thought it criminal, else she & Mrs N. wd not be so straight laced, as they wd have the World believe; Persons privy to such Transactions are very suspicious Witnesses; & it was invited publickly enough, he came often by their Account, Mrs L. knew or might have known that: it is a free Age we live in; Ladies do admit Players to Dinner, perhaps to their Toilet, it is no Imputation, they may meet, they may dine together very innocently; there is not fact of Adultery yet proved; says the Dr Approximate Acts are sufficient to induce a Presumption equal to Proof; I admit it wd be so, if even they were uncontested, but they are proved in a very equivocal manner. Interest in Witnesses be it ever so remote, is a material Exception, else of what Use wd be the Interry constantly administred, to know wh. ye Witness is interested; what does Taylor say? why only that he carried Letters to & from Mrs L. & H. they might relate to his benefit, to common Business; Domestic Witnesses are, I allow, admissible, but with great Caution; Nightingale says, he has received many Obligations from Mrs L. is now indebted to him 20£. she is therefore an interested Witness; Miss Gilbert is clearly under Obligations to Mrs L. it dont appear when ye Debt was paid, & there may be Interest due on that Debt; I may admit the Letter was Hollands, & may be to any body else, it is not applicable to Mrs L. & if it was, it is no charge agt her, she cant be affected by it; why not intercept some of Mrs L's Letters, wch answer their purpose; this Letter was never received; it dont appear how she wd have treated it, if received; she might have been angry at his Impertinence; he might have done it of his own head, without any encouragement from Mrs L. then the Story told, is very unlikely as to ye fact: it is incredible that Nightingale & Gilbert shd go out of ye Room, these Persons then immediately proceed to such familiarity. Q. wd not let N. look any longer, but she wd look: it is not said the Door was locked, wch adds to the Incredibility: if they cd trust Gilbert, she might have had a Bed. There is no Harm in going to Hollands, Q. herself had been there: Presumptions are always in favor of Innocence. Taylor says it down in his account of the Romish Church, that when a Priest is seen embracing a Woman, he is supposed to be giving her his Benediction. For Combination he referred to the Case of Ly Nassau Paulet.

Dr Harris... The Situation of ye Witnesses, as well as the Evidence they give, must be considered, the present Ws are peculiarly circumstanced; the whole shews a Poverty in Mrs L. to this Affair: it dont appear how or when Miss G. paid Mrs L. the 200£ N. & D. are biased Witnesses: how comes Mrs L. to be now connected with these Persons, who betrayed him first & then his Wife; here bailiffs in his Service, Taylor the Errand Boy, by whom they carried on ye Intrigue; he lends him 5 Guineas. What a strange account is given of looking thro' ye Hole; it was to hear some Story that Miss G. supposed H. wd tell of a Relation of Mrs G. grounded her Suspicion on an intercepted Letter, wch spoke of H. knowing Mrs Gs History; but instead of applying their Ears to the Hole, they applied their Eyes; Miss G. tells a great deal: a very improbable Story, wch on ye face of it, must be false; she trips at the first Outset, & if a Witness relates a Circumstance on Oath, wch cannot be true, that Wit is not credible on any others; she is, besides, incredible in an Ecclesiastical Ct. She appears to have been the Pandar by her own Account, yet says, she is a Friend to Mrs L. the Collection therefore wd be, that ye whole is by Collusion between them; Mr L withdrew in Novr before he cd know of Mrs L's pretended Intrigue; why did he withdraw? not on acct of his Wifes Adultery, but probably of some Intrigue of his own: H. did not go privately to Chelsea: what Opinion must be formed of Miss G. who being Mrs L's friend, after seeing ye pretended Act, suffers them to stay & sups at her house; it cannot therefore be true. There was a Scheme, an artfull Train laid: Similitude of Hands is the slightest degree of Proof, it is the most uncertain Evidence, yet this is to be received as proof in a Charge of ye most criminal & heinous nature; the Letter is neither signed nor superscribed; it is said, there was a direction to Mrs L. but they burnt it; what, these Servants betray their Mistress, & yet burn the only thing that cd be material Evidence to prove, what they was? This incredible; unnatural to suppose she confessed the Conversation

If ever there was any, to Garlic her Chambermaid &c.

