it accord^g to their original Intimation, but that they cant do, wanting 3 things more, viz. a Window, a door, & the Beam of the Arch cut; you are under the favor of the Ct; with respect to the Station of the Pet^rs the Room, Light, &

N.B. I thought the Sentence rescinding acts, ought to have been appealed from, but Dr Calvert my leader was of a different Opinion; Greene the Proctor for the Opponent agreed entirely with me, on a Conversation I had with him, after the Appeal was dropped . . .