Dr Marriot — all criminal Causes are stricti juris; we do not libel for the fees because we did not the Duty, but we article agt him for hav: done the duty when he ought not to have done it; we charge J. with hav: busyed 3 or 4 Persons; if he rec: no fee, he shd plead & prove that he did not. J. joins issue on the Law & says the facts are in part true: It's posible St Oswalds Chapel, may have its own parochial Rights & yet not include the Tything of Wh: it may be with respect to itself only: The Inhab: of Wh: may have their own Officers & yet pay dues to the Minister of the psh adjoining. It shews how People are drawn by plausible Preachers from their own psh. It is not merely paying the Rates, that makes a psh in the Sense of this Cause; the assorting, in itself proves nothing; as to ye Immemorial Usage, the Proof thereof lies on them, for the Presumption will be in favor of the psh Priest — Wh: is admitted to be in ye psh of G. there cant be 2 Parish Priests. a Benefice is an indivisible Fee. Lyndwood says the Vicar does not vicem gerere, the Right of the Church is distinct; & Chaplain is a Substitute of the Rector. he is removeable at Will; he is no parochial Minister in his own Nature — No cogent Necessity has been proved to excuse J. the Minister was not absent did not refuse to come, was not sent to by the Parties, it must be presumed J. was too forward — there is a positive Canon wch forbids Priests meddling out of their psh, so early as the Time of Canute the Institution of Priests is very antient; Payment of Tythes from any District makes the Inhab: liable to the Repairs of the Church of that District, so by analogy liable to pay the Parson's Due; We deny St Oswalds Parish goes beyond the Walls, it was a Dispolved Priory there is no Chapelwarden; the Parish must follow the Tythes

2. Rector, Vicar Portion of Tythes claimed by Ding psh of B.

Dr Clarke. — The Sute is properly brought, because the Ecclesiastical Judge only, can correct & admonish Spiritual Persons; the dispute is not about the Bounds of the psh, but wh: the Chaplain of St O. shall exercise Jurisdiction in the psh of G. The single Question is, wh: the Tything of Wh: is part of the psh of G. if it is, it will follow, that none but the Minister of G. can officiate there; No Usage can establish a Right to a Fee in A. when it is due to B. on the same account, a right being vested in one destroys the Claim of the other — Other Questions may arise, it may be proper to examine the nature & Endowment of St Os Hospital; I will admit the Exhibits prove an Usage of Christening for 60 Years, but does that appear such as to vest a Right? what no more than 3 Instances in 70 years? the Probable Argument is that it was without the Leave of the Minister of G. or overlooked by him; they must prove it done agt his Consent; As to the Survey of the Chaundries wch is introduced, does it prove the Chapel of St O. had a right to perform any of these religious functions; It was to administer Sacraments & Sacramentals to Poor Persons, Inhab: of 4 poor Houses, how can this extend to the large Tything of Wh: ? From the Complaint mentioned in Exhibit B. it is clear there was no Church standing, when that Exhibit was made; the Hospital Church was no more standing than a Church belonging to White stones; therefore if St Os Hospital is meant it ought be proved, & its not being so the Inference is, it was some other Hospital. Ten Lands in the neighbourhood of a Town are extraparochial; the name of a Chapel points to a few, & a Master refers to a few: when Lords of Manors endowed Churches, Parish Bounds were fixed; if it was only subordinate to Wh: wch was the old Church, it will not follow that this being a Chapel of Ease, ought have a right to administer to the Inhab: of the Mother Church. In the psh of Fulham, Hammersmith has a right of chuseing Church wardens, it is in some points to be deemed independent: It's necessary only to prove they once belonged to the mother Church, for then they must revert back: Now the Lay Impropriator of G. is Impropriator of Wh: Tything. Hamlets except in some respects are independent; some public Token is kept up to shew the Dependency; the Church at Hammersmith is locked up once every year, the Inhab: attend at Fulham Church: the Ws all say they resort to St O. on account of the distance from Claines Church; they have no Seats in St Os Chapel. Ives + Wright the Spiritt can determine on the Perambulation, if the Custom of Perambulation is established, the Ct cant go agt it. the Inhab: of Wh: are polled as Electors as Psh rs of G. the Jurors to differently informed in here as Electors from what it was in the Ct below. At all events there is no room for asking Costs. . .