Judge. Dr Bettis's worth. I am very well satisfied, there has been an improper Correspondence carried on, & an improper behaviour, on the meeting of Mr Holland & Mrs Earle, by Mrs Es Confession to her maid; by the Evidence of Nightingale, Taylor &c confirmed by ye Deposition of the Act by Miss Gilberts Depon: nor can I think any of the Ws tho, peculiarly proof benefitted by Mrs L. are any ways interested in the Event of this Suit; the money is paid, they cant be affected; their Characters are unimpeached: I am of opinion therefore, to pronounce for the Divorce. It is very extraordinary to apply for alimony, on ye hearing of ye Cause; they come too late now, tho, they might on Application to ye Ct have been allotted it, pendente lite, & if they shd appeal, may perhaps have it in the Superior Ct. N.B. Adderley appealed.

Arches June 23d

No 77

Office of ye Judge promoted by Dr Bever ..... v. Greenway.

Fountain — Drs Harris & Wynne — Dr Collyer — Holman

Dr Harris... Stated that Articles were given in, 3d Sep. Hil: T. last, & the Case at large, wch see Page 65. and Dr Wynne having read the Evidence in proof of the Articles, proceeded to read the 134 the Canon; upon this Sir, our Suit is grounded, prosecuted by Dr Bever Officiating Surrogate of Dr Spry, Official to the Archdeacon of Berks: his appointment is proved (by 2 or 3 Ws present) to have been read at ye Visitation in may. 1764. the Original is in the Archives, & cannot be got at: there is not one Offence in the Canon, that has not been committed by this Person, to Acts of negligence, he has added Disobedience to the Decrees of ye Judge, sitting in Judgement; he has delayd issueing Probates & Admons. We have 3 or 4 Ws to every fact charged: he detains the Seal, tho, often requested to deliver it up: The Detention of the Seal has caused all this Mischief & Confusion; for if ye Judge had it, he cd seal the Probates, Admons &c himself. Every Judge, Register & Seal Keeper: they are in a great measure incompatible; it is contrary 38 Canon 124: it has crept in by Degrees, it is absurd, & the Judge often suffers by it, tho, it is done, I know, in the Country: by this means the Registrar is the Judges Master; he has a Double fee for what the Judge has & the Honor of the Ct has suffered by his Conduct, Private Persons are injured, he has disobeyed the order of the Judge: the Dr decreed a faculty for a Pew in the Church to Mr Lewis wch Faculty Greenway never issued: the Witnesses tell you the bad Consequences of this Omission; that Mr Lewis was in Treaty for the Sale of his Estate, wch the Person declares he went off from, because there was no Appropriated Pew so Lewis missed the Opportunity of selling his Estate. He has also refused to issue Citations, wch are not mera gratia, but ex Debito Justitiæ, & it is immaterial wh they were demanded in a criminal or a civil Suit; wh for defamation or in a Cause of Imum & Tuum; the Persons applying have an equal right to them. When there is a voluntary Promoter, if the Judge was to refuse a Citation in a Cause of Correction, he wd be condemned on it. Mr Bilson an old Practitioner, says he never saw this man in Ct. for ten years last past; that he has appeared neither by himself nor a Deputy; he himself has been refused 4 Citations. 2 for Admons, & 2 for Defamation, in Novr 1764. & Septr 1765. Dr Bever by reason of this Mans non Attendance, was forced to assume a Notary Public, for his Actuary; we thought it neither decent nor proper to point out the time or manner of this Mans Suspension, we leave that entirely to your Discretion; if it is said, the Man is mad, the longer you suspend him, the greater Kindness it will be to him, you may keep him out of Scrapes. With respect to the Seal it is very material in this Case for us to regain Possession, we hope therefore, it being extremely improper for him to hold it, that you will decree a Monition to issue for him to deliver up the Seal within a Week, with Intimation that on Non compliance, he will be excommunicated: you certainly have it in your power to do this; Offences committed by Ecclesiastical Persons, being cognizeable in Ecclesiastical Courts.

Dr Wynne. There is sufficient Satisfaction before you, that ye Seal is not delivered up, because being charged with ye refusal to deliver it, on Dr Bevers request, he gives no Answer to that Article: the Canon inflicts Suspension on a Registrar not making & issueing out Citations on Application: Bilson proves Greenways Neglect in that Respect. Ladds proves his having actually received the Fees for one Citation wch he never issued, in wch case he is liable to a