Bye Day. H. Term 1765

1 S. P. P. — Stevens a peeled he gave an additional Article, on admission which was continued to

2 S. — when he declared he would give no additional Article... then his Motion was admitted, but no Witness has been examined thereon.

3 S. M. S. — Stevens has brought the present Motion of 4 Articles to the admission of this Plea, I now object, as well on account of its being out of Time, as of its containing matters irrelevant & what might have been examined to in the year 1765, when Mrs Chaster gave her first Plea; I have always understood, the Rule of the Court has been, not to allow Pleas, to be offered, after Publication, the Cause being called on for Sentence; unless such Plea, should contain, new matter, which did not come to the knowledge of the Party before, & which from the nature of it he must be ignorant of — the reason & propriety of this Rule, is obvious to the meanest Capacity, for if Partys were at liberty to offer Pleas, when they thought proper, Causes would never be determined, the Pty who had the longest Purse must always be successfull; by throwing in occasional Pleas, he might delay the hearing of the Cause, & thereby defeat his perhaps injured Opponent, of a fair equitable Claim; it may likewise attended with another bad Consequence, the Depons being published, if the Party who meant to delay the Suit by frequent Pleas. shd have seen the Depons, he may plead contrary matter, & by procuring Witnesses to speak, in opposition to what the other Wt have sworn, obtain an unjust Sentence by Perjury. To guard agt this, the Ct has constantly expected an affidavit that the Pty giving the Plea has not seen the Depons, or been informed of the Substance thereof

4 S. M. J. 1765: Lovegrove & Lycett. where a 3d Plea was offered, Yorke Sir, said, "I think, I shd reject this Plea, because the Party has given no Satisfaction, the facts could not be offered before, it is always a Rule to reject an admissible Plea if not offered in Time, otherwise there would be no End of Pleas — I therefore reject this ..... But if the Ct shd think the present Plea offered in Time, yet I hope it will be rejected, on account of its irrelevancy, & containing matter incapable of Proof or if proved, immaterial

1 Art. is in contradiction to the 4 Art. of our Plea, & states that the Marriage of the 24th of July 1759, was not performed, by a Clergyman of the Church of Ireland but by a Popish Priest, or a Person pretending, or appearing to be, a Popish Priest.

This might certainly have been pleaded in 1765: but I am at a loss to guess what is the Criterion, by wch our Opponents, can denote, a man to be a Popish Priest, Do the Persons of that persuasion, carry any visible mark of their Order, or Religion about them to distinguish them from Protestants? Down I cannot conceive how this part of the Article is capable of Proof, I cant conceive a Person so indiscreet, as to pretend to be a Papist in Ireland, where the Laws are to the last degree sanguinary & severe;

2 Art... The Conversation that passed between Mr Visey & Mrs C. the Mother, is absurd & impertinent — It can serve no other End, or Purpose, than that of endeavouring to place our Case, in an invidious point of View; it is immaterial, with respect to the Merits of the Question, if proved, & tends only to shew that the Curiosity of the Priest, got the better of the Civility & Politeness of the Gentleman; —

3 Art... The View with which this is pleaded, is beyond the reach of my Comprehension; it is not contradictory to us, because we never asserted, Lewin to have been Rector, or Curate of St Nichs Galway; we never said he was acquainted with Visey or Griffin, therefore their knowledge or Ignorance of such a Person, is of no Importance, & can throw no light upon the Cause, so that I trust this Article must be rejected —

4 Art... This I admit to be a Contradiction to the 6th Article of our Plea but with deference to the Ct, I do not see, how the first Part of it, can be decisive; admitting Mrs Uniack & her Family, were unacquainted, with any Marriage celebrated at her House, 1 Oct. 1759; is it a necessary Consequence that no Marriage was then had there, might not a Ceremony of that Sort, be transacted privately, must it necessarily transpire, & be communicated to the Osler & the Cook? I shd apprehend not — I am ready to acknowledge the propriety of the Latter part of this Article, provided it was not objectionable on the general Principle, of its being out of Time, in other respects, it is very proper, & a very material Point if they can shew, no Person named Anthony (as we assert) was Rector or Curate of St Nichs Galway on said 1 Oct. 1759, or for 20 years next before or since —

Dr Wynne — The Irish Statutes 19. Car 2. C 13. S 1 — 6 Anne. make it Felony, in a Popish Priest to marry any Couple, where one of the Contracting Parties are Protestants & Marriage is null & void ..... We have never had the Defts Answers, therefore are at Liberty to plead any Matter that is relevant —

1 Art. They pleaded 2 Marriages, it is therefore material for us to shew, they are both void; the Word, pretended, is used in the Statute — if we could prove the Marriage was solemnized, in the Latin Tongue, that would be sufficient —

2 Art. Is what the Dr styles a Conversation, which it was very necessary for us to plead, in order to shew, the Attention of the Defts Mother to observe Secrecy —

3 Art. So principally objected to, & said to be, no Contradiction; it is something, to shew they were not married, by a Person known to be, of the Church of Ireland — it was a Clandestine Transaction —

4 Art. This on the face of it, absurd to suppose, the Minister of the Parish, would marry at a Public House, in the same Room instead of the Church; if he did, it was most probable, the People of the House were informed thereof, especially when it was no Clandestine Transaction, but such a one, as the Mother wanted to establish the notoriety of, & not to conceal — an Irish Transaction

Judge — 2
Dr Hay — 3

In Gurner Jones before the Delegates, the Laws of Ireland were specially pleaded, without which the Ct cant take notice of the Effects thereof — If the Marriage is void, in Ireland, where celebrated by a Popish Priest, the Law shd be pleaded, because so solemnized here, will not be void — This Case comes very unfavorably before