Dr Calvert — This is said to be a Civil Cause in a Civil Right; that the Crimes are not of Ecclesiastical Cognizance; if he thought he ought not to answer he shd have appeared under Protest; It's particularly directed in the Rubric that the Parson shall enquire into the Character of ye Communicants; the facts are notorious, even from the Exhibits: as to the Case of St Martins in the Fields, the only Inconvenience w:be, that the Great Persons must go to their own psh Churches to receive the Sacrament; the dispute is about the Bounds of psh of C. & the Chapelry; we say there is no Chapelry; In the Cases cited from Rolls the Qu: was how far the Bounds of the Vicat & Rector extended. We are Parson by our Licence; Taylor by his Licence is not authorized to perform Ministerial Functions out of St O. Chapel; It says, "to do the Office of Curate in the Chapel of St G. Ours, says "to exercise functions in the psh of G. the Legend: do not allow the Consequence of the Processioning, why shd the District of Wh: be included therein, if the Parochial Rights did not follow: I will add to Dr's List a 5th kind of Chapel i.e. such as are annexed to Hospitals, or Colleges in ye University, they have no Pretence to any Parochial Rights; the Minister is licenced, such I apprehend St O. to be; Suppose such a Chapel assumed a right to bury or marry, wd it be suffered. Very few are described to belong to Wh: the Register proves too much, it shews Person of St Nich: & other psheis were married at St G. he might as well contend for a part of those psheis: the first Exhibit is said to be an Exhibit from the Augmentation Office, the Title appears not to have been, Queen but by the Person who brought it in it is his Conjecture; the Clerks of that Office wd have authenticated it, if taken from thence; when any body may have recourse to the Office a more Authentic proof shd be offered: Paper C. has neither Head nor Tail; "If Cl: Church was standing they wd have gone foot rather than St Nicholas, it being nearer; this Paper then ought refer to Claines Church as dilapidated; there is no Chapelwarden, so, the Ch: Wns Jurisdiction probably extends to St O. Does a Person serve the Office of Ch: Wn. because he has an Estate in a psh? no. it is the Residence wch gives you a liberty to exercise the Office, & makes you eligible; I shd scarce have supposed Mr Cooksey either a Justice of Peace or a Barrister, assigning so bad a reason for his being Ch: Wn. because he has Land in both Places; No Marriages have been solemnized at St O. since the Act, wch confines it to where Banns have been usually published; the reason why they have not been published here, is, because it is not a psh Church: According to them, it was a public Chapel, if so it wd still have celebrated Marriages, it not doing so, shews it is a private Chapel; By Composition, as we contend, originally a Piece of Land in one psh, paid Tythes to another; Easter Offerings been entred in a Register: We have not proved, indeed, they pay any dues to the Parson of G. the Ark of our Action, being rejected, whereby we laid that the Tything of Wh: did pay Dues to G. it was rejected, as not being new matter; if the Ct had thought it material we cd have shewn it; If the People paid towards the Support of the Chapel, it wd be a proof the District was included, but there is a private fund for the Repairs; if it was a parochial Chapel, some, tho not all of the Inhab: wd be seated, it wd be visited by the Ordinary; it is visitable now, by the Bp only as Founder, a mere local Visitation shews no separate right; the onus probandi lays on them I suppose you thought the Articles insufficient to justify a Censure, we have proved enough to exempt us from Costs; the Pl: wd have accomodated matters, it was proposed to abide by an Arbitration 16 Sep: . . . the Deft J. to refrain, wch will exculpate us from the charge of Litigiousness. . . .

Dr Collyer — They institute a Cause of Correction, then try to make it up; how strange, to say we are to blame, to defend ourselves; I dont care wh: it is a psh or not; I insist no stress can be laid on the Perambulations; In their Answers they admit the Papers exhibited to be Copies, if they allow them to be true Copies thereon, there was then a Dilapidated Church. a Spiritual Parish may not be the same as a Civil Parish; it is objected there are no Chapelwardens, the Dr who made the Objection salved it, by shewing the Repairs are provided for; are we presentable by the Ch: Wns of G. did they ever visit? I admit wh: is in the local parish of G. Dr Burrells Comparison on the distinction of Chapels was psh